

MAY 7, 1986

OLYMPIA, WASHINGTON

ISSUE 86-09



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DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

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

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

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

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

5. EFFECTIVE DATE OF RULES

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

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1985 – 1986

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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¹All documents are due at the code reviser's office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

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

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

WSR 86-09-001

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1885—Filed April 3, 1986]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Poultry and hatching eggs—Importation and intrastate movement and amended rules relating to avian influenza, amending WAC 16-59-030.

I, C. Alan Pettibone, 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 immediate enactment of this order will enable the state veterinarian to take necessary steps to prevent and/or control the spread of avian influenza in the state of Washington. Spread of the disease in the state could have a severe negative economic impact on the states poultry/egg industry.

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

This rule is promulgated pursuant to chapter 16.36 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 3, 1986.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 997, filed 1/21/66)

WAC 16-59-030 **TESTING OF BREEDING STOCK.** (1) *Pullorum-typhoid: All hatching eggs, baby chicks and/or poults, growing stock and adult stock in intrastate or interstate movement shall have originated from parent or grandparent stock which have been found free from pullorum-typhoid by the application of blood agglutination tests performed within twelve months (18 months if hatching eggs) immediately prior to the breeding season during which the eggs or poultry being moved were produced or all birds in the shipment be found free under same approved methods within thirty days of movement. Such blood agglutination tests are to be conducted under supervision of national poultry or turkey improvement plans or other personnel, agencies or laboratories authorized to perform such testing by the animal health control agency of the state of origin. Tube agglutination test of serum, rapid test of serum or whole blood test are acceptable when applied in accordance with the requirements of this regulation. In all tests conducted the reactors must be serially numbered by leg or wing bands or otherwise positively identified before being removed from the flock. Any person who sells poultry or poultry products as pullorum-typhoid free must*

qualify such under the provisions of this order: Provided, however, That eggs for table consumption and stock for immediate slaughter, or shipments consigned to a diagnostic laboratory or research institute approved by Washington state department of agriculture, shall be exempt from pullorum-typhoid requirements contained in this order.

(2) *Infectious laryngotracheitis, infectious coryza: No poultry shall be transported, shipped or otherwise introduced into the state that have been naturally infected, vaccinated with or exposed to poultry vaccinated with, a live or attenuated infectious laryngotracheitis and/or coryza vaccine or exposed to poultry that are or have been infected with infectious laryngotracheitis or infectious coryza, except upon a permit from the director of agriculture and subject to thirty day quarantine at destination. Such permits will be granted only when available authentic information indicates that the poultry to be transported will not present a disease hazard to state of Washington flocks: Provided, however, That eggs for table consumption, stock for immediate slaughter or stock consigned to a diagnostic or research laboratory approved by Washington state department of agriculture shall be exempt from the infectious laryngotracheitis, infectious coryza requirements contained in this order: Provided further, That crates or equipment used for such transportation are cleaned and sterilized to the satisfaction of Washington state department of agriculture authorities or burned before leaving the slaughter or diagnostic premises.*

(3) *Ornithosis: Poultry and eggs from flocks in areas where ornithosis has been diagnosed shall not be imported into or moved intrastate in the state of Washington except on written permit from the Washington state department of agriculture.*

(4) Avian Influenza:

(a) No gallinaceous birds, nor the eggs, manure, litter or other products therefrom, originating in states where avian influenza has been diagnosed, shall be imported into the state of Washington except with the permission of the Washington state veterinarian.

(b) All gallinaceous birds found in the state of Washington to be infected with or exposed to avian influenza shall be placed under quarantine. They shall be held separate and apart from all other birds and animals until destroyed.

(c) The director of agriculture may order the destruction of any gallinaceous birds affected with or exposed to avian influenza and may pay indemnity to the owner or owners not to exceed the appraised value of the birds or a portion thereof subject to availability of funds.

(d) Subsequent to destruction of infected or exposed birds and prior to payment of indemnity, the premises shall be thoroughly cleaned and disinfected.

(e) All destroyed birds shall be disposed of in a manner prescribed by the Washington state veterinarian.

(f) All vehicles, crates and other such equipment shall be thoroughly cleaned and disinfected by the owner before leaving the premises where infected or exposed birds have been located.

WSR 86-09-002
ADOPTED RULES
DEPARTMENT OF REVENUE
 [Order ET 86-5—Filed April 3, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to automobile dealers/demonstrator and executive vehicles, amending WAC 458-20-132.

This action is taken pursuant to Notice No. WSR 86-05-043 filed with the code reviser on February 19, 1986. 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 Revenue as authorized in RCW 82.32.300.

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

APPROVED AND ADOPTED April 3, 1986.

By Matthew J. Coyle
 Acting Director

AMENDATORY SECTION (Amending Order ET 83-17/ filed 3/15/83)

✓ WAC 458-20-132 ~~((AUTOMOBILES FOR DEMONSTRATION PURPOSES:))~~ AUTOMOBILE DEALERS/DEMONSTRATOR AND EXECUTIVE VEHICLES. (1) This section accounts for the unique practices of the retail automobile dealer's industry and reflects administrative notice of the customs of this trade. The tax reporting formula explained in this rule represents a compromise of tax liabilities and offsetting deductions. It recognizes that demonstrator and executive used vehicles are actually used for limited periods of time without significantly affecting their marketability or retail selling value, and that such used vehicles have a high trade-in value when returned to inventory for sale.

DEFINITIONS

(2) The terms "demonstration" and "demonstrator," as used in this section, mean the use of automobiles provided by dealers to their employees or other representatives, without charge, for any personal or business reason other than the mere display of such vehicles to prospective purchasers.

(3) The term "display," as used herein, means the showing for sale of vehicles to prospective purchasers, at or near the dealer's premises, including the short term test driving, operating, and examining by prospective purchasers.

(4) The term "executive use vehicle," as used herein, means any vehicle from sales inventory, used by any person associated with the automobile dealership for

personal driving, other than for demonstration, when such person does not have a recent model vehicle registered in that person's own name.

BUSINESS AND OCCUPATION TAX

(5) Automobile dealers are taxable under the Retailing classification upon sales of automobiles to their ~~((salesmen of automobiles))~~ employees or other representatives for personal use, including demonstration ~~((purposes))~~. The business and occupation tax does not apply upon the transfer of vehicles to employees or other representatives, where no sale occurs, for their personal use, including demonstration.

RETAIL SALES TAX

(6) The retail sales tax applies upon sales of automobiles ~~((and))~~ parts, and accessories ~~((therefor made))~~ by dealers to their ~~((salesmen))~~ employees or other representatives for the personal use ~~((as demonstrators))~~, of such persons including demonstration. The retail sales tax does not apply to the display of automobiles where no sale takes place.

USE TAX

(7) The use tax does not apply to the display of automobiles by dealers, their employees or other representatives. Neither does use tax apply upon the personal use or demonstration of automobiles which have been sold to dealers' employees or other representatives and upon which the retail sales tax has been paid. Also, use tax does not apply upon demonstrator vehicles if no such vehicles are actually used. However, where an automobile dealer purchases a passenger car or pickup truck without paying a retail sales tax in respect thereto, and uses such car or truck for personal use or demonstration purposes, the use tax is applicable irrespective of the fact that such personal car or demonstrator may later be sold by the dealer. As used in this ~~((rule))~~ section the phrase "pickup truck" refers only to trucks having a commercial pickup body rated at three-quarter ton capacity or less.

(8) COMPUTATION. For practical purposes, automobile dealers may elect to compute the use tax upon the use of demonstrators (but not on service cars) as follows:

(9) The use of demonstrators is subject to the use tax on the basis of one demonstrator for each one hundred new automobiles and pickup trucks, or fractional part of such number, of all makes or models sold at retail including lease transactions during a calendar year. The use tax on each such demonstrator shall be measured by ~~((an))~~ twenty-five percent of the average ~~((cost))~~ selling price to be based upon the total ~~((cost))~~ selling price, including transportation and factory installed accessories, of all makes and models of passenger cars and pickup trucks sold during the preceding calendar year divided by the number of such units sold: PROVIDED, That the first such vehicle reported during any calendar year shall be subject to use tax measured by the full average retail selling price. The computation is as follows:

Retail Sales Volume/Preceding Year

Use Tax Rate
(for 1st vehicle
reported)

x Average Selling Price x

Total Units Sold/Preceding Year

.25 x Use Tax Rate
(for subsequent
vehicles reported)

Thus, for example, a dealer with \$3,000,000.00 in gross sales for 1985, who sold 250 units that year derives an average selling price of \$12,000.00. The very first demonstrator use in 1986 will be \$12,000.00 multiplied by the prevailing use tax rate. All subsequent demonstrators reported in 1986, based upon the formula of one demonstrator for each one hundred units sold, will be \$3,000.00 multiplied by the prevailing use tax rate.

(10) The use tax shall be paid as of the date of the first sale in any calendar year and subsequently upon the sale of the one hundred and first automobile or pickup truck.

(11) The foregoing method of computation (~~is available only in respect to vehicles used for demonstration purposes and not primarily used for any other purpose. It~~) applies only in respect to demonstrator vehicles operated under dealer plates or private licenses issued to the dealership. Demonstrator vehicles which are licensed otherwise than to the dealership are presumed to be used substantially for purposes other than demonstration and are subject to the use tax measured by the actual value of such vehicles.

(12) When an automobile dealer has elected to report the use tax as above provided, or upon the actual number of demonstrators used (~~by him~~), (~~he~~) it will not be permitted to change the manner of reporting without the written consent of the department of revenue.

(13) When a dealer or a person associated with a dealer (firm executive, corporate officer or partner) does not have a recent model car registered in (~~his~~) its own name and regularly uses either one or various new cars from stock for personal driving (whether or not such cars are also used for demonstration purposes) the use tax will be applicable to the value of one such car for each two calendar years in addition to the tax otherwise applicable to demonstrator use. The term "recent model car" refers to a car of the current model year or of either of the two preceding model years. In such cases, the measure of the use tax shall be the same as the measure herein approved for the computation of use tax on subsequently used demonstrator (~~use~~) vehicles, that is, twenty-five percent of the average selling price during the preceding year.

(14) The use tax is applicable to the value of vehicles which are loaned or donated to civic, religious, nonprofit or other organizations for continuous periods of use exceeding 72 hours, and such tax is in addition to the tax on the use of demonstrators as provided herein.

(15) Vehicles removed from inventory and committed to use as service vehicles or parts trucks are not entitled

to the special use tax treatment explained in this rule. Full use service vehicles are used by dealers as consumers and are subject to use tax measured by their full value.

USED CAR DEALER'S LIABILITY

(16) Used car dealers are not deemed to be using vehicles for demonstration purposes and have no liability for reporting use tax on demonstrators. However, where used car dealers satisfy the criteria for executive car use (no current model vehicle registered in the user's name) they are deemed to be using one executive use vehicle per calendar year. In such cases use tax must be reported under the same formula as for subsequently used new demonstrator cars, that is, measured by twenty-five percent of the average selling price of all used cars sold during the preceding calendar year.

(17) This section and the reporting formulas contained herein are necessary for the consistent and uniform enforcement of the revenue act of this state as contemplated under RCW 82.32.300.

WSR 86-09-003

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 4, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning:

- Amd WAC 458-16-150 Cessation of use—Taxes collectible.
- Amd WAC 458-16-210 Nonprofit, nonsectarian organizations.
- Amd WAC 458-16-220 Church camps.
- Amd WAC 458-16-230 Character building organizations.
- Amd WAC 458-16-240 Veterans organizations.
- Amd WAC 458-16-280 Art, scientific and historical collections—Fire companies—Humane societies.
- Amd WAC 458-16-282 Musical, dance, artistic, dramatic and literary associations;

that the agency will at 10:00 a.m., Wednesday, May 28, 1986, in the Property Tax Office, 6004 South Capitol Boulevard, Tumwater, 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 84.36.865.

The specific statute these rules are intended to implement is chapter 84.36 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1986.

Dated: April 4, 1986
By: Trevor W. Thompson
Assistant Director

STATEMENT OF PURPOSE

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Department of Revenue, as follows:

Title: Property tax exemption for nonprofit organizations covering cessation of use, church camps, character building organizations, veterans organizations, hospitals, art, scientific and historical collections, fire companies, humane societies, nonprofit-nonsectarian organizations and musical, dance, artistic, dramatic and literary associations.

Purpose: To clarify and make uniform the criteria for granting the exemption.

Statutory Authority: RCW 84.36.865 directs the Department of Revenue to make such rules and regulations as such shall be necessary to permit effective administration of the property tax exemption laws.

Summary and Reasons for the Rule: Chapter 220, Laws of 1984, removed ambiguous language, clarified and made qualifications more uniform for the different kinds of property tax exemptions. The amendatory language contained herein, will bring the existing rules into compliance with the legislative changes and make the rules uniform.

Drafter of the Rule, Rule Implementation and Enforcement: Richard Kirpes, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-1941.

Proposer of the Rule: Department of Revenue, Olympia, Washington 98504.

Comments or Recommendations: None.

Federal Law or Court Action Citation: No federal laws involved or action required by the courts.

Small Business Impact: None.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-150 CESSATION OF USE—TAXES COLLECTIBLE. Upon cessation of any use exempted under RCW 84.36-.030, 84.36.037, 84.36.040, 84.36.050 and 84.36.060, the taxes that would have been paid had the property not been exempt during the three years preceding, or for the life of the exemption, if such be less than three years, shall be collectible.

If the property has been exempt for more than ten years the rollback will not be implemented.

The property owner, county assessor, or any other public official having information or knowledge of any change in use, including lease or rental of all or a part of such properties, which may constitute cessation of use, shall notify the department of any such changes in use which may be brought to their attention. The department shall notify the current property owner, and the legal owner previously granted exemption, of the reported change in use and ~~(shall)~~ if necessary examine the property to determine if the reported change has taken place. The property owner shall have 30 days from the time of notification by the department to submit any information which may be relevant to the question of changing use.

The department shall determine, upon the information supplied by the assessor or the public official, the property owner, or from the inspection of the property, whether such a cessation of use as warrants the rollback has occurred.

The county treasurer, upon notification from the department of revenue, shall compute the taxes payable, together with interest, at the same rate and computed in the same manner as that upon delinquent property taxes. The tax shall be distributed by the county treasurer in the same manner as taxes were distributed for those years that taxes would have been paid if the property had not been exempt. The interest shall be placed in the county current expense fund. If such a cessation of use involves a portion of the total property, the taxes collectible shall attach to only that portion affected. The rollback will be implemented only upon transfer of the property or when 51% or more of the property has ceased to qualify for exemption. The percentage of non-qualifying use will be determined separately for the land and improvements.

If the cessation of use resulted solely from one of the six conditions identified as (3)(a) through (f) in RCW 84.36.810, the provisions of this section shall not apply.

Lease or rental of all or part of such properties may constitute a cessation of use and knowledgeable authorities should report same to the department of revenue.

"Relocation of the activity" means the use of another location or site for the same activity that was carried on at the original site to the extent that it is a new location or site, or it is an existing site whose facilities have expanded to accommodate the relocated activity.

Property exempted for an intended use, but never put to such use will be subject to a rollback for the life of the exemption when sold or put to a disqualifying use, or when it is determined the intended use will not be achieved.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-210 NONPROFIT, NONSECTARIAN ORGANIZATIONS. (1) The real and personal property owned by nonsectarian organizations is exempt from taxation, provided that: (a) The organization is nonprofit and is organized and conducted primarily for nonsectarian purposes, (b) the property is, except as provided in RCW 84.36.805 and subsections (2) and (4) of this section, used for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages, and (c) if these organizations were not conducting these activities the government would provide this service.

These are the primary uses and the word "fraternal" is not among them, therefore, organizations whose main function is fraternal would not qualify under this section.

This exemption extends to property of nonprofit, nonsectarian organizations which are used for benevolent, protective or rehabilitative social services and those which are actually related to those purposes. If any portion of the property of the organization is used for commercial rather than nonsectarian purposes, that portion must be segregated and taxed. Thrift store operations, restricted to the sale of "donated merchandise" will not jeopardize the exemption if the claimant can verify the proceeds are directed to an exempt purpose.

Organizations claiming exemption on property used to provide short-term emergency shelter to homeless persons will upon request provide complete financial information regarding the claimed property, and will also provide the policy used in screening clients, the maximum term of stay, the fee schedule and the number of persons housed.

(2) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805); PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(3) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(4) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-220 CHURCH CAMPS. The property owned by a nonprofit church or an organization or association comprised solely of churches or their qualified representatives which is, except as provided in RCW 84.36.805 and subsections (1) and (3) of this section, used exclusively or jointly used for organized and supervised recreational or educational activities and church purposes as related to such camp facilities are exempt from ad valorem taxation up to a maximum of 200 acres as selected by the church, including buildings and other improvements thereon.

(1) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805); PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(2) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(3) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

It shall be the burden of the organization owning the property to insure that the lessee abides by the terms of the statute under which the

exemption is obtained and provide evidence of compliance upon request.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-230 CHARACTER BUILDING ORGANIZATIONS. (1) Property, including buildings and improvements required for the maintenance and safeguarding of such property, which is owned by organizations and associations engaged in character building of boys and girls under eighteen years of age, is exempt from taxation to the extent that it is, except as provided in RCW 84.36.805 and subsections (2) and (4) of this section, solely used, or to the extent used, for such purposes and uses: PROVIDED, That (a) the group is nonprofit, and (b) the purposes of the group are for the general good and its properties are devoted to the general public benefit. Only that property solely used is exempt, and property used for other purposes, whether commercial or otherwise, must be segregated and taxed.

If the existing charters of such organizations or associations provide for services to boys and girls up to the age of twenty-one years, then such organizations or associations shall be deemed qualified under this rule.

(2) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805); PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(3) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(4) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-240 VETERANS ORGANIZATIONS. (1) Property of veterans organizations, which are recognized by the department of defense and nationally chartered, are exempted from taxation. To qualify, these organizations shall have as their general purpose and objectives: (a) the preservation of war memories and associations, and (b) consecration of their efforts toward mutual helpfulness and patriotic or community services. To be exempt the property must be, except as provided in RCW 84.36.805 and subsections (2) and (4) of this section, used for the purposes and objectives of the organization.

(2) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805): PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(3) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(4) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-280 ART, SCIENTIFIC AND HISTORICAL COLLECTIONS—FIRE COMPANIES—HUMANE SOCIETIES. (1) All art, scientific, or historical collections, together with all real and personal property used exclusively, except as provided in RCW 84.36.805 and subsections (4) and (6) of this section, for the safekeeping, maintaining or exhibiting of such, which are maintained or exhibited for the general public and not for profit, shall be exempt from taxation under the following conditions:

(a) Such organization must be organized and operated exclusively for artistic, scientific, historical, literary or educational purposes, and

(b) Receive a substantial part of its income (exclusive of income received in the exercise or performance by such organization of its purpose or function) from the United States, any state or political subdivision thereof, or from direct or indirect contributions from the general public.

(2) Fire engines and other implements used to put out fires, and the buildings or fire stations to the extent that they are exclusively used for the safekeeping of such equipment, and to hold fire company meetings, shall be exempt, provided that such properties are owned by either a city, town or nonprofit fire company.

(3) Property within the state which is owned and actually used by humane societies shall be exempt.

(4) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805): PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income

received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(5) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(6) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

AMENDATORY SECTION (Amending Order PT 85-1, filed 2/15/85)

WAC 458-16-282 MUSICAL, DANCE, ARTISTIC, DRAMATIC AND LITERARY ASSOCIATIONS. The real and personal property owned by or leased to nonprofit organizations whose purpose is to produce and/or perform musical, dance, artistic, dramatic or literary works, for the benefit of the general public and not for profit. To be exempt the property must be used exclusively, except as provided for in RCW 84.36.805 and subsections (5) and (7) of this section, in accordance with the following rules:

(1) Must be organized and operated exclusively for the purpose of the exemption.

(2) Must receive a substantial portion of its support, exclusive of moneys received from admissions to its performances, from governmental entities or from direct or indirect contributions of money, real or personal property and/or services from the general public. Organizations relying on services donated by the general public to meet the substantial portion of its support, must maintain records identifying the individuals and the number of hours donated. Donated time will be valued under the federal minimum wage standards.

(3) Applications for leased property must include a copy of the lease agreement.

(4) The property meets all the conditions of RCW 84.36.800 through 84.36.865.

(5) The loan or rental of the property does not subject the property to tax if (a) the rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and (b) the property would be exempt from tax if owned by the organization to which it is loaned or rented. (RCW 84.36.805): PROVIDED, HOWEVER, That the loan or rental of property to other nonprofit organizations, for periods of less than fifteen days shall not be subject to the restrictions of this subsection so long as all income received therefrom is devoted exclusively to exempt purposes. Maintenance and operating expenses means those items of rental expense as allowed and defined in generally accepted accounting principles. Property rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to exempt purposes. For purposes of this subsection the term "revenue" means income received from the loan, lease or rental of property when such income exceeds the amount of the maintenance and operation expenses attributable to the term and portion of the property loaned or rented.

(6) Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(a) The contract is written to clearly reflect all receipts and expenses are to be administered by the exempt organization.

(b) The financial records of the exempt organization will identify all receipts and expenses of the programs.

(c) The program is compatible and consistent with the purposes of the exempt organization.

(d) A summary of all receipts and expenses of the program will be provided to the department upon request.

Programs provided under a personal service contract, whereby the contractor will reimburse the organization for expenses pertaining to the program will be viewed as a rental agreement between the exempt organization and an individual or for profit user and will subject that portion of property to tax.

(7) The use of the property for fund-raising activities sponsored by the exempt organization does not subject the property to tax if the fund-raising activities are consistent with the purposes for which exemption is granted. The term "fund raising" means any revenue-raising activity limited to less than five days in length including but not limited to art auctions, use of the property by professional organizations for conferences, seminars, or other activities which enhance the reputation of the organization.

WSR 86-09-004
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed April 4, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 27, 1986.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

Dated: April 3, 1986
By: Russell W. Cahill
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-44-050.

Description of Purpose: Set coastal bottomfish catch limits.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: Restricts the number of landings of coastal bottomfish a vessel may make, thus reducing the fishing effort. This rule will conform Washington regulations with the recommendations of the Pacific Fisheries Management Council.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; Implementation: Mark Pederson, 115 General Administration Building, Olympia, Washington, 753-6716; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

This rule is proposed by the Washington Department of Fisheries.

Comments: None.

This proposal is not the result of federal law or court order.

Small Business Economic Impact Statement: This rule is of general applicability, and is intended to protect the resource. No impact on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

AMENDATORY SECTION (Amending Order 85-17, filed 3/13/85)

WAC 220-44-050 COASTAL BOTTOMFISH CATCH LIMITS. It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow rockfish (*Sebastes entomelas*) - one vessel trip per week not to exceed 30,000 pounds ((per vessel trip per calendar week, defined as Sunday through the following Saturday, except that a fisherman having made a declaration of intent may make one landing of no more than 60,000 pounds of widow rockfish per vessel trip biweekly; defined as Sunday through the second Saturday following. The declaration of intent to fish biweekly for widow rockfish must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be postmarked at least seven days prior to the beginning of biweekly fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which biweekly fishing for widow rockfish will commence, and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing at the beginning of any month by filing a declaration of intent to stop biweekly fishing for widow rockfish with the department in the above manner. The declaration to stop biweekly fishing for widow rockfish and begin one vessel trip per calendar week fishing must be made at least seven days prior to the beginning of the month in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds of widow rockfish in any calendar week)).

(2) Shortbelly rockfish (*Sebastes jordani*) and idiot rockfish (*Sebastes spp.*) - no maximum poundage per vessel trip; no minimum size.

(3) Pacific Ocean perch (*Sebastes alutus*) - no restriction on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 percent or less of total weight of fish on board ((per vessel trip, no minimum size)). Under no circumstances may a vessel land more than 10,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) All other species of rockfish (*Sebastes spp.*) - ((30,000)) 25,000 pounds of all other species combined per vessel trip per calendar week, defined as Sunday through the following Saturday, of which no more than 10,000 pounds may be yellowtail rockfish (*Sebastes flavidus*), except that a fisherman having made a 1986 declaration of intent may make either one landing of no more than ((60,000)) 50,000 pounds of all other species combined per vessel trip biweekly, defined as Sunday through the second Saturday following, of which no more than 20,000 pounds may be yellowtail rockfish, or two landings of not more than 12,500 pounds of all other species in any one calendar week of which not more than 5,000 pounds in any one landing may be yellowtail rockfish. All previous declaration forms covering 1985 landings have expired and it is unlawful for any vessel to make other than one vessel trip per week unless a new declaration form has been completed as provided for in this subsection. The 1986 declaration of intent to ((fish biweekly)) make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, and must be postmarked at least seven days prior to the beginning of ((biweekly)) such fishing. The declaration of intent must contain the name and address of the fisherman, the name and registration number of the vessel, the date on which ((biweekly)) such fishing for other species of rockfish will commence, and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing at the beginning of any

month by filing a declaration of intent to stop biweekly fishing for other species of rockfish with the department in the above manner. The declaration to stop biweekly fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be made at least seven days prior to the beginning of the month in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make ((more)) other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

(5) Sablefish - minimum size 22 inches in length, unless dressed in which case minimum size 16 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail, except that an incidental catch less than the minimum size of 5,000 pounds is allowed; no vessel trip restrictions.

(6) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

(7) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

WSR 86-09-005
NOTICE OF PUBLIC MEETINGS
BOARD FOR VOLUNTEER FIREMEN
[Memorandum—April 3, 1986]

The Board for Volunteer Firemen will next meet on April 18, 1986, at 9:00 a.m. in the Temple of Justice, Olympia, Washington.

WSR 86-09-006
PROPOSED RULES
DEPARTMENT OF LICENSING
(Board of Funeral Directors and Embalmers)
[Filed April 4, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Funeral Directors and Embalmers intends to adopt, amend, or repeal rules concerning:

- Amd WAC 308-48-010 Definitions.
- Amd WAC 308-48-060 Against concealment of crime.
- Rep WAC 308-48-120 Apprentices—Credit limitations for prior employment.
- Rep WAC 308-48-130 College credit.
- Amd WAC 308-48-140 Reciprocity.
- Amd WAC 308-48-150 Course of training funeral director apprentice.
- Amd WAC 308-48-160 Embalmer's apprentice.
- Amd WAC 308-48-165 Examination subjects;

that the agency will at 9:00 a.m., Tuesday, July 1, 1986, in Arnold's Restaurant, Lakeside Room, 900 South Capital Way, 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 18.39.175(4).

The specific statute these rules are intended to implement is RCW 18.39.010, 18.39.035, 18.39.130 and 18.39.175(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 1, 1986.

Dated: April 1, 1986
By: Delores E. Spice
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Funeral Directors and Embalmers.

Purpose: WAC 308-48-010 and 308-48-060 are to add or correct some nomenclature in order to enhance the board's ability to protect the public; 308-48-120 proposed for repeal because it is in conflict with WAC 308-48-200; 308-48-130 proposed for repeal because the regulation is based on a statute which has been repealed; 308-48-140 is to correct some nomenclature and to establish what constitutes qualifications comparable to the requirements of this chapter; 308-48-150 and 308-48-160 are to correct a reference to a statute and to delete what particulars are to be included in courses of training; and 308-48-165 is to make the regulation consistent with the board's responsibilities regarding examinations, RCW 18.39.175(1).

Statutory Authority: RCW 18.39.010, 18.39.035, 18.39.130 and 18.39.175(5).

Summary: WAC 308-48-010 clarifies the definition of "licensee" and defines "funeral establishment"; 308-48-060 makes the provision applicable to apprentice embalmers and adds a reference to a county coroner; 308-48-120 and 308-48-130 would be repealed; 308-48-140 provides that where an applicant for Washington licensure is licensed in another state, has passed a licensure examination, has college training and has served an apprenticeship, the applicant is qualified for licensure pursuant to RCW 18.39.130; 308-48-150 and 308-48-160 corrects statutory references and deletes what particulars are to be included in courses of training; and 308-48-165 deletes a reference to national board examinations.

Reasons Proposed: To enhance the board's ability to ensure the professionalism and public trust expected of those entrusted with the disposition of the human dead.

Responsible Departmental Personnel: Washington State Board of Funeral Directors and Embalmers and the executive secretary for the board have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Delores Spice, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-1817 comm, 234-1817 scan.

Proponents of the Proposed Rules: Washington State Board of Funeral Directors and Embalmers.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal law or federal or state court requirements.

Small Business Impact Statement: Not required for this statement.

AMENDATORY SECTION (Amending Order PL 419, filed 1/26/83)

WAC 308-48-010 DEFINITIONS. For the purpose of these rules, the following terms shall be construed in the following manner:

(1) "Funeral director," ~~((and))~~ "embalmer," and "funeral establishment" shall have the same meaning as provided in RCW 18.39.010.

(2) "Board" shall mean the state board of funeral directors and embalmers.

(3) "Licensee" shall mean any person or entity holding a license issued by the director.

(4) "In its employ" as used in RCW 18.39.148 shall include personnel who are employed on a part-time basis as well as personnel who are employed on a full-time basis.

Any prohibition in these rules and regulations stated as against a licensee or apprentice shall be taken and treated as a prohibition against such action by the licensee or apprentice in his own proper person, directly or indirectly, or by agent, servant, employee or associate, or through any person, firm or corporation, and as a prohibition against such action known and permitted by him and operating or tending to operate for his benefit from whatever source.

AMENDATORY SECTION (Amending Rule 6, filed 9/17/64)

WAC 308-48-060 AGAINST CONCEALMENT OF CRIME.

(1) No licensee or apprentice shall remove or embalm a dead body when he has information indicating crime or intentional violence in connection with the cause of death, until permission is first obtained from a county coroner or other qualified official.

(2) Any licensee or apprentice having or obtaining, as a result of his services, any information in relation to a possible crime shall forthwith communicate such information to a proper law-enforcement officer.

(3) No licensee or apprentice shall do any act knowing that it will conceal evidence of crime.

(4) No embalmer or apprentice embalmer shall knowingly use any fluid or compound which is in violation of federal or state law, in the embalming of a dead body.

AMENDATORY SECTION (Amending Order PL 416, filed 12/21/82)

WAC 308-48-140 ~~((RECIPROcity))~~ LICENSES—APPLICANTS FROM OTHER STATES. To qualify pursuant to RCW 18.39.130 for licensure ~~((by reciprocity))~~ as an applicant from another state, an applicant must furnish proof satisfactory to the department that his professional education and experience are comparable to the minimum requirements set out in RCW 18.39.035 and 18.39.045, including proof that the applicant:

(1) Is currently licensed in good standing in another state or territory of the United States;

(2) If an applicant for a funeral director license has successfully completed a funeral director licensure examination in another state or the national board examination, and the public health and state law portions of the Washington examination;

(3) If an applicant for an embalmer's license, has successfully completed an embalmer license examination in another state or the national board examination, and the public health and state law portions of the Washington examination;

~~((3))~~ (4) Has completed 60 semester or 90 quarter hours of study at an accredited college or institution of higher learning or the equivalent;

~~((4))~~ (5) For a funeral director's license, has completed at least a one year apprenticeship under a licensed funeral director in the state where originally licensed;

~~((5))~~ (6) For an embalmer's license, has completed a two year apprenticeship under the supervision of a licensed embalmer and graduated from a school of mortuary science recognized by the board.

Applicants may substitute a year of full time employment as a licensed funeral director or embalmer for each required year of apprenticeship. ~~((Additional full time experience as a funeral director or embalmer may be used to substitute for the educational requirement at the rate of two years of employment for each year of college required.))~~

AMENDATORY SECTION (Amending Order PL 259, filed 12/7/76)

WAC 308-48-150 COURSE OF TRAINING—FUNERAL DIRECTOR APPRENTICE. (1) For the purposes of RCW ~~((18.39-030))~~ 18.39.035, the term "one year course of training" shall include assisting a licensed funeral director in conducting at least twenty-five funerals and assisting in the burial and/or final disposition of at least twenty-five human bodies.

(2) The term "one year" shall consist of at least eighteen hundred hours of employment and cannot be completed in a period of time less than one calendar year.

~~((3))~~ The required eighteen hundred hours of employment should embrace the below-listed areas of instruction:

(a) Funeral arranging to include:

(i) Public relations and business ethics;

(ii) Study of different religious, fraternal and military rites and procedures;

(iii) Selection room arrangement, conduct and procedure;

(iii) Selection room arrangement, conduct and procedure;

(iv) Assisting at committal services;

(v) Arranging for clergy, cemetery, organist, pallbearers, newspaper items, flowers, including shipment of remains in United States and overseas;

(vi) Assisting family and friends during visitation;

(vii) Assisting family and friends during services;

(viii) Funeral procession organizing and control.

Subtotal = 1,000 hours.

(b) Administrative duties to include:

(i) Completing and filing vital statistics reports for the state and other state and federal reports;

(ii) Basic bookkeeping, including sales tax, withholding, unemployment taxes (federal and state);

(iii) Knowledge of preparing statement of services;

(iv) Completing and filing death certificates (obtaining transit permits when necessary);

(v) Completing and filing social security forms;

(vi) Completing and filing veterans' forms;

(vii) Completing and filing cremation certificates.

Subtotal = 440 hours.

(c) Merchandising to include:

(i) Knowledge of casket displays (product knowledge);

(ii) Buying, pricing, overhead determination, etc.;

(iii) Color coordination, types of caskets, vaults, urns, burial clothing, etc.

Subtotal = 100 hours.

(d) Funeral home maintenance to include:

(i) Parlors and viewing rooms, chapel, lounges and foyers, selection room, preparation room, offices, etc.;

(ii) All outside areas, including pavements and walkways, parking lots, lawn areas, lighting fixtures, etc.

Subtotal = 90 hours.

(e) Automotive service to include:

(i) Care and operation of equipment;

(ii) Knowledge of service area;

(iii) Location of hospitals, city and county morgues, nursing homes, etc.;

(iv) Flower vehicle, lead cars, limousines, etc.

Subtotal = 100 hours.

(f) Personal attitudes and appearance to include:

(i) Reinforcement of beliefs in the value of what you are doing;

(ii) Standards of personal appearance, dress and conduct;

(iii) Location and availability of pathologists, doctors, clergy, hospitals, etc., with emphasis of "how we can serve them."

Subtotal = 30 hours.

(g) Background information—laws and regulations to include:

(i) Knowledge and understanding of chapters 18.39 and 70.58 RCW and the rules and regulations pertaining thereto.

Subtotal = 40 hours.

TOTAL HOURS = 1,800.))

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

AMENDATORY SECTION (Amending Order PL 259, filed 12/7/76)

WAC 38-48-160 COURSE OF TRAINING—EMBALMER'S APPRENTICE. (1) For the purposes of RCW ~~((18.39.040))~~ 18.39.035, the term "two year course of training" shall include the embalming of at least fifty human bodies under the supervision of a licensed embalmer.

(2) The term "two year" shall consist of at least thirty-six hundred hours of employment and cannot be completed in a period of time less than two calendar years.

~~((3)) The required thirty-six hundred hours of employment should embrace the below-listed areas of instruction:~~

- ~~(a) Preparation of remains to include:~~
 - ~~(i) Embalming—posted and nonposted cases, cases requiring special care, e.g., communicable diseases;~~
 - ~~(ii) Restorative and cosmetic work;~~
 - ~~(iii) Dressing and casketing;~~
 - ~~(iv) Knowledge of instruments— their uses, etc.;~~
 - ~~(v) Knowledge of fluids— their uses (when and how much);~~
- ~~Subtotal—3,300 hours:~~
- ~~(b) Personal attitudes and appearance to include:~~
 - ~~(i) Standards of personal appearance, dress and conduct;~~
 - ~~(ii) Location and availability of pathologists, doctors, clergy, hospitals, etc., with emphasis of "how we can serve them";~~
 - ~~(iii) Reinforcement of beliefs in the value of what you are doing;~~
- ~~Subtotal—250 hours:~~
- ~~(c) Background information— laws and regulations to include:~~
 - ~~(i) Knowledge and understanding of chapters 18.39 and 70.58 RCW and the rules and regulations pertaining thereto;~~
- ~~Subtotal—50 hours:~~
- ~~TOTAL HOURS—3,600.))~~

Reviser's note: The above amendatory section was filed by the agency as WAC 38-48-160. However, the other rules for the Department of Licensing are found in Title 308 WAC. The section amended above appears to be WAC 308-48-160, but pursuant to RCW 34.08-.040, it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending Order PL 419, filed 1/26/83)

WAC 308-48-165 EXAMINATION SUBJECTS. Effective March 1, 1983, the following ((national board)) examinations will be administered to all funeral director and embalmer license applicants:

- (1) For funeral directors, the funeral service arts exam covering sociology, psychology and counseling, funeral directing and professional relationships, business law, funeral service law, funeral merchandising and accounting;
 - (2) For embalmers, the funeral service science exam covering embalming, restorative art, microbiology, pathology, chemistry and anatomy.
- Applicants will also be required to successfully complete a state exam in the following subjects:
- (3) For funeral directors, signs of death, sanitary science and state law governing the practice of funeral directing, and the preparation, burial, disposal or shipment of human remains;
 - (4) For embalmers, physiology, sanitary science and state law governing the practice of embalming, and the preparation, burial, disposal or shipment of human remains.

REPEALER

The following sections of the Washington administrative code are hereby repealed:

- WAC 308-48-120 APPRENTICES—CREDIT LIMITATION FOR PRIOR EMPLOYMENT.
- WAC 308-48-130 COLLEGE CREDIT.

WSR 86-09-007
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Order 2364—Filed April 4, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Rep WAC 388-86-060 Medical care for prisoners.

And WAC 388-100-005 Limited casualty program—Medically indigent.

This action is taken pursuant to Notice No. WSR 86-04-008 filed with the code reviser on January 23, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED April 4, 1986.

By Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

REPEALER

The following section of the Washington Administrative Code is repealed:

- ✓ WAC 388-86-060 MEDICAL CARE FOR PRISONERS.

AMENDATORY SECTION (Amending Order 2062, filed 1/4/84)

- ✓ WAC 388-100-005 LIMITED CASUALTY PROGRAM—MEDICALLY INDIGENT. (1) The department of social and health services provides a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not receiving cash assistance or eligible for any other medical program.

(2) An individual potentially eligible for the medically indigent program is a person who:

- (a) Has an acute and emergent medical condition. (i) An acute and emergent medical condition is defined as having a short and relatively severe course, not chronic; occurring unexpectedly and demanding immediate action, (ii) pregnancy is considered an acute and emergent medical condition for the medically indigent program; treatment under the Involuntary Treatment Act (ITA) is considered an acute and emergent need; ((and))
- (b) Meets the financial eligibility as defined in chapter 388-100 WAC; and
- (c) Is not an inmate of a city or county jail, federal or state prison or of a juvenile detention facility.

WSR 86-09-008
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
 [Memorandum—April 1, 1986]

The April meeting of the WDPS User's Association will be held Thursday, April 10, 1986, at 1:30 p.m. at the Adams Building Training Room.

WSR 86-09-009
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 [Memorandum—April 3, 1986]

The Washington State Board for Certification of Librarians will meet on Friday, April 25, 1986, in the Monroe Room of the Sheraton-Spokane Hotel, North 322 Spokane Falls Court, Spokane, beginning at 3:00 p.m.

WSR 86-09-010
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 86-18—Filed April 7, 1986]

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 a harvestable surplus of razor clams exists on Willapa Spits.

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 April 7, 1986.

By Russell W. Cahill
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-52-03000C RAZOR CLAMS. *Notwithstanding the provisions of WAC 220-52-030, effective April 16 through June 30, 1986, it is lawful to dig for and possess razor clams taken for commercial purposes from the detached Willapa Spits at the mouth of Willapa Harbor and from within the boundaries of the Quinault Indian Reservation. It is unlawful to dig for or possess razor clams taken for commercial purposes from any other tidelands.*

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 86-09-011
ADOPTED RULES
STATE BOARD OF EDUCATION
 [Order 4-86—Filed April 7, 1986]

Be it resolved by the State Board of Education, acting at Stadium High School, Tacoma, Washington, that it does adopt the annexed rules relating to notice to prospective candidates for certification, WAC 180-79-013.

This action is taken pursuant to Notice No. WSR 86-05-046 filed with the code reviser on February 19, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.04-.120 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 Friday, April 4, 1986.

By Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 17-84, filed 12/10/84)

✓ WAC 180-79-013 NOTICE TO PROSPECTIVE CANDIDATES FOR CERTIFICATION. Notice is hereby given to prospective candidates for certification that the state board of education has adopted as public policy certain fundamental changes to its current rules and regulations for professional certification and basic education program approval standards. (~~The state board of education intends to modify its current rules prior to September 1, 1985, to reflect these new policies.~~) Each Washington state college and university which has a training program of preparation for professional certification shall provide each student within such program a copy of this section of chapter 180-79 WAC. The following public policy shall affect professional certification:

(1) Each person issued a continuing certificate—i.e., teacher, administrator, and education staff associate—shall be required as a condition to the validity of such certification to complete during a five-year period one hundred fifty clock hours of continuing education which shall be in the form of inservice and/or college or university credit. Each college or university quarter credit shall be the equivalent of ten clock hours and each semester credit shall be the equivalent of fifteen clock hours. This requirement shall be effective for continuing certificates issued on or after July 1, ((+1986)) 1987.

(2) Each person receiving a continuing education certificate shall be restricted to professional practice only in areas in which an endorsement has been received. The current requirements for obtaining an endorsement and the areas of endorsement shall be modified. Exceptions to the restrictive practice shall be limited to emergency

circumstances and unusual situations. This requirement shall be effective to continuing certificates issued on or after July 1, ((1986)) 1987.

WSR 86-09-012
PROPOSED RULES
DEPARTMENT OF LICENSING
(Examining Board of Psychology)
 [Filed April 7, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Examining Board of Psychology intends to adopt, amend, or repeal rules concerning guidelines for the promulgation of administrative rules, new section WAC 308-122-001;

that the agency will at 9:00 a.m., Friday, July 11, 1986, in Nendel's, Sea-Tac, Room 126, 16838 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.83.050(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 10, 1986.

Dated: April 2, 1986
 By: Yvonne Braeme
 Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Examining Board of Psychology.

Purpose: To provide guidelines for the promulgation of administrative rules.

Statutory Authority: RCW 18.83.050(1).

Summary of the Rule: Establishes a limitation upon the drafting of administrative rules which would restrict access to information sought by public safety agencies.

Reason Proposed: In accordance with RCW 18.83.050(1) which provides that the board shall adopt rules as it deems necessary to carry out its functions.

Responsible Departmental Personnel: Yvonne Braeme, Executive Secretary, 1300 Quince Street S.E., Olympia, WA 98504, phone 753-0776 comm, 234-0776 scan.

Proponents: Washington State Examining Board of Psychology.

Agency Comments: This rule is promulgated pursuant to the authority granted to the board in RCW 18.83.050(1).

Small Business Economic Impact Statement: Not required and has not been filed since these rules do not impact small businesses as that term was defined by RCW 43.31.920.

NEW SECTION

WAC 308-122-001 GUIDELINES FOR THE PROMULGATION OF ADMINISTRATIVE RULES. The Examining Board of

Psychology shall not promulgate rules which restrict access to information from applicant/employee psychological evaluations as sought by public safety agencies.

WSR 86-09-013
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Order TL/RG 23—Filed April 7, 1986]

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

Amd WAC 308-99-020 Definitions.
 New WAC 308-99-021 Washington public assistance programs criteria (for purpose of RCW 46.16.028).

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 new section WAC 308-99-021, the need to establish criteria for Washington public assistance programs for purposes of vehicle registration requirements prior to the seasonal influx of migrant farm workers who receive benefits under federally funded public assistance programs. Amendatory section WAC 308-99-020, the amendment is necessary so that the regulation will not conflict with RCW 46.16.028.

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

This rule is promulgated pursuant to RCW 46.85.060 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the director of the Department of Licensing as authorized in RCW 46.01.110.

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

APPROVED AND ADOPTED April 7, 1986.

By Theresa Anna Aragon
 Director

AMENDATORY SECTION (Amending Order TL/RG 17, filed 9/30/85)

WAC 308-99-020 DEFINITIONS. (1) For the purposes of vehicle license registration, a resident is a person who:

(a) Owns a vehicle that is licensable under the provisions of chapter 46.16 RCW and that is physically present in the state of Washington more than six months in any continuous twelve-month period; or

(b) Resides in this state more than six months in any continuous twelve-month period; or

(c) Becomes a registered voter in this state; or

(d) *Receives benefits under one of the Washington public assistance programs; or*

(e) *Declares himself or herself to be a resident for the purpose of obtaining a state license or tuition fees at resident rates; or*

~~((f) is permanently employed in this state.))~~

(2) "Military personnel" means active members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned officers of the Public Health Service, and members of foreign military organizations assigned to this state on official duty.

(3) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state or province of a country.

NEW SECTION

WAC 308-99-021 WASHINGTON PUBLIC ASSISTANCE PROGRAMS CRITERIA. For purposes of vehicle license registration requirements of RCW 46.16-.028 and WAC 308-99-020, the term "Washington public assistance programs" includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to, the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966 [42 U.S.C. §§ 1771-1788]; and aid to families with dependent children [42 U.S.C. §§ 601-606].

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 86-09-014

ADOPTED RULES

DEPARTMENT OF LICENSING

(Dental Hygiene Examining Committee)

[Order PL 585—Filed April 7, 1986]

Be it resolved by the Washington State Dental Hygiene Examining Committee, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

- New WAC 308-25-015 Examination.
- New WAC 308-25-035 Examination results.
- Rep WAC 308-25-025 The examination.
- Rep WAC 308-25-030 Examination results.

This action is taken pursuant to Notice No. WSR 86-05-032 filed with the code reviser on February 19, 1986. 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 18.29.031 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 4, 1986.

By Peggy A. Conner
Chairperson

NEW SECTION

✓ **WAC 308-25-015 EXAMINATION.** (1) The dental hygiene examination will consist of both written and practical tests.

(a) Written tests—The written tests will include:

(i) Written theory test. National board will be accepted in lieu of the written theory test.

(ii) Washington state written test. All applicants must successfully complete a written test covering anesthesia, restorative dentistry, Washington state dental hygiene practice, and other subjects related to dental hygiene practice.

(b) Practical tests—The practical tests will include:

(i) Patient evaluation test which will include a health history, extraoral and intraoral examination, periodontal charting and radiographs.

(ii) Prophylaxis test which will include a clinical demonstration of a prophylaxis to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(iii) Anesthesia test which will include applicants demonstrating the administration of a local anesthetic.

(iv) Restorative test which will include demonstrating the insertion, condensation, carving and polishing of amalgam restorations.

(2) Each applicant must furnish a patient for the patient evaluation test, prophylaxis test and anesthesia test. Patients must be at least eighteen years of age with a minimum of twenty-four teeth. A patient shall not be a dentist, dental student, or dental hygiene student. The state dental hygiene examining committee and the school of dentistry assume no responsibility regarding the work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) The committee may, at its discretion, give a test in any other phase of dental hygiene. Candidates will receive information concerning each examination.

(4) The applicant will comply with all written instructions provided by the board.

NEW SECTION

✓ **WAC 308-25-035 EXAMINATION RESULTS.**

(1) In order to pass the examination the applicant must:

(a) Attain a score of 65% in the written theory test, OR submit proof of successful completion of the national board of dental hygiene examination;

(b) Successfully complete the patient evaluation practical test;

(c) Successfully complete the prophylaxis practical test;

(d) Successfully complete the anesthetic practical test;
 (e) Successfully complete the restorative practical test; and,

(f) Successfully complete the Washington state written test.

(2) An applicant who passes at least three of the following tests may elect to retake only the tests failed: PROVIDED, That if the applicant has not passed all tests at the next examination administration offered then the entire examination must be retaken. The tests are:

- (a) Patient evaluation practical;
- (b) Prophylaxis case practical;
- (c) Anesthetic practical;
- (d) Restorative practical; and,
- (e) Washington state written test.

REPEALER

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

- ✓ WAC 308-25-025 THE EXAMINATION.
- ✓ WAC 308-25-030 EXAMINATION RESULTS.

WSR 86-09-015

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 86-19—Filed April 8, 1986]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of 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 April 8, 1986.

By Phillip C. Coates
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-32-059001 *KLICKITAT SUBSISTENCE FISHERY* Notwithstanding the provisions of WAC 220-32-059, effective immediately until further notice, Yakima treaty Indian fishermen may fish on the

Klickitat River for subsistence purposes as provided for in this section: (1) Fishing on the Klickitat River will be for traditional non-commercial use except during those periods that a Tribal commercial fishery for salmon is being conducted in the Columbia River.

(2) It shall be unlawful to take, molest, injure or fish for salmon from the waters of the Klickitat River above the deadline 25 feet downstream of Fishway #5 (river mile 2.3) and below Swinging Bridge (river mile 1.5) on the Klickitat River. Fishing is not allowed in the area 10 feet above and 25 feet below the fishway.

(3) Legal fishing gear will be dip net, dip bag net and rod and reel, using bait or lures. All other methods are unlawful.

(4) Net fishing in the Klickitat falls fishing area occur from April 8 to May 31, 1986 with the following provisions:

(a) Fishing will be allowed weekly from 6:00 p.m. Tuesday to midnight Saturday.

(b) The regular schedule of weekly closures shall not be superceded by commercial season regulations for the Columbia River.

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 86-09-016

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order ET 86-6—Filed April 9, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to sales of precious metal bullion and monetized bullion, new section WAC 458-20-248.

This action is taken pursuant to Notice Nos. WSR 86-03-042 and 86-06-048 filed with the code reviser on January 14, 1986, and March 5, 1986. 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 Revenue as authorized in RCW 82.32.300.

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

APPROVED AND ADOPTED April 9, 1986.

By Matthew J. Coyle
 Acting Director

NEW SECTION

✓ WAC 458-20-248 SALES OF PRECIOUS METAL BULLION AND MONETIZED BULLION. Effective July 1, 1985, amounts derived from sales of precious metal bullion and monetized bullion as defined herein, are not subject to business and occupation tax under either the wholesaling or retailing classification or

to retail sales tax. Statutory law expressly excludes such sales from the definitions of the terms, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail."

The term, "precious metal bullion" is statutorily defined to mean any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form.

The term, "monetized bullion" means coin or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

Thus, sales of processed or refined precious metal valued solely upon the content thereof, whatever its form, are not subject to tax in this state. This includes processed nuggets, bars, sticks, dust, and other processed forms of precious metal. For example, sales of gold or silver in raw, refined forms to dentists, laboratories, jewelers, and other persons, for their own consumption or for resale are not taxable. However, sales of precious metal which has been manufactured or further processed into any form which determines or adds to the value thereof are fully taxable. For example, sales of jewelry items, medallions, artworks, and other items, the value of which is dependent upon more than the mere content of precious metal therein, are subject to wholesaling or retailing business and occupation tax, whichever is applicable, and retail sales tax as appropriate.

Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable. However, sales of coin or money, whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artworks therefrom are fully taxable. For example, sales of coins for necklaces or to be used as buttons or in paintings or painting frames, etc., are taxable.

It is presumed that all sales of coin and metal money are entitled to tax exemption: PROVIDED, That in order to be exempt of tax persons who knowingly sell such things to buyers who are regularly engaged in the business of manufacturing jewelry or works of art must take a written, signed, and dated statement from such buyers that the coins or metal money are not being purchased for use in manufacturing jewelry or works of art. Artistic or cultural organizations which purchase such things are exempt of retail sales tax as provided in WAC 458-20-249.

The tax exclusions explained herein apply equally to sales of precious metal bullion or monetized bullion transferred through documents of ownership, certificates, confirmation slips, or other indicia of ownership.

TAXABLE COMMISSIONS

Amounts received as commissions upon sales of precious metals by dealers, brokers, and other selling and/or buying agents who sell or buy precious metal

bullion or monetized bullion for the accounts of customers are subject to the service and other activities classification of business and occupation tax. The amount of any shared commission or fee paid to other dealers or commissioned agents associated in such transactions are deductible from the measure of this tax. However, no deduction is allowed for any of the dealer's or commissioned agent's own costs of doing business, including salaries or commissions paid to their own salespersons or other employees. Similarly, persons who receive any part of shared commissions derived from having been associated in transactions for the purchase or sale of precious metal or monetized bullion for the account of others, are themselves subject to service business tax measured by such amounts received.

USE TAX

The use tax does not apply upon the use of precious metal bullion or monetized bullion in this state under such circumstances that the sale of such bullion to the user would not be taxable if made in this state as explained earlier herein. In all other cases the use tax applies upon the first use by a consumer of precious metals in this state if retail sales tax has not been paid. See WAC 458-20-178.

WSR 86-09-017

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Order 86-14—Filed April 9, 1986]

I, Andrea Beatty Riniker, director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to low-level radioactive waste disposal in the state of Washington.

I, Andrea Beatty Riniker, 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 low-level waste is currently being shipped to, and disposed of, in the state of Washington. Federal and state legislation has been passed which changes the rules for disposal of low-level waste. Immediate clarification of Washington's requirements to implement the federal and state laws is necessary to avoid uncertainty which may lead to improper storage or disposal of low-level waste creating a public hazard. The legislature recognized this emergency by enacting an emergency clause in section 7, chapter 2, Laws of 1986.

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

This rule is promulgated pursuant to section 5, chapter 2, Laws of 1986, which directs that the Department of Ecology has authority to implement the provisions of section 4, chapter 2, Laws of 1986, and the federal Low-Level Radioactive Waste Policy Amendments Act 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 April 9, 1986.

By Andrea Beatty Riniker
Director

NEW SECTION

WAC 173-325-010 PURPOSE. The purpose of this chapter is to implement chapter 2, section 4, laws of 1986, which implements the federal low-level radioactive waste policy amendments act of 1985.

NEW SECTION

WAC 173-325-020 DEFINITIONS. (1) "Site" means the commercial low-level radioactive waste disposal site located near Richland, Washington.

(2) "Low-level radioactive waste" is defined in Public Law 99-240.

(3) "Northwest Compact Region" means the states of Washington, Oregon, Idaho, Utah, Montana, Alaska, and Hawaii.

(4) "Department" means the Department of Ecology.

(5) "P.L. 99-240" means the federal low-level radioactive waste policy amendments act of 1985, 99 Stat. 1842.

NEW SECTION

WAC 173-325-030 REQUIREMENTS FOR GENERATORS AND BROKERS. (1) Any generator or broker shipping waste which originated outside the Northwest Compact Region for disposal at the site shall pay to the state of Washington a surcharge as follows:

(a) From March 1, 1986 through December 31, 1987, \$10 per cubic foot of waste.

(b) From January 1, 1988 through December 31, 1989, \$20 per cubic foot of waste.

(c) From January 1, 1990, through December 31, 1992, \$40 per cubic foot of waste.

(2) In addition, the Department may impose penalty surcharges up to the maximum extent allowed by P.L. 99-240.

(3) Surcharge payments must be mailed or electronically transferred no later than the day the respective waste shipment leaves the state of origin. In the lower left hand corner of the check, the valid site use permit number and shipment manifest number must be recorded. For electronic transfers, the valid site use permit number, and shipment manifest number, followed by the name of the facility (limited to 35 characters) must be transmitted at the time of the transfer. A copy of the face of the check, or of the receipt for wire transfer must be attached to the shipping manifest when the shipment arrives at the disposal site.

(4) Surcharge payment may be made by a check payable to the State of Washington or by electronic transfer. Checks should be mailed to:

"Pre-notification"
Cashier
Fiscal Office
Department of Ecology
St. Martin's Campus
Mail Stop PV-11
Olympia, WA 98504

Electronic transfers (telegraphic abbreviation RAINIER SEA if needed) should be directed to:

Robert S. O'Brien, State Treasurer
Concentration Account
Rainier National Bank
Olympia Branch
Account #0041399260

(5) Brokers are required to attach to the shipping manifest a tabulated list of those generators whose waste is being shipped. The tabulated list must include the following information in the format specified:

Date of Shipment: _____

Valid Site Use Permit #	Generator	State	Compact Region	Volume	Surcharge
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Prenotification forms (#A-1 and #B-1) are no longer required.

(6) Violation of any of these requirements may result in revocation of a generator's or broker's Washington State site use permit. Upon revocation of a site use permit, subsequent reissuance may be conditioned upon agreement to comply with appropriate conditions, such as a condition that surcharge payments be made by certified or cashier check, and be received in advance, and a condition that the state of Washington be provided specific information at least three days prior to shipment.

NEW SECTION

WAC 173-325-040 REQUIREMENTS FOR SITE OPERATOR. (1) For each waste shipment for which a surcharge is due (as required by WAC 173-325-030 (1)-(2)), arriving at the facility, obtain a copy of the surcharge payment check or receipt of electronic wire transfer before receiving the waste shipment for disposal.

(2) For each waste shipment of a broker arriving at the facility, obtain the written information required by WAC 173-325-030(5) before receiving the waste shipment for disposal.

(3) Provide to the Washington State Department of Ecology information on each waste shipment received for disposal at the facility, as requested by the Department.

NEW SECTION

WAC 173-325-050 EFFECTIVE DATES. This chapter shall take effect April 21, 1986, (1) except the requirements in WAC 173-325-030 (1)-(2) which took

effect March 1, 1986, and (2) WAC 173-325-040(3) which takes effect immediately.

WSR 86-09-018
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 86-20—Filed April 9, 1986]

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 in the Wind River, but the Klickitat River is not expected to achieve spawning escapement.

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 April 8, 1986.

By Phillip C. Coates
for William R. Wilkerson
Director

NEW SECTION

WAC 220-57-31500E KLIKKITAT RIVER. *Notwithstanding the provisions of WAC 220-57-315, effective 12:01 a.m. April 17 until 11:59 p.m. June 15, 1986, it is unlawful to fish for or possess salmon taken for personal use from the waters of the Klickitat River downstream from the Fisher Hill Bridge.*

NEW SECTION

WAC 220-57-51500A WIND RIVER. *Notwithstanding the provisions of WAC 220-57-515, Bag Limit A is in effect weekly Thursday through Sunday from April 17 through May 31, 1986, from markers 400 feet below Shipperd Falls to the mouth of Wind River. For purposes of this section the mouth of Wind River is defined as a line between boundary markers at the outermost land points downstream from the Burlington Northern Railroad Bridge.*

WSR 86-09-019

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 181, Resolution No. 190—Filed April 9, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Liquor Control Board Offices, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Prohibited practices—Contracts—Gifts—Rebates, etc., WAC 314-12-140.

This action is taken pursuant to Notice No. WSR 86-06-021 filed with the code reviser on February 26, 1986. 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 66.28.010 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.030 (2)(1).

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

APPROVED AND ADOPTED April 9, 1986.

By L. H. Pedersen
Chairman

AMENDATORY SECTION (Amending Order 167, Resolution No. 176, filed 1/23/86)

WAC 314-12-140 PROHIBITED PRACTICES—CONTRACTS—GIFTS—REBATES, ETC. (1) No contract shall be made or entered into whereby any retail licensee agrees to handle any particular brand or brands of liquor to the exclusion of any other brand or brands of liquor.

(2) No contract shall be made or entered into for the future delivery of liquor to any retail licensee: **PROVIDED**, That this regulation shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of liquor which are made in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(3) No manufacturer, wholesaler, or importer, or his employee, shall directly or indirectly solicit, give or offer to, or receive from any retail licensee, any employee thereof, or an applicant for a license, any gifts, discounts, loans of money, premiums, rebates, free liquor of any kind, treats or services of any nature whatsoever; nor shall any retail licensee, employee thereof, or an applicant for a license, directly or indirectly, solicit, receive from, or give or offer to any manufacturer, wholesaler or importer, or his employee, any gifts, discounts, loans of money, premiums, rebates, free liquor of any kind, treats or services of any nature whatsoever, except such services as are authorized in this regulation. It shall be a violation of this section for:

(a) Any retail licensee who has paid for beer or wine with a check which was dishonored upon presentation to thereafter refuse to make good on the check by immediate payment in cash.

(b) Any retail licensee to purchase beer and/or wine from any source after having received notice that a previous check given in payment for beer and/or wine has been dishonored until that dishonored check has been made good in cash.

(4) Pursuant to RCW 66.28.010 a manufacturer, wholesaler, importer, or his licensed agent may perform the following services for a retailer:

(a) Build, rotate, and restock displays, utilizing filled cases, filled bottles or filled cans of his own brands only, from stock or inventory owned by the retailer.

(b) Rotate, rearrange or replenish bottles or cans of his own brands on shelves or in the refrigerators, but is prohibited from rearranging or moving displays of his products in such a manner as to cover up, hide or reduce the space of display of the products of any other manufacturer, wholesaler or importer.

(c) Provide price cards and may also price goods of his own brands.

(d) Provide point of sale advertising material and brand signs.

(e) Such services may be rendered only upon the specific approval of the retail licensee. Displays and advertising material installed or supplied for use on a retailer's premises must be in conformity with the board's advertising rules as set forth in chapter 314-52 WAC.

(f) No manufacturer, wholesaler, importer, or any employee thereof, shall move or handle in any manner any products other than his own brands on the premises of any retail licensee.

(5) No manufacturer, wholesaler, importer, or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retail licensee any equipment, fixtures, supplies or property of any kind, nor shall any retail licensee, directly or indirectly, receive, lease or borrow from, or give or offer to, any manufacturer, wholesaler or importer any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(6) No manufacturer or wholesaler or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any liquor tied in with, or contingent upon, the retailer's purchase of some other beverage, alcoholic or otherwise, or any other merchandise, property or service.

(7) In selling equipment, fixtures, supplies or commodities other than liquor, no manufacturer, wholesaler or importer shall grant to retail licensees, nor shall such licensees accept, more favorable prices than those extended to nonlicensed retailers. The price thereof shall be in conformity with the open market price in the locality where sold. In no event shall credit be extended to any retail licensee.

(8) Any manufacturer, wholesaler or importer who sells what is commonly referred to as heavy equipment and fixtures, such as counters, back bars, stools, chairs,

tables, sinks, refrigerators or cooling boxes and similar articles, shall immediately after making any such sales have on file and available for inspection in accordance with WAC 314-20-050 a copy of the invoice covering each such sale, which invoice shall contain a complete description of the articles sold, the purchase price of each unit sold together with the total amount of the sale, transportation costs and services rendered in connection with the installation of such articles. Such invoice shall list the date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (5) of this regulation.

(9) If the board finds in any instance that any licensee has violated this regulation, then all licenses involved shall be held equally responsible for such violation.

NOTE: WAC 314-12-140 is not intended to be a relaxation in any respect of section 90 of the Liquor Act (RCW 66.28.010). As a word of caution to persons desiring to avail themselves of the opportunity to sell to retail licensees fixtures, equipment and supplies subject to the conditions and restrictions provided in section 90 of the act and the foregoing regulation, notice is hereby given that, if at any time such privilege is abused or experience proves that as a matter of policy it should be further curtailed or eliminated completely, the board will be free to impose added restrictions or to limit all manufacturers and wholesalers solely to the sale of liquor when dealing with retail licensees. WAC 314-12-140 shall not be considered as granting any vested right to any person, and persons who engage in the business of selling to retail licensees property or merchandise of any nature voluntarily assume the risk of being divested of that privilege and they will undertake such business subject to this understanding. The board also cautions that certain trade practices are prohibited by rulings issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco and Firearms, and WAC 314-12-140 is not intended to conflict with such rulings or other requirements of federal law or regulations.

WSR 86-09-020

ADOPTED RULES

DEPARTMENT OF FISHERIES

[Order 86-08—Filed April 9, 1986]

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 86-03-089 filed with the code reviser on January 22, 1986. 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 February 17, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-100 DEFINITIONS—PERSONAL USE. (1) "Personal-use possession" and "daily bag limits" are defined as the numbers or pounds of food fish or shellfish which may be taken in a single day or held in possession at one time, unless otherwise provided.

(2) A "single hook" is defined as a hook having a single point or barb; a "double hook" as a hook having two points or barbs on a common shank; and a "treble hook" as a hook having three points or barbs on a common shank.

(3) A "lure" is defined as any object made of animal, vegetable or mineral materials which has attached thereto one or more hooks and is used as bait while angling for food fish.

(4) The term "processed ((fish))" as it applies in this chapter is defined as ((salmon or other)) food fish or shellfish which ((has)) have been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(5) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(6) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with one lure in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than one lure. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(7) The term "snag or snagging" is defined as any method of taking or attempting to take food fish with one or more hooks in such a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(8) The term "underwater spearfishing" is defined as any method of taking or attempting to take food fish by using any object or objects to impale or hook fish while the fisherman is swimming or floating in the water.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisherman is above the surface of the water.

(10) The term "natural bait," unless otherwise provided, is defined as a lure consisting of an animal or part of an animal with one single hook.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

(12) The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island.

(13) The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 near the mouth of the Columbia River.

(14) The term "Buoy 10 Fishery" is defined as a fishery between the down stream side of the Megler-Astoria Bridge and the Buoy 10 Line.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

✓ WAC 220-56-150 UNLAWFUL TO TAKE ANOTHER'S LIMIT. It ((shall be)) is unlawful for any person to catch, dig or possess ((the daily personal use catch)) food fish or ((bag limit of)) shellfish for another person except razor clams as provided in WAC 220-56-370.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 15 through June 15 in waters of the Strait of Juan de Fuca between the mouth

of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

~~((4))~~ (5) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 15 through June 15 in Punch Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except:

(i) During the period March ~~((15))~~ 1 through ~~((the Friday preceding Memorial Day;))~~ April 25 it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Areas 9, 10, 11, or 13.

(ii) ~~((During the period the Saturday preceding Memorial Day through July 31, it is unlawful to retain and possess chinook salmon taken for personal use while fishing in waters of Carr Inlet northerly of a line running westerly 273 degrees true from the northernmost point of land on the south side at the entrance of Horshead Bay to a marker on the Longbranch Peninsula.~~

~~((iii))~~ The daily bag limit in Punch Card Area 12 is three salmon of any species.

~~((5))~~ (6) Code I: In waters having this code designation, the bag limit ~~((in any one day is eight salmon, not less than 6 inches in length or an aggregate daily catch of eight salmon and other salmonid fish. The aggregate catch may not contain more than 3 fish over 14 inches nor more than 2 fish over 20 inches)), size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington game commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.~~

~~((6))~~ (7) The possession limit in all waters regulated under Bag Limits A, C, D, F, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the ~~((daily bag limit, and additional salmon may not be possessed in any form))~~ possession limit for gamefish as regulated under Title 77 RCW by the Washington game commission.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound contiguous marine waters east of the mouth of the Sekiu River – bag limit H – open the entire year, except as provided in WAC 220-56-120, 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to ~~((a line projected from))~~ the ~~((most westerly point on Cape Flattery to the Tatoosh Island Light then to))~~ Bonilla ~~((Point on Vancouver Island))~~–Tatoosh Line – Bag limit F except during the period April 15 through June 15 maximum size limit of 30 inches on chinook salmon if the waters described in this subsection are open – open ~~((entire year, unless the season in the Pacific Ocean closes a week or more before Puget Sound coho salmon management needs prevail (the Sunday nearest September 2); in which case, this area will be closed))~~ concurrently with the ocean ~~((from the time of the ocean closure until the Puget Sound coho management period (the Sunday nearest September 2). Bag and size limits shall conform with Pacific Ocean regulations during those times when salmon angling is permitted in adjacent coastal ocean waters. During those periods when the ocean salmon angling season is closed and the area described in this subsection is open to salmon angling, the bag limit shall conform with regulations of adjacent waters of the Strait of Juan de Fuca (Area 5—Sekiu), but minimum size limits shall remain unchanged from those which were in effect when the ocean season was last open)), and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.~~

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 – bag limit F – open on the Saturday preceding Memorial Day through Labor Day.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) – (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) all Westport Boat Basin waters and adjacent waters of Grays Harbor when fishing from the Westport Marina Fishing Boardwalk only – special bag limit – six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) – (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, (b) special bag limit – six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length; coho over 20 inches in

length; pink, chum, or sockeye over 10 inches in length – open September 1 through November 30.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-195 CLOSED AREAS—SALT-WATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough shall be closed to salmon angling April 15 through June 30.

(2) Bellingham Bay: Those waters of Portage Bay and Bellingham Bay north of a line from Point Francis to Post Point shall be closed to salmon angling April 15 through July 15.

(3) Carr Inlet: Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling March 15 through August 31.

(4) Quilcene Bay: Those waters west and north of a line projected true north from Point Whitney to the Bolton Peninsula are closed to salmon angling April 15 through June 30.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulo Kala Point are closed to salmon angling April 15 through June 30.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

✓ WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. (1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below the lure or less than 12 inches above the lure.

(4) It is unlawful to take, fish for or possess salmon in any freshwater areas of the state with nonbuoyant lures unless they meet the requirements for nonbuoyant lures as defined in subsection (1) of this section. This subsection does not apply to Lake Washington, that portion of the Columbia River below Bonneville Dam, ~~((that portion of the Chehalis River below the mouth of the Satsop River))~~ or that portion of the Skagit River below the mouth of Gilligan Creek.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-240 ~~((POSSESSION))~~ DAILY BAG LIMITS—OTHER FOOD FISH. It shall be lawful, unless otherwise provided, for any one person to take in any one day ~~((or possess at any one time in the state of Washington))~~ the following quantities and sizes of food fish for personal use:

(1) Sturgeon: ~~((a) 3))~~ 2 fish not less than 36 inches nor more than 72 inches in length state-wide, except ((as provided for in (b) of this subsection.

(b)) not less than 48 inches nor more than 72 inches in length in the Columbia River and mainstem impoundments upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam to the United States/Canada border and those waters of the Snake River from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston ((=2 fish not less than 48 inches nor more than 72 inches in length)). The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed.

(2) It is unlawful to use a gaff ~~((in the restraint))~~ or other fish landing aid that penetrates the fish while restraining, handling or landing ((of)) any sturgeon ((which is not of legal size)).

(3) It is unlawful to fail to immediately return to the water any sturgeon that is not of legal size.

(4) It is unlawful to fish for sturgeon with other than natural bait, using no more than two single hooks.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

✓ WAC 220-56-305 STURGEON—SNAKE RIVER. It ~~((shall be lawful))~~ is unlawful to ((take,)) fish for and possess sturgeon ((as provided in WAC 220-56-285. PROVIDED, That)) taken for personal use from those waters of the Snake River within 400 feet down stream below any dam, rack or obstruction, and in ((Washington)) waters of the Snake River and tributaries upstream from the powerline crossing below the U.S. 12 Bridge at Clarkston, it ((shall be)) is unlawful for anglers to retain any sturgeon and those hooked must be immediately released and returned to the water.

AMENDATORY SECTION (Amending Order 85-57, filed 6/5/85)

✓ WAC 220-56-310 SHELLFISH—(~~POSSESSION~~) DAILY BAG LIMITS. It is unlawful for any one person to take in any one day (~~(or possess)~~) for personal use (~~(at any one time)~~) more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, except razor clams, geoduck clams and horse clams:

(a) Hood Canal south of a line projected from Tala Point to Foulweather Bluff - 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.

(b) Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(c) All portions of Puget Sound except those described in (a) and (b) of this subsection - Bag limit January 1 - May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 - December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(d) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance, diggers may retain up to 20 pounds of eastern softshell clams in the shell in addition to the limit set in (c) of this subsection.

(e) Willapa Bay - clams and borers five pounds in the shell in the aggregate.

(f) Willapa Bay - twenty-four cockles.

(g) In English Camp tidelands the bag limit shall be as described in (c) of this subsection plus an additional 10 pounds of clams in the shell.

(h) Grays Harbor - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds or 10 quarts in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red crabs: 18 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

NEW SECTION

✓ WAC 220-56-312 SHELLFISH—POSSESSION LIMITS. It is unlawful for any one person to possess at any time more than one daily bag limit of fresh shellfish. Additional shellfish may be possessed in a frozen or processed form.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-56-325 SHRIMP—AREAS AND SEASONS. (1) It shall be unlawful to (~~(take,)~~) fish for or possess shrimp taken for personal use except from May 15 through September 15(~~(:)~~) unless otherwise provided for in this section.

(2) It is unlawful to fish for or possess shrimp taken for personal use from all waters of Hood Canal (~~(southerly)~~) south of (~~(the site of)~~) the Hood Canal Floating Bridge (~~(and)~~) except from 9:00 a.m. on the third Saturday in May through June 30.

(3) It is unlawful to fish for or possess shrimp taken for personal use from the waters of Carr Inlet inside and northerly of a line projected from Penrose Point to Green Point (~~(shall remain closed except as specifically provided for by emergency regulation, it shall be unlawful to set any Hood Canal shrimp gear prior to 9:00 a.m. on the opening day of the season)~~).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-330 CRAB—AREAS AND SEASONS. (1) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear except during the open shellfish pot gear season. The open shellfish pot gear season for crab in Puget Sound waters may open by emergency regulation prior to July 15, but (~~(in any case)~~) if not previously opened by emergency regulation will open July 15(~~(, and will close)~~) through April 15. The open shellfish pot gear season in waters of the Pacific Ocean, Grays Harbor, Willapa Harbor, and waters of the Columbia River is December 1 through September 15.

(2) Except as provided in subsection (1) of this section, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) Except as provided in subsection (1) of this section, it is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters.

AMENDATORY SECTION (Amending Order 85-18, filed 3/13/85)

✓ WAC 220-56-335 CRAB—UNLAWFUL ACTS. (1) It is unlawful for any person to take or possess for personal use any female Dungeness crabs.

(2) It is unlawful to take or possess any male Dungeness crabs which measure less than 6 1/4 inches taken for personal use from the waters of the Pacific Ocean, Grays Harbor, Willapa Bay, the waters (~~(at the~~

mouth)) of the Columbia River ((~~inside Buoy 10~~)), or ((~~Puget Sound, except for the~~)) all waters ((inside)) within Punch Card Area 7.

(3) It is unlawful to take or possess any male Dungeness crab which measure less than 6 ((~~and 1/4~~)) inches taken for personal use from the waters of Puget Sound outside of Punch Card Area 7.

(4) All measurement shall be made horizontally across the back (caliper measurement) immediately in front of the points.

(5) It is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

✓ WAC 220-56-340 GENERAL PROVISIONS—CLAMS, COCKLES, MUSSELS—GEAR. (1)(a) It is lawful to take, dig for and possess clams (excluding razor clams), cockles, and mussels taken for personal use by hand or with hand-operated forks, picks, mattocks and shovels.

(b) It is lawful to take, dig for and possess razor clams taken for personal use by hand, shovels or with cylindrical cans, tubes or hinged digging devices((~~PROVIDED, That when used for digging razor clams,~~)). The opening of ((these devices)) tubes or cans must be either circular or elliptical((;)) with the circular can/tube having a minimum outside diameter of 4 inches and the elliptical can/tube having a minimum dimension of 4 inches long and 3 inches wide outside diameter. The hinged digging device when opened in a cylindrical position, must have a minimum outside diameter of 4 inches at the bottom.

(2) Any newly-designed or modified digging device intended for the recreational use of razor clams must receive the specific approval of the director of fisheries.

(3) Each digger, including holders of razor clam disability permits, must have his or her daily bag limit in a separate container.

AMENDATORY SECTION (Amending Order 85-57, filed 6/5/85)

✓ WAC 220-56-350 HARDSHELLS, COCKLES, MUSSELS—AREAS AND SEASONS. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(e) ((~~Shine Tidelands—A 1.5-acre plot (160'x400')~~)) ~~located 1/4 mile north of the west approach to the former Hood Canal Floating Bridge shall be closed to clam digging the entire year.~~

(f) ~~Fry Cove, Thurston County Parks—A 1-acre gravel plot (290'x140')~~ located 1/4 mile north of Fry Cove on Eld Inlet shall be closed to clam digging the entire year.

(g)) Point Whitney—All publicly owned tidelands at Point Whitney lying north of point located at the base of the United States Navy Dock to a point 250 yards west (280°) are closed from July 15 through December 31.

((~~h~~)) (f) Eagle Creek—All publicly owned tidelands at Eagle Creek lying east of a point located at the mouth of Eagle Creek where it passes beneath Highway 101 to a point 250 yards southwest (228°) are closed from January 1 through June 30.

((~~i~~)) (g) State oyster reserves are closed to clam digging the entire year.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 81-13, filed 2/17/81, effective 4/1/81)

✓ WAC 220-56-365 RAZOR CLAMS—UNLAWFUL ACTS. It is unlawful to return any razor clams to the beach or water regardless of size or condition, and all razor clams taken for personal use must be retained by the digger as a part of his ((~~possession~~)) daily bag limit.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 15 through September 15 except that it is lawful to take and possess oysters for personal use from the tidelands of Dosewallips and Belfair State Parks from January 1 through December 31, 1986.

(3) It is unlawful to take or possess oysters for personal use from federally-owned tidelands at Seal Rock Forest Service campground except during the period May 16 through July 14.

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park

~~((through))~~ except during the period May ((+5, 1986)) 16 through June 15.

(5) It is unlawful to take or possess oysters for personal use from tidelands at Scenic Beach State Park except during the period March 15 through May 15.

(6) It is unlawful to take or possess oysters for personal use from tidelands at department of natural resources beach number 43 (north of Hoodspout) except during the period March 15 through May 15.

(7) It is unlawful to take or possess oysters for personal use from department of fisheries tidelands at Hoodspout Salmon Hatchery except during the period May 16 through July 14.

(8) It is unlawful to take or possess oysters for personal use from state tidelands at Bywater Bay except during the period May 16 through July 14.

(9) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

✓ WAC 220-56-382 OYSTERS AND CLAMS ON PRIVATE TIDELANDS—PERSONAL USE. (1) WAC 220-56-340 through 220-56-355, and 220-56-375 through 220-56-385 shall not apply to private tideland owners or lessees of state tidelands taking or possessing oysters, clams, cockles, borers and mussels for personal use from their own tidelands or leased state tidelands.

(2) It shall be unlawful for private tideland owners or lessees of state tidelands to transport or possess unfrozen or unprocessed oysters, clams, cockles, borers, or mussels away from their owned or leased tidelands or adjoining owned or leased uplands in excess of ((personal use limits as provided in WAC 220-56-310)) the daily bag limit.

(3) This section shall not apply to razor clams.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-56-400 ABALONE. (1) It is unlawful to remove undersized abalone from the water, and any undersized abalone must be replaced immediately with the shell outward to the site from which it was removed.

(2) The first five legal size abalone taken must be retained, and it is unlawful to detach abalones once the ((personal possession)) daily bag limit has been taken.

(3) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

✓ WAC 220-57-001 FRESHWATER SEASONS AND BAG LIMITS. It shall be unlawful to take, fish for or possess salmon taken for personal use, except from the following areas during the seasons, in the quantities, sizes, and for the species designated as follows in chapters 220-57 and 220-57A WAC and for the bag limits as defined in WAC 220-56-180. All freshwater streams

and lakes not listed as open for salmon fishing are closed.

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

✓ WAC 220-57-138 CHAMBERS CREEK. Bag limit A - ~~((October))~~ July 1 through November 15: Downstream from a set of markers 400 feet below the Boise-Cascade Dam (immediately upstream from the Boise-Cascade West Tacoma Mill).

AMENDATORY SECTION (Amending Order 84-25, filed 3/28/84)

✓ WAC 220-57-140 CHEHALIS RIVER. (1) Special bag limit - Six salmon not less than ten inches in length, not more than two of which may be chum salmon, or chinook salmon greater than 24 inches in length, in the aggregate. Chinook salmon greater than ~~((24))~~ 28 inches in length and coho salmon greater than 20 inches in length must be released immediately((-)) - September 1 through January 31: Downstream from the Porter Bridge to the ((Union Pacific Railroad)) Fuller Bridge ((in Aberdeen)).

(2) Special bag limit - Six salmon not less than ten inches in length, not more than two of which may be adult chinook, coho, or chum salmon, in the aggregate, defined as chinook greater than 24 inches in length, coho greater than 20 inches in length, and chum greater than 10 inches in length - September 1 through January 31: Downstream from the Fuller Bridge to the Union Pacific Railroad Bridge in Aberdeen except during the period October 16 through January 31 coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit ~~((E))~~ D - June 1 through December 31: Downstream from Chief Joseph Dam to ((the Richland-Pasco Highway 12 Bridge except those waters between the Vernita Bridge and the old Hanford townsite wooden powerline towers are open only during the period July 1 through October 15, and except for the special season and bag limited provided for in subsection (2) of this section)) Priest Rapids Dam. The following are closed waters:

(a) Chief Joseph Dam - waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam - waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and points 400 feet downstream.

~~((D))~~ (2) Priest Rapids Dam to the Vernita Bridge: Bag limit D - June 1 through August 15; Special daily bag limit of 6 salmon - August 16 through October 31; Bag limit C - November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam – waters between the upstream line of Priest Rapids Dam and a point 400 feet downstream.

~~((e))~~ (b) Jackson (Moran) Creek – waters within 500 feet of the mouth.

~~((2))~~ Bag limit A – April 1 through July 31; (3) Vernita Bridge to old Hanford townsite wooden power line towers; Bag limit D – July 1 through August 15; Special daily bag limit of 6 salmon – August 16 through October 15.

(4) Old Hanford townsite wooden power line towers to Highway 12 Bridge at Pasco; Bag limit D – June 1 through August 15 except when fishing from the east bank only in that portion ~~((of the Columbia River))~~ from WDF boundary marker located approximately 1/2 mile upstream from ~~((Spring Creek))~~ Ringold hatchery rearing pond outlet ~~((t))~~ downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet where the bag limit is A from April 1 through July 31; Special bag limit of 6 salmon – August 16 through December 31.

(5) Highway 12 Bridge at Pasco to Hood River Bridge; Bag limit D – July 1 through August 15; Bag limit A – August 16 through December 31.

~~((3))~~ Waters downstream from the Richland-Pasco Highway 12 Bridge to Hood River Bridge. Closed entire year.)) The following waters are closed to fishing for food fish at all times:

(a) McNary Dam – waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam – waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

~~((4))~~ Bag limit A – September 1 through March 15; ~~That portion))~~ (6) Downstream from Hood River Bridge to the Interstate 5 Bridge ~~((at Vancouver, except waters of Camas Slough are open under this bag limit from August 1 through March 15 between the upper Highway 14 Bridge on Lady Island to a line projected true north from the lower end of Lady Island and hook regulations and shad and sturgeon seasonal restrictions in Camas Slough are identical with regulations and restrictions in adjacent mainstem Columbia River waters))~~; Bag limit D – July 1 through July 31; Bag limit A – August 1 through December 31. The following are closed waters:

(a) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(b) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

~~((5))~~ Special bag limit – six chinook, coho, and sockeye salmon in the aggregate not less than 10 inches in length or more than the following: 24 inches in length for chinook; 20 inches in length for coho; no maximum length restriction for sockeye – June 1 through July 25; Waters downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

(6) Bag limit A – August 16 through March 31; Waters downstream from the)) (7) Interstate 5 Bridge to the Megler-Astoria Bridge; Bag limit A – January 1 through March 31; Bag limit D – May 16 through July 31; Bag limit A – August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek.

~~((7))~~ Bag limit A – August 16 through March 31; Waters downstream from the)) (8) Megler-Astoria Bridge to ~~((a line projected true north and south through))~~ the Buoy 10 Line; Bag limit A – August 16 through March 31, except that during the period August 16 through September 30 ~~((when))~~ size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of Punch Card Area 1.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-57-175 COWLITZ RIVER. (1) Special bag limit – April 1 through July 31: Downstream from ~~((a))~~ fishing boundary markers approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam ~~((on the north side of the river and downstream from the base of the barrier dam on the south side of the river to the mouth))~~. Bag limit is six salmon per day not less than 10 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag limit A – August 1 through March 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam structures except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the Interstate 5 Bridge must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

(5) Bag limit A – Open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-57-200 DICKEY RIVER. (1) Bag limit C - July 1 through ~~((September 30))~~ August 31: Downstream of the mouth of east fork of the Dickey River to the National Park boundary. ~~((All coho salmon greater than 20 inches in length must be released immediately.))~~

(2) Bag limit A - ~~((October))~~ September 1 through November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary. All coho salmon greater than 20 inches in length must be released immediately.

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

✓ WAC 220-57-220 DUWAMISH RIVER. Bag limit A - July 1 through November 30: Upstream from the First Avenue South Bridge to the Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

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

✓ WAC 220-57-235 ELOCHOMAN RIVER. ~~((+))~~ Bag limit A - September 1 through December 31: Downstream from mouth of the west fork, except closed to salmon angling in the following waters:

(1) From a point 100 feet above the upper hatchery rack to the ~~((Elochoman))~~ Elokomin Salmon Hatchery Bridge located approximately 400 feet below the upper hatchery rack ~~((and closed)).~~

(2) From the department of fisheries temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in the river.

(3) Between points 50 feet above and 100 feet below the outlet pipes from the most downstream Elokomin Salmon Hatchery rearing pond and extending 30 feet out from the south bank of the river.

(4) From the Beaver Creek Bridge to 200 feet below the weir at Beaver Creek Hatchery.

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

✓ WAC 220-57-260 GREEN RIVER (KING COUNTY). (1) Bag limit A - July 1 through October 15: Downstream from the Porter Bridge (Auburn Eighth Street NE Bridge) to Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

(2) Bag limit A - October 16 through November 30: Downstream from the downstream side of the Highway 18 Bridge to the Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

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

✓ WAC 220-57-290 ICICLE RIVER. ~~((Closed to salmon angling the entire year))~~ Bag limit A - Saturday

preceding Memorial Day through June 30 in those waters downstream from a point 400 feet below the Leavenworth National Fish Hatchery rack.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-57-319 LEWIS RIVER. (1) Mainstem - bag limit A - open entire year: Downstream from east fork to mouth.

(2) East fork:

(a) Bag limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag limit A - ~~((Saturday preceding Memorial Day))~~ April 1 through December 31: Downstream from Lucia Falls to the LaCenter Bridge. All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North fork:

(a) Bag limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag limit A - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the east fork, except that at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57-335 NASELLE RIVER. (1) Bag limit A - July 1 through September 30: Downstream from a point 400 feet below the entrance to the Naselle Salmon Hatchery Attraction Channel to Highway 101 Bridge except only one chinook salmon greater than 24 inches in length may be retained as part of the daily bag limit.

(2) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. Not more than two of the salmon in the daily bag limit may be chum salmon, and all chinook salmon over 28 inches in length must be released immediately - October 1 through ~~((January))~~ October 31: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

(3) Bag limit A - November 1 through January 31: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

(4) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57-350 NOOKSACK RIVER. (1) ~~((Bag limit A))~~ Special daily bag limit of six salmon per day - August 1 through December 31: Downstream

from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) Bag limit C - September 1 through October 31: (North fork) downstream from Maple Creek to mouth of north fork.

(3) The entire Nooksack River is closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

✓ WAC 220-57-435 SKYKOMISH RIVER. Bag limit A, except that the daily bag limit may contain up to 6 adult coho salmon - July 1 through December 31: Downstream from the confluence of north and south forks. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

✓ WAC 220-57-450 SNOHOMISH RIVER. Bag limit A, except that the daily bag limit may contain up to 6 adult coho salmon - July 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

✓ WAC 220-57-455 SNOQUALMIE RIVER. Bag limit A, except that the daily bag limit may contain up to 6 adult coho salmon - July 1 through December 31. Closed to the taking of pink salmon in odd-numbered years.

NEW SECTION

✓ WAC 220-57A-001 GENERAL PROVISIONS—LAKES. (1) It is unlawful to fish for or possess salmon taken from any lake not listed in this chapter.

(2) The daily bag limit, possession limit, opening and closing hours, and seasons of all lakes regulated under Bag limit I are identical with those limits and times as provided for gamefish, as regulated by the Washington game commission under Title 77 RCW.

(3) The daily bag limit, possession limit, and seasons of all lakes regulated under Bag limit A, Bag limit C, or Special bag limits, are in addition to gamefish limits as regulated by the Washington game commission, under Title 77 RCW.

(4) The daily bag limit, possession limit, opening and closing hours, and seasons codified by the department of game in chapter 232-24 WAC are incorporated herein and by reference made a part hereof.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-012 BAKER LAKE (WHATCOM COUNTY). Bag limit I ((=~~April 21 through October 31~~)).

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

✓ WAC 220-57A-015 BANKS LAKE (GRANT COUNTY). ((~~Special~~)) Bag limit ((=~~13 salmon not less than 6 inches in length and other salmonid fish in the aggregate, not more than 5 of which may be trout and char in any combination = open entire year~~)) I.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

✓ WAC 220-57A-017 BIG LAKE (SKAGIT COUNTY). Bag limit I ((=~~open entire year~~)).

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

✓ WAC 220-57A-035 CHELAN LAKE (CHELAN COUNTY). Bag limit I ((=~~open entire year~~)).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-037 CLEAR LAKE (PIERCE COUNTY). Bag limit I ((=~~April 21 through July 4 and September 1 through October 31~~)).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-040 CUSHMAN LAKE (MASON COUNTY). Bag limit I ((=~~April 21 through October 31~~)).

AMENDATORY SECTION (Amending Order 77-3, filed 1/28/77, effective 3/1/77)

✓ WAC 220-57A-045 DAVISSON LAKE (RIFFE) (LEWIS COUNTY). Bag limit I ((=~~open entire year~~)).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). Bag limit I ((=~~April 21 through October 31~~)).

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

✓ WAC 220-57A-110 MAYFIELD LAKE (LEWIS COUNTY). Bag limit I ((=~~open entire year~~)).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-112 MCMURRAY LAKE (SKAGIT COUNTY). Bag limit I ((=~~April 21 through September 2~~)).

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

✓ WAC 220-57A-120 MERWIN LAKE (RESERVOIR). Bag limit I ((=~~Open the entire year~~)).

AMENDATORY SECTION (Amending Order 76-14, filed 3/15/76, effective 5/1/76)

✓ WAC 220-57A-140 ROOSEVELT LAKE (FERRY COUNTY). Bag limit I (~~=open entire year~~).

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

✓ WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I (~~=April 21 through October 31~~).

NEW SECTION

✓ WAC 220-57A-183 LAKE WENATCHEE. Special daily bag limit of three sockeye salmon not less than 16 inches in length - August 1 through Labor Day, except closed to salmon angling within 300 feet of the mouths of the Little Wenatchee River and the White River.

**WSR 86-09-021
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION
[Filed April 9, 1986]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to leasing, WAC 480-12-210. The proposed amendatory section is shown below as Appendix A, Cause No. TV-1950. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, May 28, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, 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 80.01.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1986.

Dated: April 8, 1986
By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 480-12-210 relating to leasing.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 81.80.290, which direct that the commission has authority to implement the provisions of chapter 81.80 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to exempt retail store delivery services from certain requirements of leasing rules.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 81.80.290.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-151, Cause No. TV-1373, filed 9/17/80)

WAC 480-12-210 LEASING. Other than equipment exchanged between motor common carriers in interchange service, as provided in WAC 480-12-155, common or contract carriers may perform common or contract transportation in or with equipment which they do not own only in accordance with this leasing rule. The arrangement for such equipment shall contain the provisions provided for in this rule and be prepared in the manner so provided, and the parties to the lease shall observe such provisions and manner of preparation. Any failure to so observe the provisions of the lease and/or the manner of preparation shall be a violation of this rule.

(1) Contract requirements.

The contract, lease, or other arrangement for the use of such equipment shall:

(a) Be made between the common or contract carrier and the owner of the equipment;

(b) Be in writing and signed by the parties thereto, or their regular employees or agents duly authorized to act for them in the execution of contracts, ~~((for))~~ leases, or other arrangements;

(c) Specify the period for which it applies which shall not be less than thirty days when the equipment is to be operated for the common or contract carrier by the owner, or by an employee of the owner: PROVIDED, That for good cause shown the commission may, by order, grant a waiver of this subdivision and of subdivision (e) to the extent of permitting leases of less than thirty days duration in connection with equipment operated by the owner or by an employee of the owner;

(d) Provide for the exclusive possession, control and use of the equipment and for the complete assumption of responsibility in respect thereto by the lessee for the duration of said contract, lease, or other arrangement, except, however, in the case of long term leases providing for intermittent operations entered into between household goods carriers authorized for the intrastate transportation of household goods as defined by this commission, or long term leases between authorized contract carriers and owners of equipment engaged in retail store delivery service as defined by this commission, such provisions need only apply during the period the equipment is operated by or for the lessee;

(e) Provide that during the period of the lease, contract, or other arrangement the driver of the leased vehicle shall be to the lessee as servant to master and the driver shall be on the payroll of the lessee, and shall be paid by the lessee, except that in the case of a long term

lease entered into by a common carrier of mobile homes or an authorized contract carrier engaged in retail store delivery service, the driver may be the owner of the equipment or an employee of the owner;

(f) Specify the compensation to be paid by the lessee for the rental of the leased equipment. Such compensation shall be a specified sum per period of time, i.e. per month, per week or a specified sum per period of time plus a specific sum per mile of use. The amount of compensation specified and accordingly paid shall not be based upon a division of revenue, except such method of compensation shall be permissible (i) between authorized carriers of household goods when the leased equipment is used for the transportation of household goods as defined by this commission ((and)), (ii) between an authorized common carrier of mobile homes and an owner of equipment under a long term lease, and (iii) between an authorized contract carrier engaged in retail store delivery service and an owner of equipment under a long term lease;

(g) Specify the time and date or the circumstances on which the contract, lease, or other arrangement begins and the time or the circumstances on which it ends;

(h) Be executed in quadruplicate and submitted to the commission for approval. The approved original shall be retained by the common or contract carrier in whose service the equipment is to be operated, one approved copy shall be retained by the owner of the equipment, one approved copy shall be carried on the equipment specified therein during the entire period of the contract, lease, or other arrangement ((f)) and one approved copy shall be retained in commission files, except that (i) a master lease agreement outlining in detail the leasing arrangements between specifically named parties may be filed for approval in lieu of separate leases in connection with each occurrence, and that (ii) leases covering transportation in interstate commerce need not be filed: PROVIDED, That leased equipment is not acquired and operated under the provisions of subdivision (i) of this subsection;

(i) Where the leased equipment is acquired and operated by the lessee on a long term lease pursuant to rules and regulations of the interstate commerce commission governing such a lease, and the operation of the leased equipment is primarily in interstate commerce not performed wholly within the bounds of this state, and the use of such equipment in intrastate commerce has an immediate prior and immediate subsequent movement in interstate commerce from or to points without this state, the operation of such equipment may be governed by rules and regulations of the interstate commerce commission governing such a lease, PROVIDED, That the total annual use in intrastate commerce does not exceed 15% as compared to its use in interstate commerce, and foregoing provisions of subdivisions (a), (b), (c), (d), (e), and (f) of this section shall not apply. For purposes of this subdivision "immediate" shall mean there shall be no haul between the initial qualifying interstate movement and the intrastate haul nor between the intrastate haul and the subsequent interstate movement.

Common and contract carriers wishing to operate under the provisions of this subdivision shall apply to the commission for permission to do so, setting forth facts supporting the application.

(2) Identification.

The common or contract carrier acquiring the use of equipment under this rule shall properly and correctly identify the equipment as being operated by the lessee during the period of the lease, contract, or other arrangement, in accordance with the requirements of WAC 480-12-150.

If a removable device is used to identify the lessee as the operating carrier, such device shall be on durable material such as wood, plastic, or metal.

The common or contract carrier operating equipment under these rules shall remove any legend showing it as the operating carrier displayed on such equipment, and shall remove any removable device showing it as the operating carrier before relinquishing possession of the equipment.

(3) Rental of equipment to private carriers, shippers, contractors and combination-of-service-carriers.

(a) Unless such service is specified in their operating authorities, common or contract carriers shall not rent equipment with drivers to private carriers or shippers.

(b) Common or contract carriers shall not rent, contract or lease, or by other arrangement furnish, equipment without drivers to private carriers or shippers without first having obtained approval of the rental contract from this commission and, in this connection, the commission

will examine the terms of the rental agreement and all facts and circumstances surrounding it to determine the effect of the lease insofar as established rates and operating authority is concerned.

(c) Dump trucks and logging trucks shall not be leased or rented by common or contract carriers to construction contractors, loggers, combination-of-service carriers or other parties engaged in logging and construction operations: PROVIDED (i) common or contract carrier dump truckers may enter into an arrangement involving rental or leasing of trucks to highway construction contractors who are required by state or federal law to submit certified payrolls: (ii) such rental or lease arrangements must be filed with and approved by the commission; (iii) the total payments for and to the trucker under such rental or lease arrangements must be the equivalent of the charges which trucker would earn under applicable common carrier tariff rates; (iv) the contractor may not assess any charges against the carrier for accounting or bookkeeping expenses or make any deductions from rate charges earned which the common or contract carrier dump trucker is not legally liable to pay; (v) the common or contract carrier dump trucker must have the required permit authority for the territory and the commodities involved.

WSR 86-09-022
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION
[Filed April 9, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to accounting, WAC 480-120-031 and 480-120-033. The proposed sections are shown below as Appendix A, Cause No. U-86-31. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed sections on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, May 28, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, 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 June 11, 1986.

The authority under which these rules are proposed is RCW 80.01.040.

The specific statute these rules are intended to implement is RCW 80.04.080 and 80.36.320.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 16, 1986.

Dated: April 8, 1986

By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 480-120-031 and adopting WAC 480-120-033 relating to accounting for telecommunications companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040, 80.04.080 and 80.36.320 which direct that the commission has authority to implement the provisions of Title 80 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to prescribe accounting and reporting requirements for telecommunications companies classified as competitive. The rule relieves such companies of accounting and reporting obligations that would otherwise be applicable.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 80.04-.080 and 80.36.320.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-242, Cause No. U-85-56, filed 11/7/85)

WAC 480-120-031 ACCOUNTING. The Uniform System of Accounts for Class A and Class B Telephone Companies published by the Federal Communications Commission (FCC) and designated as Volume VIII, Part 31, is hereby prescribed for use of telecommunications companies in the state of Washington (~~except as provided for competitive telecommunications companies in WAC 480-120-033~~).

Telecommunications companies operating within this state shall be classed by revenue as follows:

Class	Annual Gross Operating Revenue
A	Exceeding \$100,000
B	\$100,000 or less

Companies that desire more detailed accounting may adopt the accounts prescribed for a higher classification of telecommunications companies: PROVIDED, That the commission is notified promptly of such action. Such companies are required to comply with the more detailed reporting requirements contained in the rules respecting such higher classification.

Any provisions contained in the Uniform System of Accounts adopted in paragraph one above which is contrary to paragraph two and three above are hereby deleted.

The annual report form (FCC Form "M") promulgated by the Federal Communications Commission (FCC) is hereby adopted for purposes of annually reporting to this commission by all telecommunications companies.

Any deviation from the Uniform System of Accounts and the annual report forms adopted and published by the FCC will only be accomplished after due notice and order by this commission.

The total company results of operations reported by each telecommunications company in its annual report shall agree with the results of operations shown on its books and records.

All telecommunications companies having multi-state operations shall maintain records in such detail that the costs of property located and business done in this state in accordance with state geographic boundaries can be readily ascertained.

All telecommunications companies having multi-state operations shall report to this commission at least once each year, as a supplement to its annual report, such allocations between states as are requested by

the commission from time to time for each utility. Any allocations required in developing results of operations for the state of Washington separately shall be accomplished on a basis acceptable to the commission.

The annual budget of expenditures form for budgetary reporting by all telecommunications companies having \$25,000 or more in annual revenue will be published by this commission in accordance with chapter 480-140 WAC. Any change to these forms will only be accomplished after due notice and order of this commission.

The requirements of this section shall not apply to telecommunications companies classified by the commission as competitive, and subject to WAC 480-120-033.

NEW SECTION

WAC 480-120-033 ACCOUNTING AND REPORTING REQUIREMENTS FOR COMPETITIVE TELECOMMUNICATIONS COMPANIES. Competitive telecommunications companies shall, at a minimum, keep accounts according to generally accepted accounting principles and file annually, on a form prescribed by the commission, a certified consolidated financial statement which specifies revenues from intrastate operations. Competitive telecommunications companies shall also make available, at the time and place the commission may designate, such accounting records as the commission may request. Such companies shall also keep on file at the commission current price lists and service standards.

WSR 86-09-023
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 270—Filed April 10, 1986]

Be it resolved by the State Game Commission, acting at the Red Lion Motor Inn, 2525 North 20th, Pasco, WA 99301, that it does adopt the annexed rules relating to commercial buying and processing of anadromous game fish or roe, amending WAC 232-12-091.

This action is taken pursuant to Notice No. WSR 86-05-047 filed with the code reviser on February 19, 1986. 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 77.32.211 and 77.12.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 7, 1986.

By Archie U. Mills
Chairman, Game Commission

AMENDATORY SECTION (Amending Order 247, filed 4/9/85)

✓ WAC 232-12-091 COMMERCIAL BUYING AND PROCESSING OF ANADROMOUS GAME FISH OR ROE. (1) It is unlawful to buy, sell or possess with intent to sell anadromous game fish or roe, without having in possession a valid ((department)) anadromous game fish buyer's license and comply with the following provisions:

(a) An anadromous game (~~department~~) fish buyer's license is valid for a year (January 1 to December 31).

(b) Fish buyer's licenses must be obtained by applying to the Department of Game, 600 North Capitol Way, Olympia, Washington 98504.

(c) The anadromous game fish buyer's license, or a copy, must be in possession of a person buying anadromous game fish or roe.

(d) Fish buyer's licenses are not transferable.

(e) Fish buyer's licenses authorize a person to buy only anadromous game fish or roe taken by treaty Indians possessing valid federal or tribal fishing identification cards during lawful open seasons.

(2) It is unlawful for a person possessing or buying anadromous game fish or roe from a treaty Indian to not comply with the following:

(a) Completely, accurately and legibly (~~(F)~~) fill out a (~~department steelhead~~) state of Washington treaty Indian fish receiving ticket including name of seller or tribal identification number, tribal affiliation, (~~treaty fishing identification card number,~~) numbers of fish or skeins of roe, marine area or river where caught, and signature of the person directly receiving the fish.

(b) Obtain the signature of the seller on the tribal copy of the receiving ticket.

~~(b)~~ (c) Transmit the (~~fish~~) receiving tickets daily to the (~~department~~) Northwest Indian Fish Commission.

~~(c)~~ (d) Retain a copy of the (~~steelhead~~) receiving ticket with the anadromous game fish or roe as long as the fish or roe are in possession.

(3) Transactions involving the possession or sale of treaty caught anadromous game fish between two or more licensed buyers, the recipients of said fish must possess a (~~copy of the original fish receiving ticket and~~) sales invoice.

(4) This section does not apply to a person who buys lawfully caught treaty Indian anadromous game fish for personal consumption.

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 86-09-024
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 271—Filed April 10, 1986]

Be it resolved by the State Game Commission, acting at the Red Lion Motor Inn, 2525 North 20th, Pasco, WA 99301, that it does adopt the annexed rules relating to definition of eastern and western Washington, WAC 232-12-809.

This action is taken pursuant to Notice No. WSR 86-05-049 filed with the code reviser on February 19, 1986. These rules shall take effect thirty days after they are

filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED April 7, 1986.

By Archie U. Mills
Chairman, Game Commission

AMENDATORY SECTION (Amending Order 184, filed 5/19/82)

✓ WAC 232-12-809 DEFINITION OF EASTERN AND WESTERN WASHINGTON. For purposes of all rules of the commission, eastern and western Washington are defined as:

Eastern Washington - all lands lying east of the (~~summit of the~~) Cascade (~~Mountains~~) Crest Trail and east of the Big White Salmon River in Klickitat County.

Western Washington - all lands lying west of the (~~summit of the~~) Cascade (~~Mountains~~) Crest Trail and west of and including the Big White Salmon River in Klickitat County.

WSR 86-09-025
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Radiation Control)

[Order 2365—Filed April 10, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to requirements for users of the Washington commercial low-level waste disposal site, amending WAC 402-19-530.

I, Lee D. Bomberger, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement the Low-Level Radioactive Waste Policy Amendment Act 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 RCW 70.98.080 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 70.98 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 April 10, 1986.

By Lee D. Bomberger, Acting Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2026, filed 9/16/83)

WAC 402-19-530 REQUIREMENTS FOR USERS OF THE WASHINGTON COMMERCIAL LOW-LEVEL WASTE DISPOSAL SITE. (1) Purpose and scope. Each generator(~~(/shipper)~~) and each broker of low-level radioactive waste (LLRW) shall have a valid and unencumbered site use permit prior to (~~the disposal of such wastes at any commercial low-level radioactive waste burial site located in the state of Washington. The term "broker" as used in these regulations shall mean a person who arranges for the transport or disposal of waste generated under a permit other than his own, provided it shall not include a carrier whose sole function is to transport low-level radioactive waste.~~

(2)) shipment of such waste to, or disposal of such waste at, any commercial low-level radioactive waste burial site located in the state of Washington; and each generator and each broker of such waste shall prepare a low-level radioactive waste shipment certification prior to shipment of such waste to any commercial low-level radioactive waste burial site located in the state of Washington.

(2) Definitions.

(a) The term "generator" as used in these regulations shall mean the last person who puts radioactive material to practical use, and who then declares it to be no longer of use or value.

(b) The term "broker" as used in these regulations shall mean a person who performs one or more of the following functions for a low-level radioactive waste generator:

(i) Arranges for the transportation of the low-level radioactive waste;

(ii) Collects and/or consolidates shipments of such low-level radioactive waste;

(iii) Processes such low-level radioactive waste in some manner;

Provided it shall not mean a carrier whose sole function is to transport such low-level radioactive waste.

(3) Site use permit.

(a) Filing application for site use permit.

(i) Application for a site use permit shall be filed on departmental form RHF-30 or a clear legible record containing all the information required on that form including but not limited to: United States Nuclear Regulatory Commission or agreement state license number, name of company, address, 24-hour telephone number, and contact person.

(ii) Each application shall be signed by the applicant or a person duly authorized to act for or on the applicant's behalf.

(b) A site use permit must be obtained before disposal of low-level radioactive waste at any waste burial site is permitted.

(c) Each permit shall be renewed annually.

(d) Revocation of permit.

(i) The failure of one or more packages in a shipment (~~(of waste)~~) to be in compliance with the requirements of the license issued to the commercial low-level radioactive waste disposal site operator, Title 402 WAC, the United States Nuclear Regulatory Commission, or the United States Department of Transportation, may cause the revocation of this use permit for the responsible waste generator(~~(/shipper)~~) or broker. Failure to comply with the requirements in the preceding sentence may bar the acceptance of any other or subsequent shipment by the same generator(~~(/shipper)~~) or broker at the site.

(ii) The site use permit may be revoked for a specific generator (~~(/shipper)~~) and/or broker if a refusal to accept one or more of the shipments has been made by any other licensed commercial low-level waste burial site within the United States.

(iii) The site use permit may be reinstated provided the generator (~~(/shipper)~~) and/or broker submits documentation approved by the department describing its quality assurance program to achieve compliance for future shipments.

((3)) (4) Waste shipment certification. A low-level radioactive waste shipment certification shall be required to accompany each shipment of radioactive waste to the licensed low-level waste burial site. The certification shall be submitted at the burial site to the department of social and health services or its designee (~~(and)~~); must bear original signatures of the generator, broker, and carrier, and must be judged to be properly executed prior to acceptance of the waste by the site operator. If a broker is acting as the packager of the waste, the broker may act as the agent of the generator and may sign the certification statement for the generator, provided the name and site use permit number of the original generator are identified. The certification shall be on departmental form RHF-31 or a clear legible record containing all the information required in that form. The information shall include, but is not limited to, name of company, volume of waste in the shipment, shipment number, permit number, date, and whether or not a broker is involved.

WSR 86-09-026

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Radiation Control)

[Filed April 10, 1986]

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 requirements for users of the Washington commercial low-level waste disposal site, amending WAC 402-19-530.

It is the intention of the secretary to adopt these rules on an emergency basis on or about April 10, 1986;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, 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 May 30, 1986.

The authority under which these rules are proposed is RCW 70.98.080.

The specific statute these rules are intended to implement is chapter 70.98 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 9, 1986

By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amending WAC 402-19-530.

Purpose of the Rule Change: To add two definitions.

Amendment is Necessary: To clarify the requirements of waste tracking manifests and clarify certification requirements.

Statutory Authority: Chapter 70.98 RCW.

Summary of the Rule Change: The addition of two definitions. The definitions are as follows: "Generator" means the last person who puts radioactive material to practical use, and who then decides it to be no longer of use or value. "Broker" means a person who performs one or more of the following functions: Arranges for transportation of waste; collects and consolidates shipments of waste; and processes the waste in some manner for a waste generator.

Person Responsible for Drafting, Implementation and Enforcement of These Rules: T. R. Strong, Chief, Office of Radiation Protection, mailstop LE-13, phone 753-3468.

This rule change is proposed by John A. Beare, MD, MPH, Director, Division of Health, and recommended by staff of the Division of Health, Department of Social and Health Services.

A copy of the Low-Level Radioactive Waste Policy Amendment Act of 1985 is on file at the code reviser's office.

AMENDATORY SECTION (Amending Order 2026, filed 9/16/83)

WAC 402-19-530 REQUIREMENTS FOR USERS OF THE WASHINGTON COMMERCIAL LOW-LEVEL WASTE DISPOSAL SITE. (1) Purpose and scope. Each generator(~~(/shipper)~~) and each broker of low-level radioactive waste (LLRW) shall have a valid and unencumbered site use permit prior to ((the disposal of such wastes at any commercial low-level radioactive waste burial site located in the state of Washington. The term "broker" as used in these regulations shall mean a person who arranges for the transport or disposal of waste generated under a permit other than his own, provided it shall not include a carrier whose sole function is to transport low-level radioactive waste:

(2)) shipment of such waste to, or disposal of such waste at, any commercial low-level radioactive waste burial site located in the state of Washington; and each generator and each broker of such waste shall prepare a low-level radioactive waste shipment certification prior to shipment of such waste to any commercial low-level radioactive waste burial site located in the state of Washington.

(2) Definitions.

(a) The term "generator" as used in these regulations shall mean the last person who puts radioactive material to practical use, and who then declares it to be no longer of use or value.

(b) The term "broker" as used in these regulations shall mean a person who performs one or more of the following functions for a low-level radioactive waste generator:

(i) Arranges for the transportation of the low-level radioactive waste;

(ii) Collects and/or consolidates shipments of such low-level radioactive waste;

(iii) Processes such low-level radioactive waste in some manner;

Provided it shall not mean a carrier whose sole function is to transport such low-level radioactive waste.

(3) Site use permit.

(a) Filing application for site use permit.

(i) Application for a site use permit shall be filed on departmental form RHF-30 or a clear legible record containing all the information required on that form including but not limited to: United States Nuclear Regulatory Commission or agreement state license number, name of company, address, 24-hour telephone number, and contact person.

(ii) Each application shall be signed by the applicant or a person duly authorized to act for or on the applicant's behalf.

(b) A site use permit must be obtained before disposal of low-level radioactive waste at any waste burial site is permitted.

(c) Each permit shall be renewed annually.

(d) Revocation of permit.

(i) The failure of one or more packages in a shipment ((of waste)) to be in compliance with the requirements of the license issued to the commercial low-level radioactive waste disposal site operator, Title 402 WAC, the United States Nuclear Regulatory Commission, or the United States Department of Transportation, may cause the revocation of this use permit for the responsible waste generator(~~(/shipper)~~) or broker. Failure to comply with the requirements in the preceding sentence may bar the acceptance of any other or subsequent shipment by the same generator(~~(/shipper)~~) or broker at the site.

(ii) The site use permit may be revoked for a specific generator (~~(/shipper)~~) and/or broker if a refusal to accept one or more of the shipments has been made by any other licensed commercial low-level waste burial site within the United States.

(iii) The site use permit may be reinstated provided the generator (~~(/shipper)~~) and/or broker submits documentation approved by the department describing its quality assurance program to achieve compliance for future shipments.

((3)) (4) Waste shipment certification. A low-level radioactive waste shipment certification shall be required to accompany each shipment of radioactive waste to the licensed low-level waste burial site. The certification shall be submitted at the burial site to the department of social and health services or its designee ((and)); must bear original signatures of the generator, broker, and carrier; and must be judged to be properly executed prior to acceptance of the waste by the site operator. If a broker is acting as the packager of the waste, the broker may act as the agent of the generator and may sign the certification statement for the generator, provided the name and site use permit number of the original generator are identified. The certification shall be on departmental form RHF-31 or a clear legible record containing all the information required in that form. The information shall include, but is not limited to, name of company, volume of waste in the shipment,

shipment number, permit number, date, and whether or not a broker is involved.

WSR 86-09-027
EMERGENCY RULES
LIQUOR CONTROL BOARD
 [Order 187, Resolution No. 196—Filed April 10, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Class H hotels—Sales by the bottle, new section WAC 314-16-115.

We, the Washington State Liquor Control Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is chapter 208, Laws of 1986, provides that hotels, holding Class H licenses pursuant to RCW 66.24.400 may sell liquor by the bottle to registered guests for consumption at the hotel. The legislature adopted this law as an emergency measure and provided an effective date of May 1, 1986. There is not time presently under the regular rule-making process to adopt rules under which authority to sell liquor by the bottle will be regulated, and it is deemed essential to have rules in effect by May 1, 1986.

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

This rule is promulgated pursuant to RCW 66.08.030, 66.98.070, 66.24.400 and chapter 208, Laws of 1986, and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 10, 1986.

By L. H. Pedersen
 Chairman

NEW SECTION

WAC 314-16-115 CLASS H HOTELS—SALES BY THE BOTTLE. (1) Hotels with Class H licenses may sell liquor by the bottle to registered guests age twenty-one years or over of said hotel provided:

(a) That prior to the sale of such liquor the guest must prove that he or she is registered at that hotel by showing either a room key bearing the room number and name of the hotel or a registration receipt from said hotel and must acknowledge this registration by signature upon a form to be provided by the hotel for this purpose.

The Class H licensee shall retain said form for the same period of time as for registration information. Where the registered guest is of questionable age to purchase alcoholic beverages, the licensee may require such person to complete a licensee certification card as provided in RCW 66.20.190.

(b) That any bottle of liquor sold pursuant to chapter 208, Laws of 1986 must be removed unopened from the lounge area or other approved dispensing area. Such bottle may be consumed only in a guest room, hospitality room or banquet room.

(c) That such sales of liquor by the bottle shall be from the lounge of the licensed premises, from an approved dispensing area or by room service provided by the licensee. If an approved dispensing area is used for this purpose, the access thereto must be limited to registered guests who intend to purchase liquor for use within a guest room, hospitality room or banquet room.

(2) A hotel with a Class H license may sell within the individual guest room liquor by the bottle to registered guests age twenty-one years or over provided:

(a) That such liquor shall be secured in a liquor dispensing cabinet within the guest room. Such liquor dispensing cabinet must remain locked whenever the room is rented to a guest under the age of twenty-one years.

(b) That access to individual guest room liquor dispensing cabinets shall be by key, magnetic card or similar device provided by the hotel to the adult registered guest.

(c) That liquor made available for sale within the guest room from a liquor dispensing cabinet shall be packaged in individual serving containers such as miniatures of distilled spirits, splits of wine and bottles or cans of malt beverages.

(d) That replenishment of such liquor dispensing cabinets may be made by employees age eighteen or over working under the supervision of an employee at least age twenty-one. Such replenishment may be made only during those hours when liquor may be sold by the Class H licensee.

(3) The hotel Class H licensee may provide a dispensing area removed from the lounge for the purpose of sales to registered guests of legal age. Such area shall not be accessible to anyone other than registered guests and employees of the Class H licensee. Sales therefrom shall be made only by an authorized employee of the licensee. The purchaser shall complete a form provided by the licensee which attests to the validity of the guest's registration at that hotel. Where the registered guest is of questionable age to purchase alcoholic beverages, the licensee may require such person to complete a licensee certification card as provided by RCW 66.20.190.

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 86-09-028

EMERGENCY RULES

LIQUOR CONTROL BOARD

[Order 189, Resolution No. 198—Filed April 10, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Class H restaurant operation, WAC 314-24-160.

We, the Washington State Liquor Control Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the amendment to the rule will allow domestic wineries which are authorized as vendors pursuant to WAC 314-37-020 to permit consumption of liquor products, other than wine, of its own production in designated parks and picnic areas of the winery's premises. In order to accommodate a significant number of tourists that may be visiting Washington's eligible wineries in connection with the World Exposition in British Columbia, Canada (opening in May 1986), the board is implementing this authorization as an emergency measure since there is not sufficient time following the regular rule-making process.

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

This rule is promulgated pursuant to RCW 66.08.030, 66.98.070 and 66.08.050(2) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 10, 1986.

By Robert D. Hannah
Member of the Board

AMENDATORY SECTION (Amending Order 61, Resolution No. 70, filed 12/6/77)

WAC 314-24-160 DOMESTIC WINERIES—RETAIL SALES OF WINE ON WINERY PREMISES—WINE SERVED WITHOUT CHARGE ON PREMISES—CLASS H RESTAURANT OPERATION. (1) A domestic winery holding a proper retail license, pursuant to chapter 66.24 RCW, may sell wine of its own production at retail on the winery premises: **PROVIDED**, That wine so sold at retail shall be subject to the tax imposed by RCW 66.24.210, and to reporting and bonding requirements as prescribed by RCW 66.28-.010 and WAC 314-24-110 (~~(Rule 69)~~).

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in

conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a Class H restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such Class H licenses.

(5) A domestic winery may serve wine without charge on the winery premises as authorized by RCW 66.28-.040. Such wine served without charge as provided herein is not subject to the tax imposed by RCW 66.24.210.

~~((4))~~ (6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

WSR 86-09-029

NOTICE OF PUBLIC MEETINGS

GREEN RIVER COMMUNITY COLLEGE

[Memorandum—April 9, 1986]

Green River Community College, District No. 10, pursuant to RCW 42.30.075, will change the date of its regular meeting from Thursday, May 15, 1986, to Thursday, May 22, 1986.

WSR 86-09-030

NOTICE OF PUBLIC MEETINGS

WASHINGTON STATE UNIVERSITY

[Memorandum—April 8, 1986]

The board of regents of Washington State University has changed the meeting place for the June 26-27, 1986, meeting. It will now be held on Friday, June 27, 1986, at the Coastal Washington Research and Extension Unit in Longbeach. The tentative starting time for the meeting is 8:00 a.m.

The WSU board of regents has set the following schedule for its meetings from July 1, 1986, through June 30, 1987:

August 1, 1986	King County Extension Office, Seattle
September 5, 1986	Pullman
October 9, 1986 (Thursday)	Pullman
November 21, 1986	Spokane
February 6, 1987	Pullman
March 27, 1987	Pullman
May 8-9, 1987	Pullman
June 25-26, 1987	Pullman

**WSR 86-09-031
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
[Filed April 11, 1986]**

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 license fees, amending chapter 440-44 WAC;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, in the Auditorium, Office Building #2, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1986.

The authority under which these rules are proposed is RCW 43.20A.055.

The specific statute these rules are intended to implement is RCW 43.20A.055.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 10, 1986

By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amending WAC 440-44-035 and 440-44-040.

Purpose of the Rules Changes: To update the license fees based on the annual cost study.

Reason the Changes are Necessary: To generate revenue to cover the costs incurred in issuing the licenses.

Statutory Authority: Section 2, chapter 201, Laws of 1982.

Summary of Rule Changes: Add new paragraph establishing review fee for carpeting; and adjust hospice and home health licensing fees.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Dick Jones, Program Fiscal Manager, Division of Health, mailstop ET-22, phone 753-3934.

Rule changes proposed by John A. Beare, MD, MPH, Director, Division of Health, DSHS.

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

The fees established by these regulations are assessed based on the dollar value of the application being reviewed. Since the fees are determined by the dollar value of the project rather than the size of the organization making the application, there is not a disproportionate impact between small and large businesses. In addition, it is anticipated that review activity will be minimal to nonexistent for those businesses with less than 50 employees.

AMENDATORY SECTION (Amending Order 2236, filed 5/31/85)

WAC 440-44-035 HEALTH FACILITY CONSTRUCTION REVIEW FEES. An application for project review shall be accompanied by payment of a fee as follows:

Estimated Cost Range of Construction Project	Standard Project Review Fee
\$ 0 to \$ 499	\$ 60
500 to 999	120
1,000 to 1,999	180
2,000 to 2,999	240
3,000 to 4,999	300
5,000 to 9,999	360
10,000 to 19,999	480
20,000 to 29,999	600
30,000 to 39,999	720
40,000 to 49,999	840
50,000 to 64,999	960
65,000 to 79,999	1,080
80,000 to 99,999	1,200
100,000 to 124,999	1,500
125,000 to 149,999	1,800
150,000 to 199,999	2,100
200,000 to 249,999	2,400
250,000 to 324,999	2,700
325,000 to 449,999	3,000
450,000 to 574,999	3,300
575,000 to 699,999	3,600
700,000 to 849,999	4,200
850,000 to 999,999	4,800
1,000,000 to 1,249,999	5,400
1,250,000 to 2,499,999	6,000
2,500,000 to 2,999,999	6,600
3,000,000 to 3,499,999	7,200
3,500,000 to 4,999,999	7,800
5,000,000 to 6,999,999	9,000
7,000,000 to 9,999,999	10,200
10,000,000 to 14,999,999	11,400
15,000,000 to 19,999,999	13,200
20,000,000 to 29,999,999	15,000
30,000,000 to 39,999,999	16,800
40,000,000 and over	19,200

(1) "Project" means a construction endeavor including new construction, replacement, alterations, additions, expansions, conversions, improvements, remodeling, renovating, and upgrading of the following types of facilities:

- (a) Chapter 18.20 RCW and chapter 248-16 WAC, Boarding homes.
- (b) Chapter 18.46 RCW, Maternity homes, and chapter 248-29 WAC, Childbirth centers.
- (c) Chapter 18.51 RCW and chapter 248-14 WAC, Nursing homes.
- (d) Chapter 71.12 RCW, Private establishments, and chapter 248-22 WAC, Licensing regulations for private psychiatric and alcoholism hospitals and minimum licensing standards for alcoholism treatment facilities.
- (e) Chapter 71.12 RCW, Private establishments, and chapter 248-23 WAC, Residential treatment facilities for psychiatrically impaired children and youth.

(f) Chapter 70.41 RCW, Hospital licensing and regulation, and chapter 248-18 WAC, Hospitals.

(g) Chapter 70.41 RCW, Hospital licensing and regulation, and chapter 248-21 WAC, Hospice care center.

(2) "Project sponsor" means the person, persons or organization planning and contracting for the design and construction of facilities, generally the owner or his or her representative.

(3) "Project cost" means all costs, except taxes, directly associated with the project. Project costs are estimated initially and corrected by certification to the date of completion of the project. Project costs include:

(a) All architectural-engineering designs, plans, drawings, and specifications.

(b) All fixed and/or installed equipment in the project.

(c) Contractor supervision, inspection, and overhead.

(4) A project review for carpeting only shall be charged the minimum project review fee regardless of the cost of the project.

AMENDATORY SECTION (Amending Order 2236, filed 5/31/85)

WAC 440-44-040 MEDICAL FACILITIES AND BOARDING HOMES LICENSING FEES. (1) Hospitals: The annual fee shall be sixteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospital. The licensed bed capacity of a hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four hour assigned patient rooms including neonatal intensive care bassinets. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirements of chapter 248-18 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the hospital certifies to the department the hospital currently possesses the required movable equipment. The licensed bed capacity shall exclude all normal infant bassinets. The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a hospital shall not exceed the hospital's licensed bed capacity.

(2) Private psychiatric hospitals: The annual fee shall be twenty-seven dollars for each bed space within the licensed bed capacity of the private psychiatric hospital. The licensed bed capacity of a private psychiatric hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirement of chapter 248-22 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the private psychiatric hospital certifies to the department the private psychiatric hospital currently possesses the required movable equipment.

The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each private psychiatric hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a private psychiatric hospital shall not exceed the private psychiatric hospital's licensed bed capacity.

(3) Alcoholism hospitals: The annual fee shall be fifteen dollars for each bed space within the licensed bed capacity of the alcoholism hospital. The licensed bed capacity of an alcoholism hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism hospital shall not exceed the alcoholism hospital's licensed bed capacity.

(4) Alcoholism treatment facilities: The annual fee shall be eleven dollars and fifty cents for each bed space within the licensed bed capacity of the alcoholism treatment facility. The licensed bed capacity of an alcoholism treatment facility shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism treatment facility shall not exceed the alcoholism treatment facility's licensed bed capacity.

(5) Boarding homes: The annual fee shall be twelve dollars times the licensed resident capacity of the boarding home. The licensed resident

capacity is the capacity determined by the boarding home and approved by the department. The licensed resident capacity shall be consistent with the physical plant and movable equipment requirements of chapter 248-16 WAC for resident sleeping rooms. The number of residents in a boarding home shall not exceed the licensed resident capacity of the boarding home. The term "resident" as used herein is defined in WAC 248-16-001.

(6) Residential treatment facilities for psychiatrically impaired children and youth: The annual fee shall be fifty dollars for each bed space within the licensed bed capacity of the residential treatment facility for psychiatrically impaired children and youth. The licensed bed capacity of a residential treatment facility for psychiatrically impaired children and youth shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-23 WAC for client sleeping rooms. The number of beds set up in a residential treatment facility for psychiatrically impaired children and youth shall not exceed the residential treatment facility for psychiatrically impaired children and youth licensed bed capacity.

(7) Pregnancy termination facilities: The annual fee for licensing and certification of facilities for induction or termination of pregnancy in the second trimester shall be two hundred fifty dollars.

(8) Child birth centers: The annual fee shall be four hundred dollars: PROVIDED, That no fee shall be required of charitable, non-profit or government-operated institutions (as required by RCW 18.46.030).

(9) Residential treatment and rehabilitation facilities for psychiatrically impaired adults: The annual fee shall be thirty-five dollars for each bed space within the licensed bed capacity of the residential treatment and rehabilitation facility for psychiatrically impaired adults. The licensed bed capacity of a residential treatment and rehabilitation facility for psychiatrically impaired adults shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-25 WAC for client sleeping rooms. The number of beds set up in a residential treatment and rehabilitation facility for psychiatrically impaired adults shall not exceed the residential treatment and rehabilitation facility for psychiatrically impaired adults licensed bed capacity.

(10) Hospice care centers: Each application for a license shall be accompanied by a license fee of fifteen dollars and fifty cents for each bed space within the licensed bed capacity of the hospice care center. The licensed bed capacity shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-21 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in a hospice care center shall not exceed the hospice care center's licensed bed capacity.

(11) Hospice agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be ((two)) three hundred ((fifty)) dollars.

(12) Home health agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be ((two)) three hundred ((fifty)) dollars.

WSR 86-09-032
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 11, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning general and seasonal day care services, amending WAC 388-15-170.

It is the intention of the secretary to adopt these rules on an emergency basis on May 1, 1986;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, in the Auditorium, Office Building #2, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1986.

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

The specific statute these rules are intended to implement is chapter 74.13 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 10, 1986

By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-15-170.

Purpose: To restore income eligibility criteria to October 1985 levels thereby increasing benefits to recipients.

Reason: To utilize \$2.8 million of 1986 legislative supplemental appropriation to restore day care benefits to recipients.

Statutory Authority: RCW 74.08.090.

Summary of Rule Change: State median income levels for partially subsidized day care, also known as parent participation day care is restored to above 38% and at or below the 52% SMIAFS; and fully subsidized day care is restored to at or below the 38% SMIAFS.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Jan Wells, Program Manager, Division of Children and Family Services, OB 41, phone 753-7076.

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

AMENDATORY SECTION (Amending Order 2333, filed 1/22/86)

WAC 388-15-170 GENERAL AND SEASONAL DAY CARE SERVICES. (1) Day care services include providing care, protection, and related services for a child under fifteen years of age during the portion of the twenty-four-hour day when neither of the child's parents are able to provide necessary care and supervision for the following reasons:

- (a) Parent is employed in accord with an approved case plan, and is not an AFDC family grant recipient(;;);
- (b) Parent is enrolled in an approved work incentive program (WIN) (not to exceed one year) leading toward employment(;;);
- (c) For school-age parent to complete secondary education or attainment of GED (not to exceed two years), subject to approval by the department(;;);
- (d) Parent to keep physical or mental health appointment(;;);

(e) Child in need of day care as part of children's protective service case plan(;;);

(f) Provided as child welfare services by a professional or other mental health social service agency referral for the child's or parent's physical or emotional health or support to the family structure.

(2) Goals for general day care services shall be limited as specified in WAC 388-15-010 (1)(a), (b), and (c). Also see WAC 388-15-010(2).

(3) Child care, except for seasonal farmworker day care, ((may)) shall be purchased for children or families who are:

(a) Family units whose gross income is equal to or below ((thirty-four)) thirty-eight percent of the state median income ((for a family of four)) adjusted for family size; ((or))

(b) Family units whose gross income ((between thirty-four)) is above thirty-eight and ((forty-six)) at or below fifty-two percent of the SMIAFS wherein the family shall pay to the day care provider fifty percent of their gross monthly income above the ((thirty-four)) thirty-eight percent SMIAFS toward the cost of day care.

((b)) (c) In need of day care as an integral but subordinate part of a child protective service plan, regardless of the level of gross family income.

(4) Eligibility for seasonal farmworker day care is:

(a) Both parents, or the single parent (in the case of the one-parent family), must be currently employed or seeking work in agriculturally related work or with agencies serving migrant families; and

(b) Must derive at least fifty percent of the family's annual income from agriculturally related work; and

(c) Must have more than one agricultural employer per year; and

(d) Must have a gross income for the past twelve months not to exceed thirty-eight percent of the state median income adjusted for family size; or gross income ((between)) above thirty-eight percent and ((fifty-three)) at or below fifty-two percent of the state median income adjusted for family size wherein the family shall pay to the day care provider fifty percent of their average gross monthly income above the thirty-eight percent state median income adjusted for family size toward the cost of day care.

(5) Standards for in-home care:

(a) In-home care is the care and supervision of a child in his or her own home by a relative or by an unrelated person during part of the twenty-four-hour day while the child's ((parent(s))) parent or parents are temporarily absent from the home.

(b) When parents request in-home care, a service worker must determine the caretaker meets the in-home care standards.

(c) Use of in-home care is appropriate when:

(i) There is a qualified caretaker available(;;) and this type of child care is the parental choice(;;);

(ii) The number of children in the family requiring child care is large enough to make it preferable for in-home care; and/or(;;)

(iii) A child's physical, mental, or emotional problems make it necessary for he or she remain in his or her home.

(d) When in-home care is the approved child care plan for the child of a parent involved in basic education, job training, work experience, or other program DSHS is responsible for arranging, approving, or paying, the caretaker must meet the following minimum qualifications and fulfill the following responsibilities:

(i) Be eighteen years of age or older(;;);

(ii) Be free of communicable disease, including tuberculosis, as shown by tests within the year(;;) and every two years thereafter(;;);

(iii) Be of sufficient physical, emotional, and mental health to meet the needs of the children in care(;;);

(iv) Subject to the discretion of the worker, give written evidence from a medical authority he or she is in sufficient physical, emotional, and mental health to be a safe caretaker(;;);

(v) Produce written references indicating he or she is capable of handling children of the ages for whom he or she will be caring and has the ability to provide activities suitable to the children's ages and interests(;;);

(vi) Be able to work with children without recourse to physical punishment or psychological abuse(;;);

(vii) Be able to accept and follow instructions(;;);

(viii) Maintain personal cleanliness(;;);

(ix) Be prompt and regular in job attendance(;;);

(x) Expect to be evaluated as specified in subsection (5)(d)(i) through (ix) of this section.

(e) Responsibilities of in-home caretaker. The in-home caretaker shall:

(i) Consider his or her primary function that of child care,

(ii) Provide constant care and supervision of the children for whom he or she is responsible throughout the time he or she is on duty in accordance with the children's needs,

(iii) Provide appropriate activities for children in care.

(6) Payment standards for day care: The rate of payment for day care shall be the prevailing community rate, not to exceed the maximum rate established by the department.

(a) When the parent or parent surrogate is responsible for in-home care, the person will receive payment for the cost of child care and will pay the in-home care provider according to the amount specified in the approved child care plan.

(b) The in-home care provider must sign a receipt at the time payment is received. The parent or surrogate must send the payment receipt with his or her statement of child care provided during the previous month to the CSO before the next child care payment shall be authorized.

(c) If total payments to an individual providing in-home care are expected to be fifty dollars or more in any one quarter, the employer's share of the FICA tax must be added to the amount authorized for in-home care.

(d) Payment for child care by relative: Unless the performance of child care services by a relative of the parent keeps the relative from accepting or continuing in paid employment, no payment shall be allowed for child care services for the following relatives: Father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece. Child care will be considered as in-home care when care is provided in the house of the relative.

(e) Payment for child care to nonresponsible relative: Where a child receiving AFDC is living with a nonresponsible relative not on AFDC and day care is required to support the relative's employment, the child is eligible for day care.

WSR 86-09-033

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed April 11, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Coordinating Board intends to adopt, amend, or repeal rules concerning state need grant, WAC 250-20-021. The ranking factors specified in the definition of "state need index" for the state need grant program. Change references to the Council for Postsecondary Education to Higher Education Coordinating Board;

that the agency will at 9:00 a.m. - 12:00 noon, Tuesday, May 27, 1986, in the Conference Room, Higher Education Coordinating Board, 908 East 5th, 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 28B.10.806.

The specific statute these rules are intended to implement is RCW 28B.10.806.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 1986.

Dated: April 10, 1986

By: Neil D. Uhlman
Acting Executive Director

STATEMENT OF PURPOSE

Title: Amendment modifying the state need grant program rules.

Description of Purpose: This statement of purpose is intended to accompany the notice of intention to adopt, amend, or repeal rules (Form CR-1) filed by the Higher Education Coordinating Board.

Statutory Authority: RCW 28B.10.806.

Specific Statute Rule is Intended to Implement: RCW 28B.10.806.

Summary of Rule: Establish a separate ranking factor of 5565 for single parents with one child; and change agency references from Council for Postsecondary Education to Higher Education Coordinating Board.

Reasons Supporting Proposed Action: Enables single parents whose resources are no greater than those received through the Department of Social and Health Services to become eligible for the state need grant program.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shirley A. Ort, Higher Education Coordinating Board, 908 East Fifth, Olympia, Washington 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Coordinating Board, governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Not necessary as a result of federal law or court action.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order 9-82, filed 7/20/82)

WAC 250-20-021 PROGRAM DEFINITIONS. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the ((council)) higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "disadvantaged student" shall mean a post-high school student who by reason of adverse cultural, educational, environmental, experiential or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating (with) (within) the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and ((council)) board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student whose parents (including step-parent(s)) do not acknowledge and accept a financial responsibility for the student and have on record in the financial aid office documentation attesting to requirements for independence. Such requirements include the following criteria:

(a) The student has not and will not be claimed as an exemption for federal income tax purposes by any person except his or her spouse for the calendar year(s) in which a state need grant is received and the prior calendar year.

(b) The student has not received and will not receive financial assistance of more than \$750 in cash or kind from his or her parent(s) in the calendar year(s) in which a state need grant is received and the prior calendar year.

(c) The student has not lived and will not live in the home of his or her parent(s) except during occasional temporary visits during the calendar year(s) in which the need grant is received and the prior calendar year.

(d) A special category of independent students consists of persons emancipated or independent by circumstances beyond their control. Examples are wards of court and orphans. An affidavit describing such circumstances is required in lieu of documentation of the family financial situation. Students in this category will be treated as independent applicants with a \$0 parental income and contribution.

(e) Married students will be considered as dependent or independent as appropriate.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the ~~((council))~~ board.

(8) "Budgetary cost" shall consist of that amount required to support an individual as a student for nine months, taking into consideration cost factors for maintaining the student's dependents. The ~~((council for postsecondary education))~~ higher education coordinating board will annually review and adjust budgets which will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration. The adopted budgets will be published concurrent with annual guidelines for program administration.

(9) "Total family contribution" for dependent students and students who have been independent from their parents for less than three years shall mean the sum of the assumed parents' contribution, contribution from student assets, and additional student resources. For students who have been independent for three years or longer, "total family contribution" shall mean the sum of contribution from students' assets, and additional student resources.

(10) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

(11) "Student assets" are comprised of those funds other than the student's expected summer savings and additional student resources as defined in WAC 250-20-021(13) to meet his or her educational expenses which were generated primarily through the student's own efforts. Examples of student assets are money in a savings account or in a trust fund.

(12) "Additional student resources" consist of those funds made available to the student primarily because of his or her student status such as G.I. Bill or veterans benefits. They also include financial support such as public assistance benefits, vocational rehabilitation funds, CETA funds, spouses' academic year income, those portions of agency funds designated for expenses other than tuition and fees, etc.

Funds administered by the institution, Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, and student employment are to be used as matching funds and as such as not included as "additional student resources."

(13) "State Need Index" is the difference between the appropriate ranking factor as identified in the following table and the student's total family contribution. Ranking factors: Students living with parents - 1970; single students living away from parents - 2770; married couple, one student ~~((-or))~~ - 4065; single parent with one child - ~~((4065))~~ 5565; Married couple, both students - 5540. An additional 1000 may be added for the first dependent and 800 added for each subsequent dependent.

(14) "Academic year" is that nine-month period of time from September to June during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(15) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

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 86-09-034

EMERGENCY RULES

HIGHER EDUCATION COORDINATING BOARD

[Order 3/86—Filed April 11, 1986]

Be it resolved by the Higher Education Coordinating Board, acting at 908 East Fifth Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to state need grant, WAC 250-20-021.

We, the Higher Education Coordinating Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is colleges need to be able to commit state need grant monies to eligible students now. These rules are integral to that process. To delay would reduce the ability of students and parents to plan for college attendance.

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 Higher Education Coordinating Board as authorized in RCW 28B.10.806.

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

APPROVED AND ADOPTED April 10, 1986.

By Neil D. Uhlman
Acting Executive Director

AMENDATORY SECTION (Amending Order 9-82, filed 7/20/82)

WAC 250-20-021 PROGRAM DEFINITIONS.

(1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the ~~((council))~~ higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "disadvantaged student" shall mean a post-high school student who by reason of adverse cultural, educational, environmental, experiential or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an

established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating (with) (within) the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

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(a) The student has not and will not be claimed as an exemption for federal income tax purposes by any person except his or her spouse for the calendar year(s) in which a state need grant is received and the prior calendar year.

(b) The student has not received and will not receive financial assistance of more than \$750 in cash or kind from his or her parent(s) in the calendar year(s) in which a state need grant is received and the prior calendar year.

(c) The student has not lived and will not live in the home of his or her parent(s) except during occasional temporary visits during the calendar year(s) in which the need grant is received and the prior calendar year.

(d) A special category of independent students consists of persons emancipated or independent by circumstances beyond their control. Examples are wards of court and orphans. An affidavit describing such circumstances is required in lieu of documentation of the family financial situation. Students in this category will be treated as independent applicants with a \$0 parental income and contribution.

(e) Married students will be considered as dependent or independent as appropriate.

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(8) "Budgetary cost" shall consist of that amount required to support an individual as a student for nine months, taking into consideration cost factors for maintaining the student's dependents. The (~~council for postsecondary education~~) higher education coordinating board will annually review and adjust budgets which will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration. The adopted budgets will be published concurrent with annual guidelines for program administration.

(9) "Total family contribution" for dependent students and students who have been independent from their parents for less than three years shall mean the sum of the assumed parents' contribution, contribution from student assets, and additional student resources. For students who have been independent for three years or longer, "total family contribution" shall mean the sum of contribution from students' assets, and additional student resources.

(10) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

(11) "Student assets" are comprised of those funds other than the student's expected summer savings and additional student resources as defined in WAC 250-20-021(13) to meet his or her educational expenses which were generated primarily through the student's own efforts. Examples of student assets are money in a savings account or in a trust fund.

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Funds administered by the institution, Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, and student employment are to be used as matching funds and as such as not included as "additional student resources."

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(14) "Academic year" is that nine-month period of time from September to June during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(15) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

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 86-09-035
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
(Western Library Network)
 [Memorandum—April 10, 1986]

The Western Library Network's Computer Service Council meeting scheduled for Tuesday, June 10, 1986, is being rescheduled to Wednesday, May 21, 1986. This meeting will be held at 10:00 a.m. in the World Trade Center, Sea-Tac Airport, Room 47-A.

WSR 86-09-036
ADOPTED RULES
GAMBLING COMMISSION
 [Order 157—Filed April 11, 1986]

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

- Amd WAC 230-08-080 Daily records—Bingo (authorizes bingo licensees to accrue special game prizes without issuing a prize receipt and the procedures for reporting the game prize).
- Amd WAC 230-20-010 Disclosure of prizes and rules (requires bingo licensees to disclose any disclaimer for bingo prizes).
- Amd WAC 230-20-100 Receipting required for income and prizes in bingo games (requires licensees to purchase only tickets with specific dollar value printed by the manufacturer. Requires disposable bingo cards from the same series to be sold for the same price).
- Amd WAC 230-20-240 Bingo equipment to be used (authorizes a bingo game where players are permitted to select and enter numbers from 1-75 on a blank bingo card).
- Amd WAC 230-20-246 Manner of conducting bingo (requires bingo prizes to be awarded by the end of the session and merchandise prizes to be paid in full by the licensee prior to offering as a prize or the licensee may enter into a revocable contract to immediately purchase said prize).

This action is taken pursuant to Notice No. WSR 86-05-044 filed with the code reviser on February 19, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 9.46.020 (1) and (10) and [9.46.]070 (3), (11) and (14) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 11, 1986.

By Keith Kisor
 Director

AMENDATORY SECTION (Amending Order 134, filed 6/14/83)

✓ WAC 230-08-080 DAILY RECORDS—BINGO. In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-20-170: PROVIDED, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall be recorded in a standard format prescribed by the commission, shall disclose the following information and be retained for a period of not less than three years:

(1) The gross receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross receipts are to be supported by proper receipting records as required by WAC 230-20-100.

(2) The amount paid out on each separate bingo game supported by the licensee's copy of the prize receipts issued as required by WAC 230-20-100. Where a prize is awarded other than cash, such as merchandise or a trip, the amount for such prize shall be its actual cost to the licensee. Each prize awarded other than cash shall be fully described in these records: PROVIDED, That a licensee may accrue special game prizes without issuing a prize receipt prior to awarding the actual prize if the following conditions are met:

(a) Prize receipts will be issued only when the prize is actually awarded;

(b) Full details of accrued prizes outstanding at the end of each calendar quarter, will be furnished on the licensee's activity report;

(c) Once an election is made to accrue prizes for a particular game, all increases to that prize must be accrued;

(d) Prizes must be accrued after the completion of each session in which they are increased;

(e) A reconciliation of the prize fund shall be made on each "Daily Summary - Cash Control" record;

(f) The amount of prize accrued shall be deposited in the gambling receipts account per WAC 230-12-020 (1)(a) and (d);

(g) The balance of the gambling receipts banking account shall not be reduced at any time below the amount of prizes accrued and currently being offered: PROVIDED, That accrued prizes may be transferred to a special

bank account, for this purpose, if the balance is maintained at a level equal to or greater than the amount of prizes accrued and currently being offered; and

(h) In the event management elects to discontinue games for which prizes have been accrued, the operator shall amend all activity reports and tax returns previously submitted to reflect the actual prizes awarded.

(3) A statement of the daily net receipts from the licensed activity accruing to the organization, supported by a validated copy of the bank deposit receipt.

(4) The cash on hand at the commencement and the conclusion of each session, along with a reconciliation of cash to the daily net receipts for each session. Overages and/or shortages exceeding \$10.00 are to be explained.

(5) An attendance record indicating the number of people participating and the time the attendance count was made.

Items 1 through 5 shall be recorded during the course of each session and this record shall be signed immediately following its completion by the person or persons preparing the daily record and by the bingo manager responsible for the session.

AMENDATORY SECTION (Amending Order 149, filed 4/15/85)

✓ WAC 230-20-010 DISCLOSURE OF PRIZES AND RULES. All prizes awarded in connection with bingo and amusement games, whether in cash or merchandise, and all rules by which such prizes may be won, including all costs to a participant, shall be disclosed to each participant in the licensed activity prior to that participant taking part in the activity or paying for the opportunity to take part in the activity.

((This d)) Disclosure shall be made by conspicuously posting or displaying upon the premises where the activity is operated, the available prizes, or a list and complete description thereof, together with the rules of the activity, an explanation of how each prize can be won, and the cost to participate in the activity.

Any advertisements or published information pertaining to bingo prizes, to be awarded at bingo games, must disclose if there are any contingencies which may result in changes to these prizes.

In those cases where persons are able to pay for the opportunity to participate in the activity after the winner of any one of the prizes offered has been determined, the licensee shall remove each prize won from any display of prizes, and from any list of prizes which have been posted or displayed upon the premises where the activity is conducted, immediately upon the determination of the winner of that particular prize.

AMENDATORY SECTION (Amending Order 134, filed 6/14/83)

✓ WAC 230-20-100 RECEIPTING REQUIRED FOR INCOME AND PRIZES IN BINGO GAMES. Except for bingo activities conducted at a qualified agricultural fair all income from bingo games shall be receipted for by the licensee at the time the income is received from each individual player and all prizes shall

be receipted for at the time the prize is distributed to each individual winner.

(1) Income receipts: Income receipts shall be supplied by the licensee. They may be consecutively numbered tickets, consecutively numbered disposable bingo cards, or cash register receipts. Each individual player must possess a proper receipt for the number of cards being played in order to be awarded the prize for the game.

(a) Cash register receipts for income: In the event a cash register is used, a consecutively numbered receipt shall be given to the customer. The following information shall appear upon the receipts given to the customer:

- (i) The name of the licensee operating the activity;
- (ii) The date;
- (iii) The amount of money paid for the opportunity to play; and
- (iv) The consecutive customer receipt number.

The cash register shall have a consecutive four digit customer receipt number which does not return to zero at the conclusion of any period of use.

Written commission staff approval must be obtained for use of a cash register which does not meet the above standard but does contain adequate control features.

The cash register shall have sufficient keys to record separately each type of sale as required by WAC 230-08-080, and shall provide a total for each type of sale recorded. Further, any cash register used must retain its transaction count between uses whether or not its power source is interrupted.

All cash register receipts for voids, overruns, returns, no sales and any other related receipts must be retained with the daily bingo records.

All transactions, customer receipt numbers, and control totals must be recorded on the tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years. If the cash register is used by the licensee for purposes other than recording the receipts from bingo, the internal cash register tapes from the other uses shall also be retained for not less than three years.

(b) Ticket receipts for income: When tickets are used for receipting the following conditions must be met:

(i) All tickets on a roll must be preprinted by the manufacturer with a consecutive number prior to purchase;

(ii) Each ticket on a roll shall represent the same specific amount of money and the amount of money represented by each ticket shall be clearly preprinted by the manufacturer on the face of the ticket;

(iii) Once a roll of tickets has been started, tickets shall be issued consecutively off of that roll;

(iv) A log shall be maintained, listing the date each roll of tickets is purchased or obtained by the licensee, the color, the dollar value of the tickets, the beginning ticket number, and the number of tickets on that roll. All tickets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(v) The licensee shall record in its daily records, the color, the value, the lowest numbered ticket and the highest numbered ticket issued as a receipt from each separate roll of tickets used. Tickets issued for each type of sale shall be recorded separately as required by WAC 230-08-080. Any ticket not issued as a receipt during a session that bears a number falling below the highest numbered ticket issued shall be retained by the licensee as a part of its daily records, along with any leftover tickets not issued from the end of a roll, and shall not be otherwise used or disposed of by the licensee for a period of not less than three years

(c) Disposable bingo card receipts for income: Disposable bingo cards themselves may be used as the receipt required by this rule: PROVIDED, That:

(i) Each disposable card or sheet of cards sold represents a specific amount of money which has been paid to the licensee;

(ii) Each disposable card or sheet of cards from the same series shall be consecutively issued and sold for the same price as each other disposable card or sheet of cards in the same series (~~being used during any particular bingo game~~);

(iii) A log shall be maintained, listing the date each set of disposable cards is purchased or obtained by the licensee, the series number, the color, the number of cards per sheet, the beginning card or sheet number and the number of cards or sheets per set. All disposable cards or sheets received shall be entered in the log prior to the licensee beginning the next bingo occasion. The individual logging the entry shall initial the log at the time of entry; and

(iv) The licensee shall record in its daily records the series number, the color, the value, the beginning card or sheet number and the ending card or sheet number issued as a receipt for each separate set of disposable cards used: Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080: PROVIDED, That when more than one card or sheet number appears on a sheet of cards issued, then the lowest card or sheet number shall be used to determine the beginning number sold and the ending number sold. Each time the numbering of the sheets breaks in the series a separate entry shall be made in the records. Disposable cards or sheets of cards which were not issued as receipts during a session, that bear a number below the highest numbered card or sheet issued shall be retained by the licensee as a part of its daily records, along with any leftover cards, or sheets of cards, not issued from the end of a series, and shall not be otherwise used or disposed of by the licensee for a period of not less than three years.

(2) Receipts for prizes: Receipts for prizes shall be consecutively numbered and issued. Each prize receipt shall contain at least a three digit consecutive number, printed prior to purchase. Prize receipts bearing a number below the highest number issued shall be voided and retained with the daily records. Each receipt for prizes shall contain the following information:

- (a) The name of the licensee operating the activity;
- (b) The date;
- (c) The game number;

(d) The true name and address of the winner of the prize; and

(e) A description of the prize won and the licensee's cost of that prize.

It shall be the responsibility of the licensee to see that the prize winner is accurately identified upon the receipt and the licensee shall require such proof of identification as is necessary to establish the winner's identity. The licensee shall not pay out any prize until the winner has furnished to the licensee all information required by this rule to be upon the receipt for the prize.

The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

PROVIDED, That Class A bingo licensees and persons conducting bingo under the provisions of RCW 9.46.030(3), are exempt from all portions of this rule. Class B bingo licensees are exempt from maintaining the required logs for ticket and disposable card receipting, and from the issuing of prize receipts so long as they record items (2)(b), (c), (d) and (e) above in their records.

AMENDATORY SECTION (Amending Order 139, filed 12/12/83)

✓ WAC 230-20-240 BINGO EQUIPMENT TO BE USED. The conduct of bingo must include the following required items:

(1) A mechanical device which uses an air flow for mixing and randomly withdrawing balls to determine the letters and numbers to be called. This device shall be constructed in a manner that:

(a) Will allow participants full view of the mixing action of the balls; and

(b) The operation cannot be interrupted to change the random placement of the balls at the exit receptacle of the device, except when the device is shut off as allowed by WAC 230-20-2((50))46.

Provided, That A, B, and C licensees are not required to use a mechanical device for the conduct of their bingo game, but may use other methods of randomly selecting letters and numbers.

(2) A set of seventy five balls bearing the numbers 1 through 75 and the letters B, I, N, G, and O. The 75 balls shall be available for inspection by the players before a bingo session begins to determine that all are present and in operating condition. Each numbered ball shall be the same weight as each of the other balls and free from any defects.

(3) Flashboards shall be located on each premises used to conduct bingo games and must be visible to all players and clearly indicate all numbers that have been called: PROVIDED, That (~~malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion. PROVIDED FURTHER, That~~) malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion. PROVIDED FURTHER, That A, B, and C licensees are not required to have a flashboard for conduct of their bingo game.

(4) Hardcards and disposable bingo cards must be preprinted, manufactured cards and have twenty five spaces, one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O(:): PROVIDED, That the numbers designated on each card may be selected and entered by the players, if the following conditions are met:

(a) A two part disposable card that provides an exact duplicate copy is used;

(b) The disposable card method of receipting for income per WAC 230-20-100 (1)(c) is used;

(c) The licensee shall not purchase or use disposable cards without predesignated numbers if the purchase invoice does not contain all the items required by WAC 230-20-100 (1)(c)(iii);

(d) Purchase invoices for all disposable cards in play or in the unplayed inventory are on the premises;

(e) Players shall mark their number on each card and initial the original of each sheet of cards prior to separation of the duplicate;

(f) All numbers must be clear and legible. Operators shall establish and display house rules setting out acceptable clarity;

(g) All original cards shall be placed in containers which shall be physically locked and controlled to assure no cards are placed in the container after the first bingo ball is called;

(h) The player retains and plays the duplicate copy;

(i) In addition to the requirements of WAC 230-20-246(12), a winning card of \$250.00 or more is verified by the winner's signature on the back of the duplicate copy and the verifying neutral player's name and complete address on the back of the original card;

(j) All winning cards and the duplicate copies shall be retained by the operator as a part of their daily bingo records; and

(k) Incomplete cards and cards with alterations shall not be paid as winners. Numbers or initials, on the duplicate copy of a card, which were completed by any means other than by the original duplicating function, will be considered an alteration. Altered cards are the players' responsibility and refunds or exchanges shall not be allowed.

(5) ((In addition, e)) Each set of disposable bingo cards must be consecutively numbered from the first card to the last card, or from the first sheet of cards to the last sheet of cards ((, or is consecutively numbered through the set)). Each card or sheet must have printed on its face both its individual card or sheet number, and the series number assigned by the manufacturer to that set of disposable cards.

Other equipment or devices may be used for the purpose of displaying numbers and letters called to the public, and such furniture and sound amplification system as is necessary for the convenience and comfort of the players and operators.

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 136, filed 9/13/83)

✓ WAC 230-20-246 MANNER OF CONDUCTING BINGO. The conducting of a bingo game shall include, but is not limited to the following rules:

(1) All sales of bingo cards shall take place upon the premises during or immediately preceding the session for which the card is being sold;

(2) Bingo cards shall normally be sold and paid for prior to the start of a specified game or specified number of games. Cards may be sold after the start of a game or number of games if the late sale does not allow any player an advantage over any other player;

(3) No operator shall reserve, or allow to be reserved, any bingo card for use by players except braille cards or other cards for use by legally blind or disabled players;

(4) Legally blind players may use their personal braille cards when a licensee does not provide such cards. The licensee shall have the right to inspect, and to reject, any personal braille card. A legally blind or disabled person may use a braille card or reserved hard card in place of a purchased throwaway;

(5) If a licensee has duplicate cards in play, he shall conspicuously post that fact or notify all players;

(6) No two or more sets of disposable cards can be used at the same time if they have identical series numbers;

(7) Immediately following the drawing of each ball in a bingo game, the caller shall display the letter and number on the ball to the participants;

(8) The letter and number on the ball shall be called out prior to the drawing of any other ball;

(9) After the letter and number is called, the corresponding letter and number on the licensee's flashboard, if any, shall be lit for participant viewing;

(10) No bingo game shall be conducted to include a prize determined other than by the matching of letters and numbers on a bingo card with letters and numbers called by the licensee, in competition among all players in a bingo game;

(11) A winner is determined when a specified pattern of called numbers appears on a card;

(12) Immediately upon a bingo player declaring a winning combination of letters and numbers, the winning card shall be verified by a game employee and at least one neutral player;

(13) Upon a bingo player declaring a winning bingo, the next ball out of the machine shall be removed from the machine prior to shutting the machine off and shall be the next ball to be called in the event the declared winning bingo is not valid; ((and))

(14) After a winning bingo is validated, the prize shall be awarded. All prizes shall be awarded by the end of the related session. All merchandise offered as prizes to bingo players shall have been paid in full, without lien or interest of others, prior to the merchandise being offered as a prize: PROVIDED, That the licensee may enter into a contract to immediately purchase the merchandise when it is awarded as a prize, with the contract revocable if prize winners are allowed to exercise an option to receive a cash prize or the prize is no longer offered.

(15) No operator shall engage in any act, practice, or course of operation as would operate as a fraud to affect the outcome of any bingo game.

WSR 86-09-037
EMERGENCY RULES
DEPARTMENT OF RETIREMENT SYSTEMS
[Order II—Filed April 12, 1986]

I, Robert L. Hollister, Jr., director of the Department of Retirement Systems, do promulgate and adopt at Olympia, Washington, the annexed rules relating to this notice proposes to amend a section of chapter 415-02 WAC entitled actuarial tables, schedules and factors. The proposal includes in WAC the tables, schedules and factors currently being used by the department in calculating retirement benefits.

I, Robert L. Hollister, Jr., 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 to correct a technical error as recommended by the Attorney General's Office. The correction must coincide with the April 12, 1986, effective date of the new tables.

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

This rule is promulgated pursuant to RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200 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 April 10, 1986.

By Robert L. Hollister, Jr.
Director

AMENDATORY SECTION (Amending Order 86-1, filed 3/13/86)

WAC 415-02-090 ACTUARIAL TABLES, SCHEDULES, AND FACTORS. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems pursuant to the authority granted by RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065, and 43.43.200 for calculating optional retirement allowances of members of retirement systems administered by the director. These tables, schedules, and factors were adopted by the director upon the recommendation of and in light of the findings of the state actuary in his regular actuarial investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of such retirement systems. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from ((February 1, 1983)) April 12, 1986 until such time as these tables,

schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before ((February 1, 1983)) April 12, 1986 shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I

EARLY RETIREMENT FACTORS

1	.9918
2	.9837
3	.9755
4	.9674
5	.9592
6	.9511
7	.9429
8	.9348
9	.9266
10	.9185
11	.9103
1 0	.9022
1	.8949
2	.8877
3	.8805
4	.8733
5	.8661
6	.8589
7	.8517
8	.8445
9	.8373
10	.8301
11	.8229
2 0	.8157
1	.8093
2	.8029
3	.7965
4	.7901
5	.7837
6	.7773
7	.7709
8	.7645
9	.7581
10	.7517
11	.7453
3 0	.7390
1	.7333
2	.7276
3	.7219
4	.7162
5	.7105
6	.7048
7	.6992
8	.6935
9	.6878
10	.6821
11	.6764

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I

EARLY RETIREMENT FACTORS

4	0	.6707
	1	.6657
	2	.6606
	3	.6555
	4	.6504
	5	.6454
	6	.6403
	7	.6352
	8	.6302
	9	.6251
	10	.6200
	11	.6149
5	0	.6099

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I OPTION I

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0058390
21	.0058513
22	.0058643
23	.0058783
24	.0058931
25	.0059089
26	.0059257
27	.0059437
28	.0059629
29	.0059833
30	.0060051
31	.0060283
32	.0060531
33	.0060796
34	.0061078
35	.0061380
36	.0061702
37	.0062045
38	.0062412
39	.0062804
40	.0063221
41	.0063665
42	.0064135
43	.0064633
44	.0065160
45	.0065717
46	.0066304
47	.0066925
48	.0067579
49	.0068271
50	.0069001
51	.0069773
52	.0070590
53	.0071454
54	.0072369
55	.0073337
56	.0074363
57	.0075451

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I OPTION I

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

58	.0076606
59	.0077836
60	.0079147
61	.0080549
62	.0082052
63	.0083669
64	.0085413
65	.0087297
66	.0089334
67	.0091538
68	.0093920
69	.0096493
70	.0099272
71	.0102271
72	.0105505
73	.0108990
74	.0112743
75	.0116781
76	.0121122
77	.0125785
78	.0130787
79	.0136149
80	.0141897
81	.0148057
82	.0154658
83	.0161717
84	.0169230
85	.0177167
86	.0185452
87	.0193974
88	.0202596
89	.0211126
90	.0219458
91	.0227413
92	.0234886
93	.0241825
94	.0248232
95	.0254146
96	.0259627
97	.0264737
98	.0269527
99	.0274037

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

0	0	1.0000
	1	.9913
	2	.9826
	3	.9740
	4	.9653
	5	.9566
	6	.9479
	7	.9393
	8	.9306

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

9	.9219
10	.9132
11	.9046
1 0	.8959
1	.8883
2	.8806
3	.8730
4	.8654
5	.8578
6	.8501
7	.8425
8	.8349
9	.8273
10	.8197
11	.8120
2 0	.8044
1	.7977
2	.7910
3	.7843
4	.7775
5	.7708
6	.7641
7	.7574
8	.7507
9	.7439
10	.7372
11	.7305
3 0	.7238
1	.7179
2	.7119
3	.7060
4	.7000
5	.6941
6	.6882
7	.6822
8	.6763
9	.6704
10	.6644
11	.6585
4 0	.6525
1	.6473
2	.6420
3	.6367
4	.6315
5	.6262
6	.6210
7	.6157
8	.6104
9	.6052
10	.5999
11	.5946
5 0	.5894
1	.5847
2	.5800
3	.5753
4	.5707
5	.5660
6	.5613

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

7	.5566
8	.5519
9	.5473
10	.5426
11	.5379
6 0	.5332
1	.5291
2	.5249
3	.5207
4	.5166
5	.5124
6	.5082
7	.5041
8	.4999
9	.4957
10	.4916
11	.4874
7 0	.4832
1	.4795
2	.4758
3	.4721
4	.4683
5	.4646
6	.4609
7	.4572
8	.4535
9	.4497
10	.4460
11	.4423
8 0	.4386
1	.4352
2	.4319
3	.4286
4	.4253
5	.4219
6	.4186
7	.4153
8	.4119
9	.4086
10	.4053
11	.4019
9 0	.3986
1	.3956
2	.3926
3	.3897
4	.3867
5	.3837
6	.3807
7	.3777
8	.3747
9	.3717
10	.3688
11	.3658
10 0	.3628
1	.3601
2	.3574
3	.3547
4	.3521

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

	5	.3494
	6	.3467
	7	.3440
	8	.3413
	9	.3386
	10	.3360
	11	.3333
11	0	.3306
	1	.3282
	2	.3258
	3	.3234
	4	.3209
	5	.3185
	6	.3161
	7	.3137
	8	.3113
	9	.3089
	10	.3065
	11	.3040
12	0	.3016
	1	.2994
	2	.2973
	3	.2951
	4	.2929
	5	.2907
	6	.2886
	7	.2864
	8	.2842
	9	.2820
	10	.2799
	11	.2777
13	0	.2755
	1	.2735
	2	.2716
	3	.2696
	4	.2676
	5	.2657
	6	.2637
	7	.2617
	8	.2598
	9	.2578
	10	.2559
	11	.2539
14	0	.2519
	1	.2501
	2	.2484
	3	.2466
	4	.2448
	5	.2430
	6	.2413
	7	.2395
	8	.2377
	9	.2359
	10	.2341
	11	.2324

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

15	0	.2306
	1	.2290
	2	.2274
	3	.2258
	4	.2242
	5	.2225
	6	.2209
	7	.2193
	8	.2177
	9	.2161
	10	.2145
	11	.2129
16	0	.2113
	1	.2098
	2	.2084
	3	.2069
	4	.2054
	5	.2040
	6	.2025
	7	.2011
	8	.1996
	9	.1981
	10	.1967
	11	.1952
17	0	.1938
	1	.1924
	2	.1911
	3	.1898
	4	.1885
	5	.1871
	6	.1858
	7	.1845
	8	.1831
	9	.1818
	10	.1805
	11	.1792
18	0	.1778
	1	.1766
	2	.1754
	3	.1742
	4	.1730
	5	.1718
	6	.1706
	7	.1694
	8	.1682
	9	.1670
	10	.1658
	11	.1646
19	0	.1634
	1	.1623
	2	.1612
	3	.1601
	4	.1590
	5	.1579
	6	.1568
	7	.1557
	8	.1546
	9	.1535

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

	10	.1524
	11	.1513
20	0	.1502
	1	.1492
	2	.1482
	3	.1472
	4	.1462
	5	.1452
	6	.1442
	7	.1432
	8	.1422
	9	.1412
	10	.1402
	11	.1392
21	0	.1382
	1	.1373
	2	.1364
	3	.1355
	4	.1345
	5	.1336
	6	.1327
	7	.1318
	8	.1309
	9	.1300
	10	.1291
	11	.1281
22	0	.1272
	1	.1264
	2	.1256
	3	.1247
	4	.1239
	5	.1231
	6	.1222
	7	.1214
	8	.1206
	9	.1197
	10	.1189
	11	.1181
23	0	.1172
	1	.1165
	2	.1157
	3	.1149
	4	.1142
	5	.1134
	6	.1127
	7	.1119
	8	.1111
	9	.1104
	10	.1096
	11	.1088
24	0	.1081
	1	.1074
	2	.1067
	3	.1060
	4	.1053
	5	.1046
	6	.1039
	7	.1032

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

	8	.1025
	9	.1018
	10	.1011
	11	.1004
25	0	.0997
	1	.0991
	2	.0984
	3	.0978
	4	.0971
	5	.0965
	6	.0959
	7	.0952
	8	.0946
	9	.0939
	10	.0933
	11	.0927
26	0	.0920
	1	.0914
	2	.0909
	3	.0903
	4	.0897
	5	.0891
	6	.0885
	7	.0879
	8	.0873
	9	.0868
	10	.0862
	11	.0856
27	0	.0850
	1	.0845
	2	.0839
	3	.0834
	4	.0828
	5	.0823
	6	.0818
	7	.0812
	8	.0807
	9	.0802
	10	.0796
	11	.0791
28	0	.0785
	1	.0780
	2	.0775
	3	.0771
	4	.0766
	5	.0761
	6	.0756
	7	.0751
	8	.0746
	9	.0741
	10	.0736
	11	.0731
29	0	.0726
	1	.0722
	2	.0717
	3	.0712
	4	.0708
	5	.0703

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

	6	.0699
	7	.0694
	8	.0690
	9	.0685
	10	.0681
	11	.0676
30	0	.0672
	1	.0667
	2	.0663
	3	.0659
	4	.0655
	5	.0651
	6	.0647
	7	.0642
	8	.0638
	9	.0634
	10	.0630
	11	.0626
31	0	.0621
	1	.0618
	2	.0614
	3	.0610
	4	.0606
	5	.0602
	6	.0598
	7	.0595
	8	.0591
	9	.0587
	10	.0583
	11	.0579
32	0	.0575
	1	.0572
	2	.0568
	3	.0565
	4	.0561
	5	.0558
	6	.0554
	7	.0551
	8	.0547
	9	.0543
	10	.0540
	11	.0536
33	0	.0533
	1	.0530
	2	.0526
	3	.0523
	4	.0520
	5	.0516
	6	.0513
	7	.0510
	8	.0507
	9	.0503
	10	.0500
	11	.0497

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

34	0	.0494
	1	.0491
	2	.0488
	3	.0485
	4	.0482
	5	.0479
	6	.0476
	7	.0473
	8	.0470
	9	.0467
	10	.0464
	11	.0461
35	0	.0458
	1	.0419
	2	.0381
	3	.0343
	4	.0305
	5	.0267
	6	.0229
	7	.0191
	8	.0153
	9	.0114
	10	.0076
	11	.0038
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
38	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II
EARLY RETIREMENT FACTORS

10	.0000
11	.0000
39 0	.0000
1	.0000
2	.0000
3	.0000
4	.0000
5	.0000
6	.0000
7	.0000
8	.0000
9	.0000
10	.0000
11	.0000

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0036396
21	.0036589
22	.0036791
23	.0037003
24	.0037225
25	.0037458
26	.0037702
27	.0037957
28	.0038226
29	.0038507
30	.0038803
31	.0039113
32	.0039440
33	.0039783
34	.0040144
35	.0040523
36	.0040923
37	.0041344
38	.0041787
39	.0042254
40	.0042746
41	.0043264
42	.0043808
43	.0044380
44	.0044980
45	.0045609
46	.0046270
47	.0046963
48	.0047691
49	.0048456
50	.0049260
51	.0050105
52	.0050996
53	.0051933
54	.0052922
55	.0053964
56	.0055065

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

57	.0056229
58	.0057460
59	.0058766
60	.0060153
61	.0061630
62	.0063207
63	.0064896
64	.0066708
65	.0068657
66	.0070755
67	.0073014
68	.0075449
69	.0078071
70	.0080897
71	.0083939
72	.0087216
73	.0090743
74	.0094540
75	.0098624
76	.0103014
77	.0107731
78	.0112795
79	.0118228
80	.0124056
81	.0130308
82	.0137012
83	.0144186
84	.0151831
85	.0159917
86	.0168371
87	.0177086
88	.0185923
89	.0194688
90	.0203271
91	.0211489
92	.0219227
93	.0226428
94	.0233088
95	.0239245
96	.0244955
97	.0250278
98	.0255267
99	.0259962

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I
AGE
DIFFERENCE
BENEFICIARY OLDER

<u>OPTION 2</u>		<u>OPTION 3</u>
0.970	-20	0.987
0.968	-19	0.985
0.965	-18	0.984
0.962	-17	0.982
0.958	-16	0.980
0.954	-15	0.978

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY OLDER</u>		
0.950	-14	0.976
0.945	-13	0.974
0.941	-12	0.971
0.936	-11	0.969
0.931	-10	0.966
0.926	-09	0.963
0.921	-08	0.960
0.915	-07	0.957
0.910	-06	0.954
0.900	-05	0.948
0.890	-04	0.943
0.880	-03	0.937
0.864	-02	0.929
0.848	-01	0.920

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.667	25	0.802
0.663	26	0.799
0.659	27	0.796
0.655	28	0.793
0.651	29	0.790
0.647	30	0.787
0.643	31	0.784
0.639	32	0.781
0.635	33	0.778
0.631	34	0.775
0.627	35	0.772
0.623	36	0.769
0.619	37	0.766
0.615	38	0.763
0.611	39	0.760
0.607	40	0.757

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.838	0	0.914
0.827	1	0.907
0.817	2	0.901
0.809	3	0.897
0.803	4	0.893
0.790	5	0.885
0.784	6	0.881
0.778	7	0.878
0.765	8	0.869
0.759	9	0.865
0.753	10	0.862
0.748	11	0.858
0.743	12	0.855
0.729	13	0.846
0.724	14	0.842
0.719	15	0.839
0.714	16	0.836
0.700	17	0.826
0.695	18	0.823
0.691	19	0.820
0.687	20	0.817
0.683	21	0.814
0.679	22	0.811
0.675	23	0.808
0.671	24	0.805

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY OLDER</u>		
0.966	-20	0.988
0.962	-19	0.986
0.958	-18	0.984
0.954	-17	0.982
0.950	-16	0.980
0.945	-15	0.978
0.938	-14	0.975
0.932	-13	0.972
0.925	-12	0.968
0.918	-11	0.965
0.910	-10	0.961
0.902	-09	0.957
0.894	-08	0.953
0.885	-07	0.949
0.877	-06	0.944
0.864	-05	0.937
0.851	-04	0.928
0.838	-03	0.920
0.820	-02	0.908
0.802	-01	0.895

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.787	0	0.884
0.773	1	0.876
0.759	2	0.866
0.747	3	0.857
0.737	4	0.851
0.727	5	0.844
0.717	6	0.837
0.708	7	0.831
0.699	8	0.825
0.690	9	0.818
0.681	10	0.812
0.673	11	0.806
0.665	12	0.800
0.657	13	0.795
0.649	14	0.789
0.642	15	0.784
0.635	16	0.778
0.628	17	0.773
0.622	18	0.768
0.615	19	0.763
0.609	20	0.759
0.604	21	0.754
0.598	22	0.749
0.593	23	0.744
0.588	24	0.739
0.583	25	0.734
0.578	26	0.729
0.574	27	0.724
0.569	28	0.719
0.565	29	0.714
0.561	30	0.709
0.558	31	0.704
0.554	32	0.699
0.551	33	0.694
0.547	34	0.689
0.544	35	0.684
0.541	36	0.679
0.538	37	0.674
0.535	38	0.669
0.533	39	0.664
0.530	40	0.659

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS' RETIREMENT SYSTEM

PLAN I OPTION I

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

25	.0058693
26	.0058835
27	.0058986
28	.0059147
29	.0059319
30	.0059502
31	.0059698
32	.0059906
33	.0060129
34	.0060366
35	.0060619
36	.0060889
37	.0061177
38	.0061485
39	.0061814
40	.0062165
41	.0062540
42	.0062941
43	.0063370
44	.0063827
45	.0064314
46	.0064830
47	.0065377
48	.0065955
49	.0066566
50	.0067212
51	.0067893
52	.0068612
53	.0069370
54	.0070171
55	.0071017
56	.0071210
57	.0072853
58	.0073851
59	.0074908
60	.0076028
61	.0077218
62	.0078485
63	.0079837
64	.0081285
65	.0082841
66	.0084520
67	.0086335
68	.0088302
69	.0090435
70	.0092748
71	.0095257
72	.0097977
73	.0100927
74	.0104126
75	.0107597
76	.0111364
77	.0115456
78	.0119904
79	.0124742
80	.0130007
81	.0135738
82	.0141980

TEACHERS' RETIREMENT SYSTEM

PLAN I OPTION I

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0058107
21	.0058209
22	.0058318
23	.0058435
24	.0058560

TEACHERS' RETIREMENT SYSTEM
PLAN I OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

83	.0148781
84	.0156205
85	.0164335
86	.0173278
87	.0183144
88	.0194044
89	.0206072
90	.0219300
91	.0233771
92	.0249513
93	.0266410
94	.0284835
95	.0304470
96	.0325413
97	.0347687
98	.0371380
99	.0396689

TEACHERS RETIREMENT SYSTEM
PLAN I

OPTION 2 AGE
DIFFERENCE OPTION 3
BENEFICIARY YOUNGER

0.872	0	0.932
0.864	1	0.927
0.851	2	0.919
0.843	3	0.914
0.838	4	0.912
0.833	5	0.909
0.823	6	0.902
0.818	7	0.900
0.807	8	0.893
0.802	9	0.890
0.798	10	0.888
0.794	11	0.885
0.789	12	0.883
0.786	13	0.880
0.778	14	0.875
0.774	15	0.873
0.771	16	0.871
0.768	17	0.871
0.764	18	0.869
0.761	19	0.865
0.759	20	0.863
0.756	21	0.861
0.753	22	0.859
0.750	23	0.857
0.747	24	0.855
0.744	25	0.853
0.741	26	0.851
0.738	27	0.849
0.735	28	0.847
0.732	29	0.845
0.729	30	0.843
0.727	31	0.841
0.725	32	0.839
0.723	33	0.837
0.721	34	0.836
0.719	35	0.835
0.717	36	0.834
0.715	37	0.833
0.713	38	0.832
0.711	39	0.831
0.709	40	0.830

TEACHERS RETIREMENT SYSTEM
PLAN I

OPTION 2 AGE
DIFFERENCE OPTION 3
BENEFICIARY OLDER

0.976	-20	0.988
0.973	-19	0.986
0.971	-18	0.985
0.968	-17	0.984
0.966	-16	0.982
0.962	-15	0.981
0.960	-14	0.980
0.956	-13	0.977
0.953	-12	0.976
0.949	-11	0.974
0.946	-10	0.972
0.942	-09	0.970
0.939	-08	0.968
0.935	-07	0.966
0.931	-06	0.964
0.924	-05	0.960
0.917	-04	0.956
0.909	-03	0.952
0.901	-02	0.948
0.883	-01	0.938

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY OLDER</u>		
0.910	-20	0.955
0.910	-19	0.955
0.910	-18	0.955
0.910	-17	0.955
0.902	-16	0.950
0.895	-15	0.946
0.886	-14	0.942
0.878	-13	0.937
0.870	-12	0.932
0.861	-11	0.927
0.853	-10	0.922
0.844	-09	0.917
0.836	-08	0.912
0.826	-07	0.907
0.818	-06	0.901
0.806	-05	0.894
0.793	-04	0.886
0.780	-03	0.878
0.764	-02	0.867
0.740	-01	0.852

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.558	23	0.718
0.554	24	0.715
0.550	25	0.712
0.547	26	0.709
0.544	27	0.706
0.540	28	0.703
0.537	29	0.701
0.534	30	0.698
0.532	31	0.696
0.529	32	0.693
0.526	33	0.691
0.524	34	0.689
0.521	35	0.687
0.519	36	0.685
0.517	37	0.683
0.515	38	0.681
0.513	39	0.679
0.511	40	0.678

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.719	0	0.838
0.706	1	0.830
0.694	2	0.821
0.681	3	0.813
0.673	4	0.807
0.665	5	0.801
0.657	6	0.796
0.650	7	0.790
0.643	8	0.785
0.636	9	0.779
0.629	10	0.774
0.622	11	0.769
0.616	12	0.764
0.610	13	0.760
0.600	14	0.752
0.595	15	0.748
0.590	16	0.744
0.585	17	0.740
0.580	18	0.736
0.575	19	0.732
0.570	20	0.728
0.566	21	0.725
0.562	22	0.721

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION 1

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0035919
21	.0036089
22	.0036266
23	.0036452
24	.0036647
25	.0036851
26	.0037065
27	.0037288
28	.0037523
29	.0037768
30	.0038026
31	.0038297
32	.0038580
33	.0038878
34	.0039190
35	.0039519
36	.0039863
37	.0040226
38	.0040608
39	.0041009
40	.0041432
41	.0041877
42	.0042346
43	.0042840
44	.0043360
45	.0043907
46	.0044482
47	.0045085

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

48	.0045717
49	.0046381
50	.0047077
51	.0047808
52	.0048574
53	.0049379
54	.0050223
55	.0051111
56	.0052044
57	.0053025
58	.0054058
59	.0055147
60	.0056296
61	.0057510
62	.0058796
63	.0060161
64	.0061615
65	.0063167
66	.0064828
67	.0066609
68	.0068522
69	.0070578
70	.0072786
71	.0075157
72	.0077703
73	.0080433
74	.0083361
75	.0086497
76	.0089856
77	.0093448
78	.0097286
79	.0101380
80	.0105739
81	.0110369
82	.0115273
83	.0120455
84	.0125917
85	.0131654
86	.0137656
87	.0143890
88	.0150299
89	.0156797
90	.0163280
91	.0169635
92	.0175741
93	.0181484
94	.0186825
95	.0191686
96	.0196071
97	.0200007
98	.0203537
99	.0206708

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

0	0	1.0000
	1	.9918
	2	.9836
	3	.9755
	4	.9673
	5	.9591
	6	.9509
	7	.9428
	8	.9346
	9	.9264
	10	.9182
	11	.9100
1	0	.9019
	1	.8946
	2	.8874
	3	.8801
	4	.8728
	5	.8656
	6	.8583
	7	.8511
	8	.8438
	9	.8366
	10	.8293
	11	.8221
2	0	.8148
	1	.8084
	2	.8019
	3	.7955
	4	.7890
	5	.7826
	6	.7761
	7	.7697
	8	.7632
	9	.7568
	10	.7503
	11	.7439
3	0	.7374
	1	.7317
	2	.7259
	3	.7202
	4	.7144
	5	.7087
	6	.7029
	7	.6971
	8	.6914
	9	.6856
	10	.6799
	11	.6741
4	0	.6684
	1	.6633
	2	.6581
	3	.6530
	4	.6479
	5	.6427
	6	.6376
	7	.6324

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

8	.6273
9	.6222
10	.6170
11	.6119
5 0	.6068
1	.6022
2	.5976
3	.5930
4	.5884
5	.5838
6	.5792
7	.5746
8	.5700
9	.5654
10	.5608
11	.5562
6 0	.5516
1	.5474
2	.5433
3	.5392
4	.5351
5	.5309
6	.5268
7	.5227
8	.5186
9	.5144
10	.5103
11	.5062
7 0	.5021
1	.4984
2	.4947
3	.4909
4	.4872
5	.4835
6	.4798
7	.4761
8	.4724
9	.4687
10	.4650
11	.4613
8 0	.4576
1	.4542
2	.4509
3	.4476
4	.4442
5	.4409
6	.4376
7	.4342
8	.4309
9	.4275
10	.4242
11	.4209
9 0	.4175
1	.4145
2	.4115
3	.4085
4	.4055

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

5	.4025
6	.3995
7	.3965
8	.3934
9	.3904
10	.3874
11	.3844
10 0	.3814
1	.3787
2	.3760
3	.3733
4	.3705
5	.3678
6	.3651
7	.3624
8	.3597
9	.3569
10	.3542
11	.3515
11 0	.3488
1	.3463
2	.3439
3	.3414
4	.3390
5	.3365
6	.3340
7	.3316
8	.3291
9	.3267
10	.3242
11	.3217
12 0	.3193
1	.3170
2	.3148
3	.3126
4	.3104
5	.3081
6	.3059
7	.3037
8	.3015
9	.2992
10	.2970
11	.2948
13 0	.2925
1	.2905
2	.2885
3	.2865
4	.2845
5	.2824
6	.2804
7	.2784
8	.2764
9	.2744
10	.2723
11	.2703

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

14	0	.2683
	1	.2665
	2	.2646
	3	.2628
	4	.2610
	5	.2591
	6	.2573
	7	.2554
	8	.2536
	9	.2518
	10	.2499
	11	.2481
15	0	.2463
	1	.2446
	2	.2429
	3	.2413
	4	.2396
	5	.2379
	6	.2363
	7	.2346
	8	.2329
	9	.2312
	10	.2296
	11	.2279
16	0	.2262
	1	.2247
	2	.2232
	3	.2217
	4	.2202
	5	.2186
	6	.2171
	7	.2156
	8	.2141
	9	.2126
	10	.2110
	11	.2095
17	0	.2080
	1	.2066
	2	.2052
	3	.2038
	4	.2025
	5	.2011
	6	.1997
	7	.1983
	8	.1969
	9	.1955
	10	.1941
	11	.1928
18	0	.1914
	1	.1901
	2	.1888
	3	.1876
	4	.1863
	5	.1851
	6	.1838
	7	.1825
	8	.1813

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	9	.1800
	10	.1787
	11	.1775
19	0	.1762
	1	.1750
	2	.1739
	3	.1727
	4	.1716
	5	.1704
	6	.1693
	7	.1681
	8	.1670
	9	.1658
	10	.1647
	11	.1635
20	0	.1623
	1	.1613
	2	.1602
	3	.1592
	4	.1581
	5	.1571
	6	.1560
	7	.1550
	8	.1539
	9	.1528
	10	.1518
	11	.1507
21	0	.1497
	1	.1487
	2	.1477
	3	.1468
	4	.1458
	5	.1448
	6	.1439
	7	.1429
	8	.1419
	9	.1410
	10	.1400
	11	.1390
22	0	.1381
	1	.1372
	2	.1363
	3	.1354
	4	.1345
	5	.1336
	6	.1328
	7	.1319
	8	.1310
	9	.1301
	10	.1292
	11	.1283
23	0	.1274
	1	.1266
	2	.1258
	3	.1250
	4	.1242
	5	.1234

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	6	.1226
	7	.1218
	8	.1209
	9	.1201
	10	.1193
	11	.1185
24	0	.1177
	1	.1170
	2	.1162
	3	.1155
	4	.1147
	5	.1140
	6	.1132
	7	.1125
	8	.1117
	9	.1110
	10	.1102
	11	.1095
25	0	.1088
	1	.1081
	2	.1074
	3	.1067
	4	.1060
	5	.1053
	6	.1046
	7	.1040
	8	.1033
	9	.1026
	10	.1019
	11	.1012
26	0	.1005
	1	.0999
	2	.0993
	3	.0987
	4	.0980
	5	.0974
	6	.0968
	7	.0961
	8	.0955
	9	.0949
	10	.0943
	11	.0936
27	0	.0930
	1	.0924
	2	.0918
	3	.0913
	4	.0907
	5	.0901
	6	.0895
	7	.0889
	8	.0884
	9	.0878
	10	.0872
	11	.0866

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

28	0	.0860
	1	.0855
	2	.0850
	3	.0845
	4	.0839
	5	.0834
	6	.0829
	7	.0823
	8	.0818
	9	.0813
	10	.0807
	11	.0802
29	0	.0797
	1	.0792
	2	.0787
	3	.0782
	4	.0777
	5	.0772
	6	.0767
	7	.0762
	8	.0757
	9	.0752
	10	.0748
	11	.0743
30	0	.0738
	1	.0733
	2	.0729
	3	.0724
	4	.0720
	5	.0715
	6	.0711
	7	.0706
	8	.0702
	9	.0697
	10	.0692
	11	.0688
31	0	.0683
	1	.0679
	2	.0675
	3	.0671
	4	.0667
	5	.0663
	6	.0658
	7	.0654
	8	.0650
	9	.0646
	10	.0642
	11	.0638
32	0	.0633
	1	.0630
	2	.0626
	3	.0622
	4	.0618
	5	.0614
	6	.0610
	7	.0606
	8	.0603

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	9	.0599
	10	.0595
	11	.0591
33	0	.0587
	1	.0584
	2	.0580
	3	.0577
	4	.0573
	5	.0570
	6	.0566
	7	.0562
	8	.0559
	9	.0555
	10	.0552
	11	.0548
34	0	.0545
	1	.0541
	2	.0538
	3	.0535
	4	.0532
	5	.0528
	6	.0525
	7	.0522
	8	.0518
	9	.0515
	10	.0512
	11	.0509
35	0	.0505
	1	.0463
	2	.0421
	3	.0379
	4	.0337
	5	.0295
	6	.0253
	7	.0211
	8	.0168
	9	.0126
	10	.0084
	11	.0042
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
38	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
39	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

0	0	1.0000
	1	.9920
	2	.9841
	3	.9761
	4	.9682
	5	.9602
	6	.9523
	7	.9443
	8	.9364
	9	.9284
	10	.9204
	11	.9125
1	0	.9045
	1	.8974
	2	.8903
	3	.8833
	4	.8762

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

5	.8691
6	.8620
7	.8549
8	.8478
9	.8407
10	.8336
11	.8265
2 0	.8194
1	.8131
2	.8067
3	.8004
4	.7941
5	.7877
6	.7814
7	.7751
8	.7687
9	.7624
10	.7561
11	.7497
3 0	.7434
1	.7377
2	.7320
3	.7264
4	.7207
5	.7150
6	.7094
7	.7037
8	.6980
9	.6923
10	.6867
11	.6810
4 0	.6753
1	.6702
2	.6652
3	.6601
4	.6550
5	.6499
6	.6448
7	.6397
8	.6346
9	.6296
10	.6245
11	.6194
5 0	.6143
1	.6097
2	.6052
3	.6006
4	.5960
5	.5914
6	.5869
7	.5823
8	.5777
9	.5732
10	.5686
11	.5640

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

6 0	.5595
1	.5554
2	.5512
3	.5471
4	.5430
5	.5389
6	.5348
7	.5307
8	.5266
9	.5225
10	.5184
11	.5142
7 0	.5101
1	.5064
2	.5027
3	.4990
4	.4953
5	.4916
6	.4879
7	.4842
8	.4805
9	.4768
10	.4731
11	.4694
8 0	.4657
1	.4623
2	.4590
3	.4556
4	.4523
5	.4489
6	.4456
7	.4423
8	.4389
9	.4356
10	.4322
11	.4289
9 0	.4255
1	.4225
2	.4195
3	.4165
4	.4134
5	.4104
6	.4074
7	.4044
8	.4013
9	.3983
10	.3953
11	.3923
10 0	.3892
1	.3865
2	.3838
3	.3810
4	.3783
5	.3756
6	.3728

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

7	.3701
8	.3674
9	.3646
10	.3619
11	.3591
11 0	.3564
1	.3539
2	.3514
3	.3490
4	.3465
5	.3440
6	.3415
7	.3390
8	.3366
9	.3341
10	.3316
11	.3291
12 0	.3266
1	.3244
2	.3221
3	.3199
4	.3176
5	.3154
6	.3131
7	.3109
8	.3086
9	.3064
10	.3041
11	.3019
13 0	.2996
1	.2976
2	.2955
3	.2935
4	.2914
5	.2894
6	.2873
7	.2853
8	.2833
9	.2812
10	.2792
11	.2771
14 0	.2751
1	.2732
2	.2714
3	.2695
4	.2676
5	.2658
6	.2639
7	.2620
8	.2602
9	.2583
10	.2565
11	.2546

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

15 0	.2527
1	.2510
2	.2494
3	.2477
4	.2460
5	.2443
6	.2426
7	.2409
8	.2392
9	.2375
10	.2358
11	.2341
16 0	.2324
1	.2309
2	.2293
3	.2278
4	.2262
5	.2247
6	.2231
7	.2216
8	.2200
9	.2185
10	.2169
11	.2154
17 0	.2138
1	.2124
2	.2110
3	.2096
4	.2082
5	.2068
6	.2054
7	.2040
8	.2026
9	.2012
10	.1997
11	.1983
18 0	.1969
1	.1956
2	.1943
3	.1930
4	.1918
5	.1905
6	.1892
7	.1879
8	.1866
9	.1853
10	.1840
11	.1827
19 0	.1814
1	.1803
2	.1791
3	.1779
4	.1767
5	.1755
6	.1744

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.1732
	8	.1720
	9	.1708
	10	.1697
	11	.1685
20	0	.1673
	1	.1662
	2	.1651
	3	.1641
	4	.1630
	5	.1619
	6	.1608
	7	.1597
	8	.1587
	9	.1576
	10	.1565
	11	.1554
21	0	.1543
	1	.1533
	2	.1524
	3	.1514
	4	.1504
	5	.1494
	6	.1484
	7	.1474
	8	.1464
	9	.1454
	10	.1444
	11	.1435
22	0	.1425
	1	.1416
	2	.1407
	3	.1397
	4	.1388
	5	.1379
	6	.1370
	7	.1361
	8	.1352
	9	.1343
	10	.1334
	11	.1325
23	0	.1316
	1	.1307
	2	.1299
	3	.1291
	4	.1282
	5	.1274
	6	.1266
	7	.1257
	8	.1249
	9	.1241
	10	.1233
	11	.1224

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

24	0	.1216
	1	.1208
	2	.1201
	3	.1193
	4	.1185
	5	.1178
	6	.1170
	7	.1162
	8	.1155
	9	.1147
	10	.1139
	11	.1132
25	0	.1124
	1	.1117
	2	.1110
	3	.1103
	4	.1096
	5	.1089
	6	.1082
	7	.1075
	8	.1068
	9	.1061
	10	.1054
	11	.1047
26	0	.1040
	1	.1033
	2	.1027
	3	.1020
	4	.1014
	5	.1007
	6	.1001
	7	.0994
	8	.0988
	9	.0981
	10	.0975
	11	.0969
27	0	.0962
	1	.0956
	2	.0950
	3	.0944
	4	.0938
	5	.0932
	6	.0926
	7	.0920
	8	.0914
	9	.0908
	10	.0903
	11	.0897
28	0	.0891
	1	.0885
	2	.0880
	3	.0874
	4	.0869
	5	.0863
	6	.0858

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.0852
	8	.0847
	9	.0841
	10	.0836
	11	.0830
29	0	.0825
	1	.0820
	2	.0815
	3	.0810
	4	.0805
	5	.0800
	6	.0795
	7	.0789
	8	.0784
	9	.0779
	10	.0774
	11	.0769
30	0	.0764
	1	.0760
	2	.0755
	3	.0750
	4	.0746
	5	.0741
	6	.0736
	7	.0732
	8	.0727
	9	.0722
	10	.0718
	11	.0713
31	0	.0708
	1	.0704
	2	.0700
	3	.0695
	4	.0691
	5	.0687
	6	.0682
	7	.0678
	8	.0674
	9	.0670
	10	.0665
	11	.0661
32	0	.0657
	1	.0653
	2	.0649
	3	.0645
	4	.0641
	5	.0637
	6	.0633
	7	.0629
	8	.0625
	9	.0621
	10	.0617
	11	.0613

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

33	0	.0609
	1	.0605
	2	.0602
	3	.0598
	4	.0594
	5	.0591
	6	.0587
	7	.0583
	8	.0580
	9	.0576
	10	.0572
	11	.0569
34	0	.0565
	1	.0562
	2	.0558
	3	.0555
	4	.0551
	5	.0548
	6	.0545
	7	.0541
	8	.0538
	9	.0534
	10	.0531
	11	.0528
35	0	.0524
	1	.0481
	2	.0437
	3	.0393
	4	.0350
	5	.0306
	6	.0262
	7	.0218
	8	.0175
	9	.0131
	10	.0087
	11	.0044
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

7	.0000
8	.0000
9	.0000
10	.0000
11	.0000
38 0	.0000
1	.0000
2	.0000
3	.0000
4	.0000
5	.0000
6	.0000
7	.0000
8	.0000
9	.0000
10	.0000
11	.0000
39 0	.0000
1	.0000
2	.0000
3	.0000
4	.0000
5	.0000
6	.0000
7	.0000
8	.0000
9	.0000
10	.0000
11	.0000

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II OPTION I

39	.0043325
40	.0043871
41	.0044447
42	.0045052
43	.0045687
44	.0046352
45	.0047048
46	.0047775
47	.0048536
48	.0049331
49	.0050162
50	.0051031
51	.0051940
52	.0052893
53	.0053892
54	.0054942
55	.0056047
56	.0057211
57	.0058441
58	.0059741
59	.0061120
60	.0062584
61	.0064141
62	.0065800
63	.0067571
64	.0069461
65	.0071481
66	.0073639
67	.0075944
68	.0078407
69	.0081037
70	.0083844
71	.0086841
72	.0090038
73	.0093446
74	.0097076
75	.0100938
76	.0105040
77	.0109388
78	.0113988
79	.0118848
80	.0123977
81	.0129386
82	.0135092
83	.0141104
84	.0147416
85	.0153996
86	.0160774
87	.0167652
88	.0174514
89	.0181218
90	.0187587
91	.0193543
92	.0198948
93	.0203734
94	.0207882
95	.0211409
96	.0214355

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II OPTION I

20	.0036854
21	.0037066
22	.0037288
23	.0037521
24	.0037765
25	.0038020
26	.0038289
27	.0038571
28	.0038866
29	.0039177
30	.0039503
31	.0039846
32	.0040207
33	.0040586
34	.0040985
35	.0041406
36	.0041848
37	.0042315
38	.0042806

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II OPTION I

97	.0216775
98	.0218727
99	.0220272

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY OLDER</u>		
0.933	-20	0.967
0.927	-19	0.963
0.920	-18	0.960
0.914	-17	0.956
0.907	-16	0.952
0.900	-15	0.949
0.892	-14	0.944
0.885	-13	0.940
0.877	-12	0.936
0.869	-11	0.931
0.861	-10	0.927
0.853	-09	0.922
0.845	-08	0.917
0.837	-07	0.913
0.829	-06	0.908
0.821	-05	0.903
0.813	-04	0.898
0.805	-03	0.893
0.797	-02	0.888
0.789	-01	0.883

0.695	12	0.821
0.688	13	0.816
0.682	14	0.812
0.676	15	0.808
0.670	16	0.803
0.664	17	0.799
0.658	18	0.795
0.653	19	0.791
0.648	20	0.787
0.643	21	0.783
0.638	22	0.780
0.633	23	0.776
0.628	24	0.773
0.624	25	0.769
0.620	26	0.766
0.616	27	0.763
0.612	28	0.760
0.608	29	0.757
0.604	30	0.754
0.601	31	0.751
0.597	32	0.749
0.594	33	0.746
0.591	34	0.744
0.588	35	0.741
0.585	36	0.739
0.582	37	0.737
0.579	38	0.735

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.781	0	0.878
0.773	1	0.873
0.766	2	0.868
0.758	3	0.863
0.750	4	0.859
0.743	5	0.854
0.736	6	0.849
0.729	7	0.844
0.722	8	0.839
0.715	9	0.835
0.708	10	0.830
0.701	11	0.825

WSR 86-09-038
PROPOSED RULES
OFFICE OF ARCHAEOLOGY
AND HISTORIC PRESERVATION

[Filed April 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Archaeology and Historic Preservation intends to adopt, amend, or repeal rules concerning the implementation of chapter 197-11 WAC, SEPA rules as applicable to the Office of Archaeology and Historic Preservation;

that the agency will at 9:00 a.m., Monday, June 2, 1986, in the OAHP Conference Room, 111 West 21st Avenue, 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 27.34.220 and 43.21C.120.

The specific statute these rules are intended to implement is chapter 43.21C RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 29, 1986.

Dated: April 11, 1986

By: Jacob E. Thomas

State Historic Preservation Officer

STATEMENT OF PURPOSE

Title: Establishing chapter 25-42 WAC.

Description of Purpose: To establish the SEPA process for the Office of Archaeology and Historic Preservation.

Statutory Authority: RCW 27.34.220 and 43.21C.120.

Specific Statute Rule is Intended to Implement: Chapter 43.21C RCW.

Summary of Rule: Establishes the SEPA process, as applicable, for the Office of Archaeology and Historic Preservation.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert G. Whitlam, State Archaeologist, Office of Archaeology and Historic Preservation, 111 West 21st Avenue, KL-11, Olympia, WA 98504, phone (206) 753-4405.

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

The proposed rule does not impose an additional cost of compliance and therefore, no economic impact statement is required under the Regulatory Fairness Act.

Chapter 25-42 WAC
STATE ENVIRONMENTAL POLICY ACT RULES

WAC	
25-42-010	Definitions.
25-42-020	Impact of SEPA on office.
25-42-030	Purpose.
25-42-040	Scope and coverage of this chapter.
25-42-050	Agency policy—Substantive authority and mitigation.
25-42-060	Timing of the SEPA process.
25-42-070	Summary of information which may be required of an applicant.
25-42-080	Assumption of lead agency status.
25-42-090	Designation of responsible official.
25-42-100	Mitigated DNS.
25-42-110	SEPA public information center.
25-42-120	Public notice.
25-42-130	Severability.

NEW SECTION

WAC 25-42-010 DEFINITIONS. The definitions of the words and terms of WAC 197-11-700 through 197-11-799 are made a part of this chapter along with the following additions:

(1) "Office" means the Washington state office of archaeology and historic preservation.

(2) "Director" means the state historic preservation officer as provided for in chapter 27.34 RCW.

NEW SECTION

WAC 25-42-020 IMPACT OF SEPA ON OFFICE. The office fully endorses the intent and purpose of SEPA and will make every effort to implement and fulfill the intent and requirements of SEPA and the SEPA rules. The capacity of the office to provide full service to the public and other agencies is limited by funds and manpower. The office will make every effort to implement SEPA in the best manner possible with the resources available.

NEW SECTION

WAC 25-42-030 PURPOSE. (1) The purpose of this chapter is to implement chapter 197-11 WAC, SEPA rules, as applicable to the office.

(2) These policies and procedures are developed to implement SEPA in a manner which reduces duplication, establishes effective and uniform guidelines, encourages public involvement, and promotes certainty with respect to the requirements of the act.

(3) These policies and procedures are not intended to cover compliance by the office with respect to the National Environmental Policy Act of 1969 (NEPA). In those situations where the office is required by federal law or regulations to perform some element of compliance with NEPA, compliance will be governed by the applicable federal statute and regulations.

NEW SECTION

WAC 25-42-040 SCOPE AND COVERAGE OF THIS CHAPTER. (1) It is the intent of the office that compliance with this chapter shall constitute complete procedural compliance with SEPA for all actions as defined in WAC 197-11-704.

(2) This chapter applies to all actions as defined in WAC 197-11-704 and applies to all activities of the office. Furthermore, although these guidelines normally do not apply to actions of the office exempted under WAC 197-11-800, the office accepts the responsibility of attempting to follow the intent of SEPA and its decision making process for exempt actions.

(3) To the fullest extent possible, the office shall integrate procedures required by this chapter with existing planning and permitting procedures. These procedures should be initiated early, and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort.

NEW SECTION

WAC 25-42-050 AGENCY POLICY—SUBSTANTIVE AUTHORITY AND MITIGATION. (1) The overriding policy of the office is to avoid or mitigate adverse environmental impacts which may result from its decisions. This policy results from:

(a) The legislated duty of the office to preserve and protect the heritage of the state in a manner that does not impair the resource (RCW 27.34.200); and

(b) Recognition of the fact that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment (RCW 43.21C.020(31)).

(2) If an action is subject to SEPA, including an activity or activities requiring a permit from the office, and is reasonably likely to have an adverse environmental impact as identified in an environmental document, the office will:

(a) Require reasonable alternatives to the action and/or proven measures which will mitigate or eliminate the identified potential adverse impact, and make such alternatives and/or proven mitigation measures conditions of the office's approval; or

(b) Deny the proposal if significant adverse impacts as identified in a final or supplemental environmental impact statement prepared under chapter 197-11 WAC are not satisfactorily avoided or mitigated by proven techniques.

NEW SECTION

WAC 25-42-060 TIMING OF THE SEPA PROCESS. (1) The environmental review process will normally begin upon receipt of a determination of nonsignificance (DNS), determination of significance (DS), scoping notice, or draft environmental impact statement (DEIS) when another agency is the lead agency. When the office is the lead agency for nonagency actions, review will begin upon receipt of a complete permit application and a complete environmental checklist. For agency actions, environmental review will normally begin when the proposed action is sufficiently developed to allow preliminary decisions.

(2) Upon written request of an applicant, preliminary environmental review will be conducted prior to receipt of detailed project plans and specifications. In such instances, the applicant shall submit information judged by the office to be sufficient to make a preliminary review.

(3) The preliminary review will be advisory only and not binding upon the office. Final review and determination will be made only upon receipt of detailed project plans and specifications.

NEW SECTION

WAC 25-42-070 SUMMARY OF INFORMATION WHICH MAY BE REQUIRED OF AN APPLICANT. (1) The applicant for each project for which the office is the lead agency shall submit a complete environmental checklist along with a complete application for the required approval.

(2) After review of the environmental checklist, the office may require the applicant to submit additional information necessary to properly evaluate the potential environmental impacts of the project. Field investigation or research may be required of the applicant or conducted by the office at the applicant's cost.

(3) A draft and final EIS is required for each project for which a determination is made that the proposal will have a probable significant adverse impact on the environment. Preparation of the EISs is the responsibility of the office, by or under the direction of its responsible official, as specified by office procedures. No matter who participates in the preparation of the EIS, it is the EIS of the agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

(4) The office may have an EIS prepared by office staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the office. The office shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

(5) If a person other than the office is preparing the EIS, the office shall:

(a) Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency and the public;

(b) Assist in obtaining any information on file with other agencies that is needed by the person preparing the EIS;

(c) Allow any party preparing an EIS access to all public records of the office that relate to the subject of the EIS, under RCW 42.17.250 through 42.17.340.

(6) Normally, the office will prepare EISs for its own proposals.

(7) For applicant proposals, the office normally will require the applicant to prepare or help prepare the EIS at the applicant's expense, under provisions of this chapter and chapter 197-11 WAC. Expenses shall include fees of any consultants, if required, the office's consultation time and cost of any required materials. A performance bond in an amount specified by the office may be required of the applicant to ensure payment of the office's expenses.

(8) The office may require an applicant to provide information that the office does not possess, including specific investigations. The applicant is not required to supply information that is not required under this chapter and chapter 197-11 WAC.

(9) A supplemental EIS shall be prepared as an addition to either the draft or final EIS if the office decides that:

(a) There are substantial changes to a proposal which will have a probable significant adverse environmental impact; or

(b) There is significant new information relative to the probable significant environmental impact of a proposal; or

(c) Its written comments on the DEIS warrant additional discussion for the purposes of its action than that found in the lead agency's FEIS.

The provisions of subsection (3) of this section except for the first sentence, also pertain to a supplemental EIS or addendum.

(10) Upon the written request of an applicant for a project for which the office is the lead agency, the office will consider initiating environmental review and preparation of an EIS at the conceptual stage as opposed to the final detailed design state.

NEW SECTION

WAC 25-42-080 ASSUMPTION OF LEAD AGENCY STATUS. (1) Whenever the office feels that a DNS issued by another lead agency is inappropriate and that the proposal in question could cause significant harm to the resources under its jurisdiction, the office will assume lead agency status per WAC 197-11-948.

(2) Within ten days of assuming lead agency status, the office will notify the proponent of the proposal in writing as to the reasons for its assumption of lead agency status.

(3) Prior to preparation of an EIS for the proposal, the office will consult with the proponent and give the proponent an opportunity to

modify or change the proposal in such a way that an EIS may not be necessary as outlined in WAC 197-11-360(4).

NEW SECTION

WAC 25-42-090 DESIGNATION OF RESPONSIBLE OFFICIAL. Under normal circumstances, the responsible official is the director or his designee. The responsible official shall carry out duties and functions for the purpose of assuring the office's compliance with SEPA and SEPA guidelines. The responsible official may delegate duties and functions assigned under this chapter and chapter 197-11 WAC; the responsible official alone, however, is wholly responsible for proper accomplishment of such duties and functions.

NEW SECTION

WAC 25-42-100 MITIGATED DNS. (1) An applicant may ask the office whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the office is lead agency; and

(c) Precede the office's actual threshold determination for the proposal.

(2) The responsible official shall respond to the request within ten working days of receipt of the letter, the response shall:

(a) Be written;

(b) State whether the office is considering issuance of a DS;

(c) Indicate the general or specific area(s) of concern that led the office to consider a DS; and

(d) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The office shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the office will make its threshold determination based on the changed or clarified proposal:

(a) If the office's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the office shall issue a DNS and circulate the DNS for comments as in WAC 197-11-340(2).

(b) If the office indicated general or specific areas of concern but did not indicate specific mitigation measures that would allow it to issue a DNS, the office shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The office may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the office shall issue a DNS and circulate it for review under WAC 197-11-340(2).

(6) When an applicant changes or clarifies the proposal, the clarification or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the attachment(s) the office may require the applicant to submit a new checklist.

(7) The office may change or clarify features of its own proposals before making the threshold determination.

(8) The office's written response under subsection (2) of this section shall not be constructed as a determination of significance. In addition, preliminary discussion of clarification of or changes to a proposal, as opposed to a written request for early notice, shall not bind the office to consider the clarification or changes in the threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a permit or other approval for all purposes. Unless the office's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

NEW SECTION

WAC 25-42-110 SEPA PUBLIC INFORMATION CENTER. The office designates its main office as its SEPA public information center. The mailing address is 111 West 21st Ave. Olympia, Washington 98504; telephone (206) 753-5010.

NEW SECTION

WAC 25-42-120 PUBLIC NOTICE. (1) When required under chapter 197-11 WAC, the office will give public notice by one or more of the following methods as appropriate for the specific circumstances:

- (a) Notifying public and private groups and agencies with known interest in a certain proposal or in the type of proposals being considered;
 - (b) Notifying individuals with known interest in a certain proposal or in the type of proposal being considered;
 - (c) Publication in a newspaper of general circulation in the area in which the proposal will be implemented;
 - (d) Notifying the news media; and/or
 - (e) Posting on the property site in question.
- (2) The office may require an applicant to perform the public notice requirements at the applicant's expense.

NEW SECTION

WAC 25-42-130 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected.

WSR 86-09-039
PROPOSED RULES
OFFICE OF ARCHAEOLOGY
AND HISTORIC PRESERVATION
 [Filed April 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Archaeology and Historic Preservation intends to adopt, amend, or repeal rules concerning the establishment of application and review procedures for the issuance of archaeological excavation permits;

that the agency will at 10:30 a.m., Monday, June 2, 1986, in the OAHF Conference Room, 111 West 21st Avenue, 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 27.34.220.

The specific statute these rules are intended to implement is RCW 27.53.060 and 27.44.020.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 29, 1986.

Dated: April 11, 1986
 By: Jacob E. Thomas

State Historic Preservation Officer

STATEMENT OF PURPOSE

Title: Establishing chapter 25-48 WAC.

Description of Purpose: To establish application and review procedures for issuance of archaeological excavation permits.

Statutory Authority: RCW 27.34.220.

Specific Statute Rule is Intended to Implement: RCW 27.53.060 and 27.44.020.

Summary of Rule: Establishes application and review procedures for the issuance of archaeological excavation permits for archaeological sites.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert G. Whitlam, State Archaeologist, Office of Archaeology and Historic Preservation, 111 West 21st Avenue, KL-11, Olympia, WA 98504, phone (206) 753-4405.

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

The proposed rule does not impose an additional cost of compliance and therefore, no economic impact statement is required under the Regulatory Fairness Act.

Chapter 25-48 WAC
ARCHAEOLOGICAL EXCAVATION PERMIT

WAC

25-48-010	Purpose.
25-48-020	Definitions.
25-48-030	Scope and coverage of this chapter.
25-48-040	Agency policy.
25-48-050	Application forms.
25-48-060	Summary of information required of an applicant.
25-48-070	Notification to Indian tribes.
25-48-080	Public notice.
25-48-090	Issuance of permit.
25-48-100	Terms and conditions of permits.
25-48-105	Permit denial.
25-48-110	Suspension and revocation of permits.
25-48-120	Appeals relating to permits.
25-48-130	Display of permit.
25-48-140	Severability.

NEW SECTION

WAC 25-48-010 PURPOSE. The purpose of this chapter is to establish application and review procedures for the issuance of archaeological excavation permits as provided for in RCW 27.53.060 and 27.44.020.

NEW SECTION

WAC 25-48-020 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Archaeology" means systematic, scientific study of man's past through his material remains.
- (2) "Historic" means peoples and cultures who are known through written documents in their own or other languages.
- (3) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.
- (4) "Professional archaeologist" means a person has designed and executed an archaeological study as evidenced by a thesis or dissertation, and has been awarded an advanced degree such as an M.A., M.S., or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology; has a minimum of one year of field experience with at least twenty-four weeks of field work under the supervision of a professional archaeologist including no more than twelve weeks of survey or reconnaissance work, and at least eight weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity must be documentable with a report produced by the individual on the field work.
- (5) "Public lands" means lands owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state.
- (6) "Site restoration" means to repair the archaeological property to its preexcavation vegetational and topographic state.

(7) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(8) "Archaeological resource" means any material remains of human life or activities which are of archaeological interest. This shall include all sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls, and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material.

(9) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

(10) "Director" means the state historic preservation officer as provided for in chapter 27.34 RCW.

(11) "Office" means the Washington state office of archaeology and historic preservation.

(12) "Suspension" means the abeyance of a permit under this chapter for a specified period of time.

(13) "Revocation" means the termination of a permit under this chapter.

NEW SECTION

WAC 25-48-030 SCOPE AND COVERAGE OF THIS CHAPTER. (1) This chapter is applicable to any person, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the state, county, or city, or a political subdivision of the state.

(2) This chapter is applicable to the alteration, digging, excavating, or removal of archaeological resources from public lands, the alteration, digging, excavating or removal of archaeological resources from private lands where the landowner has requested the office to issue archaeological excavation permits, and the removal of glyptic or painted records of prehistoric peoples or archaeological resources from Indian cairns or graves under either circumstance.

(3) This chapter does not apply to the removal of artifacts found exposed on the surface of the ground nor to the excavation and removal of artifacts from state-owned shorelands below the line of ordinary high water or within the intertidal zone except when there will be removal of glyptic or painted records of prehistoric peoples, or archaeological resources from Indian cairns or graves.

NEW SECTION

WAC 25-48-040 AGENCY POLICY. The overriding policy of the office is to assure the protection of the archaeological resources of the state. This policy results from:

(1) The legislated duty of the office to preserve and protect the heritage of the state in a manner that does not impair the resources (RCW 27.34.220); and

(2) Recognition of the fact that the public has an interest in the knowledge of the state's heritage and a responsibility to contribute to the preservation and enhancement of that heritage (RCW 27.53.010).

NEW SECTION

WAC 25-48-050 APPLICATION FORMS. (1) Any person or entity covered by this chapter and described in WAC 25-48-030 proposing to excavate and/or remove archaeological resources from public lands, or private lands where the landowner has transferred permit authority to the office, or proposing to remove glyptic or painted records of prehistoric tribes or peoples, or archaeological resources from Indian cairns or graves shall apply to the office for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued.

(2) Each application for a permit from the office shall be submitted on the archaeological excavation permit application form approved by the preservation officer. These application forms may be obtained from

the Office of Archaeology and Historic Preservation, 111 West 21st Avenue KL-11, Olympia, WA 98504; telephone (206) 753-5010.

NEW SECTION

WAC 25-48-060 SUMMARY OF INFORMATION REQUIRED OF AN APPLICANT. (1) Each application for a permit shall include:

(a) The nature and extent of the work proposed, including how and why it is proposed to be conducted, proposed time of performance, locational maps, and a completed site inventory form.

(b) A professional, scientific research design demonstrating that the work will be performed in a scientific and technically acceptable manner taking into account current scientific research issues and cultural resource management plans.

(c) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in this chapter.

(d) The name and address of the individual(s) proposed to be responsible for carrying out the terms and conditions of the permit, if different from the individuals enumerated under (c) of this subsection.

(e) Financial evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities.

(f) A plan for site restoration following excavation activities and evidence of plans to secure bonding to cover the cost of site restoration.

(g) Evidence of approval of the proposed work from the agency or political subdivision with management responsibility over the land.

(h) Evidence of filing of the proposed work with the Washington archaeological research center.

(i) For amateur society application, evidence of review and recommendations from the Washington archaeological research center.

(j) A site security plan to assure the protection of the site and its contents during the public permit review and excavation process.

(k) A public participation plan detailing the extent of public involvement and dissemination of project results.

(l) A completed environmental checklist as required by WAC 197-11-100 to assist the office in making a threshold determination and to initiate SEPA compliance.

(2) Where the application is for the excavation and/or removal of archaeological resources on public lands, the name of the university, museum, repository or other scientific or educational institution in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard, preserve, and allow for the future scientific access to these materials as property of the state.

(3) Where the application is for the excavation and/or removal of archaeological resources on private land, the name of the university, museum, repository, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work and all collections in the event the landowner does not wish to take custody or otherwise dispose of the archaeological resources. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work and to safeguard, preserve, and allow for the future scientific access to these materials.

(4) After review of the application, the office may require additional information to properly evaluate the proposed work and shall so inform the applicant. Field investigation or research may be required of the applicant or conducted by the office at the applicant's cost. A bond in an amount specified by the office may be required of the applicant to ensure payment of the professional expenses incurred by the office. Advance notice of any anticipated cost shall be given to the applicant.

NEW SECTION

WAC 25-48-070 NOTIFICATION TO INDIAN TRIBES. (1) Upon receipt of a completed application form for archaeological excavation of an Indian cairn or grave or the removal of glyptic or painted records, the office, at least thirty days before issuing such a permit, shall notify any Indian tribe which may consider the site to be of historic or cultural significance.

(2) Notice by the office to any Indian tribe shall be sent to the chief executive officer or other designated official of the tribe. Any Indian tribe or other native American group may supply the office in advance with sites or locations for which such tribe or group wishes to receive notice under this section.

(3) Upon request during the thirty-day period, the office may meet with official representatives of any Indian tribe or group to discuss their interests, including, but not limited to, the proposed excavation methods. Mitigation measures, including stipulations pertaining to the disposition of human remains, may be incorporated into the terms and conditions of the permit.

(4) When the office determines that a permit applied for under this chapter must be issued immediately because of an imminent threat of loss or destruction of an archaeological resource, the office shall so notify the appropriate tribe.

NEW SECTION

WAC 25-48-080 PUBLIC NOTICE. (1) The office will give public notice of a pending permit application by one or more of the following methods as appropriate for the specific circumstances in order to solicit public and scientific comment:

(a) Notifying public, and private groups, tribes, and agencies with a known interest in a certain application or type of application being considered;

(b) Notifying individuals with known interest in a certain application or in the type of application being considered;

(c) Publication in a newspaper of general circulation in the area in which the application will be implemented;

(d) Notifying the news media; and/or

(e) Posting on the property site in question.

(2) Comments from such notified agencies, groups, entities or individuals must be received within thirty days of the notice.

NEW SECTION

WAC 25-48-090 ISSUANCE OF PERMIT. The office will normally act upon a permit application within sixty days of receipt of a complete permit application. The director may issue a temporary permit immediately where delay could cause damage to an archaeological resource or site. Said permit shall be valid only for thirty days. The office may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant, or in the case of an amateur society, or other group or organization, the individual proposed to be responsible for conducting the work, is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological methods and theory, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the minimum qualifications as a professional archaeologist.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data.

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of public lands concerned.

(4) Evidence is submitted to the office that any university, museum, repository, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records.

(5) After the granting of a permit and, when information filed with the office becomes inaccurate in any way, or additions or deletions are necessary, the applicant or permittee shall submit full details of any such changes and/or correct any inaccuracy, together with copies of any new required documents, with the office within fifteen days following the change. The office reserves the right to suspend or revoke a permit under the terms of WAC 25-48-110.

NEW SECTION

WAC 25-48-100 TERMS AND CONDITIONS OF PERMITS. (1) In all permits issued, the office shall specify:

(a) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work;

(b) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit.

(c) The name of any university, museum, repository, or other scientific or educational institutions in which any collected materials and data shall be deposited.

(d) Reporting documentation requirements and site restoration requirements.

(2) The preservation officer may specify such terms and conditions as deemed necessary, consistent with this chapter, to protect public safety and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under the permit. This may include sufficient bonding to cover cost of site restoration.

(3) The office may include in permits issued for archaeological work on Indian cairns and graves or glyptic or painted records such terms and conditions as may be requested by the concerned Indian tribe.

(4) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(5) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(6) The permittee may request that the office extend or modify a permit. Such a request will require compliance with all the provisions of this chapter.

(7) The permittee's performance under any permit issued for a period greater than one year shall be subject to review by the office, at least annually.

NEW SECTION

WAC 25-48-105 PERMIT DENIAL. If a permit is denied, a written statement of the reasons for the denial will accompany the notice of permit denial to the applicant.

NEW SECTION

WAC 25-48-110 SUSPENSION AND REVOCATION OF PERMITS. (1) The office may suspend or revoke a permit issued pursuant to this chapter upon determining that the permittee has failed to meet any of the terms and conditions of the permit and upon at least twenty days written notice. In the case of emergencies which imminently threaten health, safety, or welfare including property, the office may suspend a permit immediately.

(2) The office shall provide written notice to the permittee of the suspension or revocation, the cause thereof, and in the case of a suspension, the length of the suspension and the requirements which must be met before the suspension will be removed.

NEW SECTION

WAC 25-48-120 APPEALS RELATING TO PERMITS. Any affected person may request a hearing to appeal a denial of a permit, suspension, or revocation to the preservation officer. Said request must be in writing and filed with the preservation officer within twenty days of receipt of notice of the denial, suspension, or revocation.

NEW SECTION

WAC 25-48-130 DISPLAY OF PERMIT. (1) The permit granted by the office shall be prominently displayed at all times upon the archaeological site being excavated during the permitted period.

(2) If more than one archaeological site is being excavated under a single permit, the permittee may obtain from the office such copy or copies of his or her permit as may be necessary to display at each archaeological site being excavated.

(3) The director or his designee may examine at any time the permit, work, and site at which such permitted work is being undertaken.

NEW SECTION

WAC 25-48-140 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected.

WSR 86-09-040
PROPOSED RULES
GAMBLING COMMISSION
 [Filed April 14, 1986]

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 sections WAC 230-04-060, 230-04-201, 230-08-100, 230-12-040, 230-12-310, 230-40-070, 230-40-310 and new section WAC 230-04-900;

that the agency will at 10:00 a.m., Thursday, June 12, 1986, in the Tyee Motor Inn, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 9.46.070 (1), (2), (4), (5), (7), (8), (11), (14) and (17).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 12, 1986.

Dated: April 14, 1986

By: Keith Kisor
 Director

STATEMENT OF PURPOSE

Title: WAC 230-04-060 Required information; 230-04-201 Fees; 230-04-900 Test for optional payment plan for annual licenses; 230-08-100 Political contributions of licensees to be reported; 230-12-040 No firearms as prizes; 230-12-310 Licensees to report to the commission all civil or criminal actions filed against them; 230-40-070 Licensee to furnish all cards, chips and other services; and 230-40-310 No free or discount food, beverage or merchandise to be offered at public card room.

Description of Purpose: To change manner and time of submitting required information; to add optional payment plan fees; to allow an optional payment plan as a test; to change manner and time of submitting information on political contributions; to allow certain types of firearms as prizes; to disallow use of counter checks to purchase chips; and to disallow free coffee in card rooms.

Statutory Authority: RCW 9.46.070 (1), (2), (4), (5), (6), (7), (8), (11), (14) and (17).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-04-060 changes the manner and time of submitting information required by the agency; 230-04-201 changes the fee schedule to show the test of our optional payment method for licenses; 230-04-900 allows a test of an optional payment method for licenses and fees by licensees; 230-08-100 changes the manner and time of submitting information on political contributions made by licensees; 230-12-040 changes the rule to allow certain types of firearms as prizes in gambling activities; 230-12-310 changes the manner and time of submitting information on civil and criminal actions against/by licensees; 230-40-070 changes the rule to not allow counter checks to be used to purchase chips; and

230-40-310 changes the rule to not allow coffee to be given out free in card rooms.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm; and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments and new rule.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rule.

AMENDATORY SECTION (Amending Order 137, filed 10/18/83)

WAC 230-04-060 REQUIRED INFORMATION. In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

(1) Copy of corporate applicants' articles of incorporation and by-laws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(2) A copy of a nonprofit or charitable applicant's internal revenue service tax exemption letter if one has been obtained;

(3) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;

(4) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;

(5) The name, address, date of birth, and Social Security number of each paid employee or agent who will work in the activity for which the license is sought;

(6) For each person listed below, a completed copy of the commission's form entitled "Personal information form":

(a) Each person who has a substantial interest in the applicant;

(b) Each person who is the chief executive officer, the chairman of a board, and the financial records officer of a corporation and/or bona fide nonprofit charitable organization;

(c) Each person who will serve in a supervisory capacity over those persons in the direct management or direct operation of the activity for which the license is sought;

(7) If the applicant is a natural person, a completed copy of the commission's "Personal information form" respecting the applicant;

(8) When information filed with the commission becomes inaccurate in any way, ~~((or additions or deletions are necessary to reflect changes in circumstances of the licensee, applicant, or any other persons since the information was filed;))~~ the applicant or licensee shall submit full details of any such change and/or correct any inaccuracy, together with copies of any new required documents, with the commission ~~((within 30 days following the change;))~~ 30 days following the change: PROVIDED, That updates to items (3), (4), and (5) above may be reported to the commission by notation on the next quarterly activity report form submitted: PROVIDED FURTHER, That with respect to

bona fide charitable and/or bona fide nonprofit organizations only, notice need not be given of changes of officers, under subparagraph (6)(b) above, until required renewal time(s) for a particular license(s). If other information required to be submitted under all other sections of this rule and/or other information required on the application, changes or becomes inaccurate in any way, the commission shall be notified as required in this subsection. All officers of bona fide charitable and/or bona fide nonprofit organizations, upon signing the original and/or renewal application(s) for licensure, shall obligate the organization to the fair and lawful operation of all gambling activities for

that license year or until renewal time of another license held by the organization or an additional license is applied for, whichever is sooner, regardless of any change(s) in the roster of elected officers during that license period.

(9) Sections (1), (2), and (6) shall not apply to applications by or on behalf of an incorporated city or town in the state of Washington.

AMENDATORY SECTION (Amending Order 153, filed 8/12/85)

WAC 230-04-201 FEES. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

LICENSE TYPE	DEFINITION	FEE
1. AMUSEMENT GAMES	(Fee based on annual net receipts)	
Class A	\$500 or less	\$ 35
Class B	\$501 - 1,000	50
Class C	\$1,001 - 5,000	75
Class D	\$5,001 - 15,000	250
Class E	over \$15,000	350
2. BINGO	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 50
Class B	\$ 10,001 to 50,000	150
Class C	\$ 50,001 to 100,000	500
Class D	\$ 100,001 to 300,000	800
Class E	\$ 300,001 to 500,000	1,500
Class F	\$ 500,001 to 1,000,000	3,000
Class G	\$1,000,001 to 1,500,000	4,000
Class H	\$1,500,001 to 2,000,000	5,000
Class I	\$2,000,001 to 2,500,000	6,000
Class J	\$2,500,001 to 3,000,000	7,000
Class K	\$3,000,001 to 3,500,000	8,000
3. BINGO GAME MANAGER	Original Renewal	\$ 150 75
4. CARD GAMES		
Class A	General (fee to play charged)	\$ 500
Class B	Limited card games - to hearts, rummy, mah-jongg, pitch, pinochle, coon-can and/or cribbage - (fee to play charged)	150
Class C	Tournament only - no more than ten consec. days per tournament	50
Class D	General (no fee to play charged)	50
Class R	Primarily for recreation (WAC 230-04-199)	25
5. CHANGES		
NAME	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
FRE	(Reno Nite date(s)/time(s)) (See WAC 230-04-325)	25
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE REPLACEMENT	(See WAC 230-04-290)	25
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
6. FUND RAISING EVENT		
Class A	One event not more than 24 consec. hrs.	\$ 300
Class B	One event not more than 72 consec. hrs.	500
Class C	Additional participant in joint event (not lead organization)	150
7. PERMITS		
Class A	Agricultural Fair/Special Property Bingo One location and event only (See WAC 230-04-191)	\$ 25
8. PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 300
Class B	Up to \$50,000	475
Class C	Up to \$100,000	960
Class D	Up to \$200,000	1,560

	Class E	Up to \$300,000	2,360
	Class F	Up to \$400,000	3,150
	Class G	Up to \$500,000	3,775
	Class H	Up to \$600,000	4,350
	Class I	Up to \$700,000	4,825
	Class J	Up to \$800,000	5,225
	Class K	Over \$800,000	5,900
9.	RAFFLES	(Fee based on annual net receipts)	
	Class C	\$500 or less	\$ 50
	Class D	\$501 - 5,000	100
	Class E	\$5,001 - 15,000	400
	Class F	Over \$15,000	600
10.	SEPARATE PREMISES		
	BINGO	Occasion (see WAC 230-04-300)	\$ 25
	RAFFLES	(See WAC 230-04-197)	25
11.	SPECIAL FEES		
	INVESTIGATION	(See WAC 230-04-240)	As required
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and 230-30-030)	As required
12.	OPTIONAL PAYMENT PLANS	(See WAC 230-04-900)	
	<u>Full Payment Option</u>	<u>Entire license fee as indicated in each category in fee schedule is paid by applicant/licensee at time of application or subsequent renewal.</u>	<u>Varies</u>
	<u>Six-month Payment Option</u>	<u>Administrative processing fee, plus first half of annual license fee at time of application/renewal. Second half of annual license fee will be collected prior to the expiration date of first six-month license. Pertains only to annual licenses \$1,000 and above.</u>	<u>\$ 25</u>

Table 2. (For commercial stimulant/profit seeking organizations)

LICENSE TYPE	DEFINITION	FEE
1. CARD GAMES		
Class B	(Fee to play charged) limited card games - to hearts, rummy, pitch, pinochle, mah-jongg, coon-can and/or cribbage	\$ 150
Class C	Tournament only, no more than ten consec. days per tournament	150
Class D	General (no fee to play charged)	50
Class E	General (fee to play charged)	
E-1	One table only	350
E-2	Up to two tables	600
E-3	Up to three tables	1,000
E-4	Up to four tables	2,000
E-5	Up to five tables	3,000
2. CHANGES		
NAME	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
BUSINESS CLASSIFICATION	(Same owners - see WAC 230-04-340(3))	50
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE	(See WAC 230-04-290)	25
OWNERSHIP OF STOCK REPLACEMENT	(See WAC 230-04-340(1))	50
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340 and 230-04-350)	50

3.	DISTRIBUTOR	(Fee based on annual gross receipts for sale of punchboards, pull tabs, pull tab dispensing devices and sale/lease of fund raising event equipment.)	Original	Renewal
	Class A	up to \$600,000	\$2,750	\$1,250
	Class B	over \$600,000	\$2,750	\$1,700
4.	DISTRIBUTOR'S REPRESENTATIVE	Original		\$ 220
		Renewal		110
5.	MANUFACTURER	Original		\$3,300
		Renewal		1,650
6.	MANUFACTURER'S REPRESENTATIVE	Original		220
		Renewal		110
7.	PERMITS	Agricultural Fair/Special Property Bingo		
	Class A	One location and event only (See WAC 230-04-191)		\$ 25
	Class B	Annual permit for specified different events and locations (See WAC 230-04-193)		150
8.	PUBLIC CARD ROOM EMPLOYEE	Original		\$ 150
		Renewal		75
9.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)		
	Class A	Up to \$10,000		\$ 300
	Class B	Up to \$50,000		475
	Class C	Up to \$100,000		960
	Class D	Up to \$200,000		1,560
	Class E	Up to \$300,000		2,360
	Class F	Up to \$400,000		3,150
	Class G	Up to \$500,000		3,775
	Class H	Up to \$600,000		4,350
	Class I	Up to \$700,000		4,825
	Class J	Up to \$800,000		5,225
	Class K	Over \$800,000		5,900
10.	SPECIAL FEES	(See WAC 230-04-240)		As required
	INVESTIGATION IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and 230-30-030)		As required
11.	SPECIAL LOCATION	(Fee based on annual net receipts)		
	AMUSEMENT GAMES			
	Class A	One event per year lasting no longer than 12 consecutive days		\$ 500
	Class B	\$25,000 or less		500
	Class C	\$25,001 - 100,000		1,500
	Class D	\$100,001 - 500,000		3,000
	Class E	Over \$500,000		5,000
12.	OPTIONAL PAYMENT PLANS	(See WAC 230-04-900)		
	<u>Full Payment Option</u>	<u>Entire license fee as indicated in each category in fee schedule is paid by applicant/licensee at time of application or subsequent renewal.</u>		<u>Varies</u>
	<u>Six-month Payment Option</u>	<u>Administrative processing fee, plus first half of annual license fee at time of application/renewal. Second half of annual license fee will be collected prior to the expiration date of first six-month license. Pertains only to annual licenses \$1,000 and above.</u>		<u>\$ 25</u>

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 230-04-900 TEST FOR OPTIONAL PAYMENT PLAN FOR ANNUAL LICENSES. Beginning July 1986, the commission will conduct a test to determine the feasibility of allowing an applicant at the time of initial application and a licensee during their annual renewal or submission of an additional or reinstatement application(s), the opportunity to select one of the two below listed payment options for payment of annual license fees.

(1) Full payment option: The entire license fee(s), as specified in WAC 230-04-201, will be collected at the time of initial application or during their annual renewal. If approved, a gambling license shall be issued for a period of one year from their date of approval or their original expiration date, whichever is appropriate.

(2) Six-month payment option: Half the license fee(s) plus an administrative processing fee, as specified in WAC 230-04-201, will be collected at the time of initial application or during their annual renewal. If approved, a gambling license shall be issued with an expiration date of six months from the license approval date or the original license expiration date, whichever is applicable. Upon receipt and validation of the second half payment, a licensee may be granted a second license for an additional six month period. Second half payments must be received by the Commission on or before the due date: PROVIDED, That if the second half payment is received by mail, it must be postmarked on or before the due date. Failure to submit the second half license fee payment prior to the established due date will cause the gambling license to become null and void.

Participation in the test will be limited to those applicants or licensees in which the annual license fee is \$1,000 or greater. Fund raising events (Reno/casino nights), raffles, amusement games, special location amusement game licenses and those licenses categorized as one time only events are ineligible to participate in this test.

The options, as outlined above, shall be for purposes of this test, considered as annual licenses and all rules of the commission will apply: PROVIDED, That participants electing the six-month option will be restricted to 50% of the authorized class limitation for annual gross receipts. Licensees exceeding 50% of their authorized level of activity will be required to upgrade to the appropriate license class as required by WAC 230-04-260.

Licensees failing to renew their annual license(s) or those failing to submit the second half license fee payment(s) prior to the established due date, the license shall expire and be void. In this event, the licensee must reapply for licensure according to the statutory and regulatory conditions then in effect as would any other applicant.

This test shall expire in July 1987. At the end of the test period, the commission shall evaluate the optional payment plans as a method of fee collection.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

WAC 230-08-100 POLITICAL CONTRIBUTIONS OF LICENSEES TO BE REPORTED. Each licensee shall file with the commission a report fully disclosing each gift or contribution of money, or other thing of value, made directly or indirectly by the licensee or the licensee's spouse, or by any person having a substantial interest in the licensee, to, or for the benefit of:

- (1) Any candidate for public office or any public officeholder; or
- (2) Any committee or association of persons formed to promote to encourage any candidate or candidates for, or holder or holders of, any public office; or
- (3) Any person or association actually advocating any legislation or administrative rule, or any changes therein.

These reports shall be filed in the office of the commission (~~within ten calendar days after each gift or contribution is made, or if the gift or contribution is made within three weeks prior to any election of the candidate for public office or the balloting on any legislative or referendum or other ballot issue for or to which the gift or contribution is made, then the report shall be filed within three days after each gift or contribution is made~~) by notation on the next quarterly activity report filed, and by attaching all details concerning each gift or contribution to the report: PROVIDED, That any licensee not required to submit

quarterly activity reports shall provide this information to the commission, in writing, no later than 90 days following each gift or contribution.

The filing herein shall reflect all such gifts or contributions made prior to the time of the report. The report shall be made under oath (~~on a form obtained from the commission~~). No report need cover any period of time which is covered by a previous report filed with the gambling commission.

The report shall at minimum include the following for each gift or contribution:

- (a) The amount of the gift or contribution, or a description and the retail value if other than cash; and
- (b) The name of the person for whose benefit the gift or contribution was made; and
- (c) The name of the person or association to whom the gift or contribution was actually made; and
- (d) The name of the person or association actually making the gift or contribution; and
- (e) The date the contribution was made.

PROVIDED, That gifts or contributions made directly to a recognized political party in the state of Washington for general party purposes and not for the benefit of a specific candidate or candidates, and gifts or contributions for the benefit of a specific person or persons or for the benefit of any initiative, referendum or ballot issue which accumulate to less than five dollars in any calendar year shall be exempt from this reporting requirement.

PROVIDED FURTHER, That licensed, dues paying members of bona fide trade associations which are not principally formed for the purpose of influencing candidates for public office, public officeholders, legislation, or administrative rules and are not principally formed for the purpose of representing, speaking for or advising licensees of the commission are exempted from this reporting requirement concerning the funds paid to the trade association only, if:

(a) The trade association is registered as a political committee, or its authorized representative is registered as a lobbyist, with the Washington state public disclosure commission and copies of all reports furnished by the trade association, its registered lobbyist, or both to the public disclosure commission are furnished to the gambling commission at the same time they are required to be filed with the public disclosure commission;

(b) Such exemption is specifically granted by the Washington state gambling commission to the trade association's dues paying members; and

(c) The trade association agrees in writing to open its financial records relating to dues, voluntary donations, gifts, contributions or other sources of income or expenditures for inspection by the gambling commission at any time, with or without notice.

AMENDATORY SECTION (Amending Order 51, filed 4/30/76)

WAC 230-12-040 NO FIREARMS AS PRIZES. No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to, BB's; or CO² guns, including but not limited to, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by RCW 9.46.030: PROVIDED, That bona fide charitable or nonprofit organizations licensed to conduct a raffle, may award legal shotguns or hunting rifles as merchandise prizes not deemed unlawful as defined by WAC 232-12-047: PROVIDED FURTHER, That the organization shall not award the actual prize but will provide a certificate for the prize redeemable at a licensed firearms dealer. At no time shall the actual authorized shotgun or rifle be present on any premises licensed by the Commission. Photographs or replicas may be displayed in lieu of the actual firearm and all such prizes shall be clearly and fully disclosed to each participant taking part in the activity or paying for the opportunity to take part in the activity.

All transfers of such shotguns and rifles will be accomplished by a licensed dealer of the state of Washington as required by and only under the conditions set out in RCW 9.41.

AMENDATORY SECTION (Amending Order 15, filed 4/17/74)

WAC 230-12-310 LICENSEES TO REPORT TO THE COMMISSION ALL CIVIL OR CRIMINAL ACTIONS FILED AGAINST THEM. Each licensee shall (~~given [give]~~) give notice to the commission in writing upon the filing of each (~~and every~~) civil and (~~each and every~~) criminal action, including counterclaims,

~~((and))~~ cross-claims, and bankruptcy filing, but excluding traffic violations and dissolutions of marriage, in any court at any level for or against the licensee, or for or against the licensee's president or chief executive officer; chairman of the licensee's board of directors or board of trustees; licensee's financial records officer; or the manager of any of the activities for which the licensee has a gambling license.

This notice shall include the name of the case and its court number, the name and location of the court in which the case has been filed and a summary of the nature of the case ~~((including allegations against the defendant(s)). Licensee may include a summary of defenses to the allegations)).~~ The licensee shall advise the commission in writing of the disposition of each case in each level of court hearing the case.

These notices shall be filed with the commission ~~((not later than 30 days))~~ by notation on the next quarterly activity report filed, and attaching all details to the report concerning each filing and disposition: PROVIDED, That any licensee not required to submit quarterly activity reports shall provide this information to the commission, in writing, no later than 90 days following filing, and each disposition, of the case.

AMENDATORY SECTION (Amending Order 74, filed 8/17/77)

WAC 230-40-070 LICENSEE TO FURNISH ALL CARDS, CHIPS AND OTHER SERVICES. Each licensee shall furnish the following items and services in connection with all card games conducted on its premises at no additional charge to the players:

(1) Chips. Chips for use in wagering shall be of generally conventional size and design. Chips furnished by a licensee shall be so designed that they are readily identifiable as having been furnished by that particular licensee.

(2) Cards or mah-jongg tiles. The deck, or decks of cards being used at a given table where any poker game is being played shall be changed at a minimum every half hour by the licensee.

Playing cards or mah-jongg tiles furnished shall be of generally conventional size and design. Playing cards or tiles that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards or tiles identifiable to players other than as allowed by the rules of the particular game are prohibited.

(3) Bank services. The licensee shall sell its chips to all players desiring to buy them not in excess of any limits set by the commission and redeem all chips at the value for which they were sold. The value at which the various types of chips are sold and redeemed shall be conspicuously posted and visible to each person prior to that person purchasing chips. Money taken in on chips sold shall be kept separate and apart from all other money received by the licensee.

(4) Chips may be sold for cash only and no credit of any nature shall be extended by an operator to a person purchasing chips: PROVIDED, That an operator may accept a personal check written on an account of a person purchasing chips in lieu of cash, but only when the check is complete and in an amount equal to the value of the chips being purchased at that time. Counter checks are not acceptable as a personal check. Each receipt by a person of a quantity of chips from the operator shall be a separate transaction for the purpose of this rule. (Personal checks received for chips retained by the operator after close of business shall be deposited by the operator not later than the second day following receipt upon which the operator's bank is open for business.)

(5) No licensee shall allow any cards or chips not furnished by the licensee on that business day to be used in any card game conducted upon its premises. No licensee shall allow any other person to buy or sell chips for use in card games upon its premises nor provide any other item or service for use in connection with the game.

AMENDATORY SECTION (Amending Order 45, filed 12/30/75)

WAC 230-40-310 NO FREE OR DISCOUNT FOOD, BEVERAGE OR MERCHANDISE TO BE OFFERED AT PUBLIC CARD ROOM. No licensee for the operation of a public card room shall provide food, beverage or other merchandise ~~((except cups of coffee;))~~ to card players, or prospective card players, for a price or other consideration which is less than the price or other consideration at which such food, beverage or other merchandise is available to all persons patronizing the business which is stimulated by the card room.

No advertising which is inconsistent with this rule shall be permitted.

WSR 86-09-041

EMERGENCY RULES

DEPARTMENT OF NATURAL RESOURCES

[Order 473—Filed April 14, 1986]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule postponing the "closed season" for industrial fire tool requirements and other activities on lands protected by the Department of Natural Resources to May 1, 1986, for all of 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, the risk of life and property from wildfire is reduced. The "closed season" in Washington is therefore postponed from April 15 to May 1, 1986.

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

This rule is promulgated pursuant to RCW 76.04.252 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 14, 1986.

By Brian J. Boyle
Commissioner of Public Lands

NEW SECTION

WAC 332-26-080 *CLOSED SEASON Pursuant to RCW 76.04.252, the period May 1, 1986, to October 15, 1986, shall be known as the closed season for restrictions on forest lands protected by the Department of Natural Resources, unless different dates are designated by the Supervisor because of fire weather conditions prevailing.*

WSR 86-09-042

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 86-21—Filed April 14, 1986]

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 adult herring are not present.

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

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

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

APPROVED AND ADOPTED April 14, 1986.

By Gene DiDonato
for William R. Wilkerson
Director

NEW SECTION

WAC 220-49-02000S SEASONS-HERRING
Notwithstanding the provisions of WAC 220-49-020 and WAC 220-49-021, effective April 16, 1986, until further notice it is unlawful to take or fish for herring, candle fish, anchovy, or pilchard taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A or 21B.

WSR 86-09-043

NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY [Memorandum—April 3, 1986]

The Washington State Board for Certification of Librarians will meet on Friday, April 25, 1986, in the Monroe Room of the Sheraton-Spokane Hotel, North 322 Spokane Falls Court, Spokane, beginning at 3:00 p.m.

WSR 86-09-044

NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER [Memorandum—April 8, 1986]

The time of the April 17, 1986, board of directors regular meeting has been changed from 3:00 p.m. to 10:00 a.m.

WSR 86-09-045

EMERGENCY RULES BELLEVUE COMMUNITY COLLEGE [Order 92, Resolution No. 171—Filed April 14, 1986]

Be it resolved by the board of trustees of Community College District VIII, Bellevue Community College, acting at Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the

annexed rules relating to [Admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII, WAC 132H-160-550, comprehensive fee].

We, the board of trustees of Community College District VIII, 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 it is necessary to include information on a comprehensive fee in publications currently being prepared for distribution to students prior to fall quarter, 1986.

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 Community College District VIII, 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 April 9, 1986.

By Paul N. Thompson
Secretary, Board of Trustees

NEW SECTION

WAC 132H-160-550 COMPREHENSIVE FEE.
Students attending Bellevue Community College will be charged a fee based on a per credit hour (or the equivalent of a credit hour), in return for services including but not limited to, parking, transcripts, catalogs, graduation, and health services. The amount of the Comprehensive Fee shall be determined by the Board of Trustees.

WSR 86-09-046

PROPOSED RULES BELLEVUE COMMUNITY COLLEGE [Filed April 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Community College District VIII, Bellevue Community College, intends to adopt, amend, or repeal rules concerning Admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII, WAC 132H-160-550, comprehensive fee;

that the institution will at 1:30 p.m., Tuesday, June 10, 1986, in the Board Room, Bellevue Campus, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, 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 28B.150.140 [28B.50.140].

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 10, 1986.

Dated: April 9, 1986
By: Paul N. Thompson
Secretary, Board of Trustees

STATEMENT OF PURPOSE

Description of Purpose: Add to permanent rules of Admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII, WAC 132H-160-550, Comprehensive fee.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: Admissions, residency classification and registration regulations—Schedule of fees and financial aid for Community College District VIII speaks to rules and regulations for students attending Bellevue Community College. These rules and regulations are critical ingredients toward the free, creative, and spirited educational environment to which the students, faculty, and staff of Bellevue Community College are committed.

Reasons Supporting Proposed Action: To clarify the comprehensive fee which is being established to cover a number of services for Bellevue Community College students.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul N. Thompson, President, Bellevue Community College, 3000 Landerholm Circle S.E., P.O. Box 92700, Bellevue, WA 98009-2037.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Board of Trustees, Bellevue Community College District VIII, public.

Institution Comments or Recommendations, if any: None.

Rule Necessary as Result of Federal Law or Federal or State Court Action: No.

NEW SECTION

WAC 132H-160-550 COMPREHENSIVE FEE. Students attending Bellevue Community College will be charged a fee based on a per credit hour (or the equivalent of a credit hour), in return for services including but not limited to, parking, transcripts, catalogs, graduation, and health services. The amount of the Comprehensive Fee shall be determined by the Board of Trustees.

**WSR 86-09-047
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 15, 1986]**

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, amending WAC 388-15-208 through 388-15-212;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, in the Auditorium, Office Building #2, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1986.

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

The specific statute these rules are intended to implement is RCW 74.08.530 through 74.08.570.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 14, 1986
By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-15-208, 388-15-209 and 388-15-212.

Purpose of the Rule Change: To incorporate changes made in the chore service law by the 1986 legislature.

Reason These Rules are Necessary: To make wording in WAC consistent with the chore service law.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-15-208 Definitions, subsection (1) change wording to be consistent with RCW to read after "Chore service": "means services in performing light work and household and other personal tasks which eligible persons are unable to do for themselves because of frailty or handicapping conditions"; and subsection (4)(c) delete "or monthly." WAC 388-15-209 Chore services—Eligible individuals, subsection (1)(d) change "services" to "service"; subsection (2)(c)(ii) add to end of sentence "at time of eligibility determination"; subsection (2)(c)(iii) change "not in excess of" to "at or below"; subsection (2)(e) insert after ". . . chore services program." "Deduct one hour of chore service for each percentage point income exceeds 30% SMI. Deduct an additional hour of service for each percentage point income exceeds 50% SMI. For attendant care, payment shall be reduced an equivalent to the hourly unit rate." Delete wording from "See Table A, as follows:" to subsection (2)(f) which includes the table; subsection (2)(f) add "and who are age 60 or over" after "residential care facility . . ."; subsection

(2)(g) add "and who are age 60 or over" after "residential care facility . . ."; and delete subsection (3) relating to grandfathering. WAC 388-15-212 Service determinations, change subsection (6)(c) to read "Funds are available under provisions of WAC 388-15-215(11)"; and subsection (10) change to read "individual provider program" instead of "individual-provider-program."

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Samuel H. Koshi, Program Manager, Bureau of Aging and Adult Services, mailstop OB-43G, phone 753-1244.

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

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

WAC 388-15-208 DEFINITIONS. (1) "Chore services" (~~consist of~~) means services in performing light work and household (~~tasks and/or~~) and other personal (~~care, as defined by the department,~~) tasks which eligible persons are unable to do for themselves because of frailty or handicapping conditions.

(2) "Contracted program" denotes that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore provider.

(3) "Individual provider program" denotes that method of chore service delivery where the client employs and supervises the chore provider. Payment is made to the client, who in turn pays the provider.

(4) "Attendant care" in the chore services program is the service provided to eligible persons:

- (a) Who need full-time care, and/or
- (b) Require assistance that cannot be scheduled with personal care tasks, e.g., toileting, ambulation, wheelchair transfer, and/or
- (c) Need protective supervision when it is dangerous for a person to be left alone. Protective supervision does not include responsibilities a legal guardian should assume. Attendant care is authorized a daily (~~or monthly~~) rate payment in the individual provider program.

(5) "Hourly care" in the chore services program is the service provided to eligible persons needing assistance that can be scheduled with household and/or personal care tasks. A maximum of one hundred sixteen hours per month per client can be provided. Hourly services do not include attendant care.

(6) "Own home" shall mean the individual's present or intended place of residence whether in a building rented or owned by the client or in the home of another person. Chore services are provided within the confines of the home property except for essential shopping, errands, and transportation necessary for the completion of authorized tasks.

(7) The "client review questionnaire" is an adult assessment form determining the amount and type of chore services to be provided. The form is used by department staff to identify, document, and score the allowable chore service needs of all eligible persons.

(8) The "CRQ authorization ceiling chart" indicates the maximum number of hours that can be authorized for a client's score.

(9) "Personal care" shall mean such tasks as meal preparation, dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, and reminding to take medicines which a person would normally provide for himself or herself and are necessary to maintain a person in his or her own home. Sterile procedures and administering medications by injection are not authorized personal care tasks, unless the individual provider program provider is a licensed health practitioner or a member of the client's immediate family.

(10) "Shared living arrangement" occurs when two or more adults share expenses and live together in his or her own home with common facilities, such as living, cooking, and eating areas.

(11) Persons are "at risk of institutionalization" or "at risk of residential placement" if the three following criteria are met:

- (a) In greatest social and economic need as evidenced by more than one of the following:
 - (i) Financially eligible for chore services;
 - (ii) Seventy-five years of age or older;
 - (iii) Homebound;
 - (iv) Chronic physical health problems;

- (v) Chronic mental health problems;
 - (vi) Confused;
 - (vii) Socially isolated;
 - (viii) Living alone.
- (b) Unable to perform one or more activities essential to daily living, and
- (c) Informal support system will not meet all chore services needs.

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

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service eligibility.

(a) Chore services are for adults aged eighteen and over, although in some instances families may be served.

(b) Chore services are determined through the completion and scoring of the client review questionnaire. (Refer to WAC 388-15-212.)

(c) Families may receive chore services when the normal caretaker of the children:

- (i) Is in the home but unable to physically care for the children;
- (ii) Is in the home and physically unable to perform the necessary household tasks;
- (iii) Is out of the home temporarily, as defined by the department.

(d) Department paid services are provided only to persons whose chore services needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

(2) Financial eligibility.

(a) Persons receiving chore services must meet the financial eligibility requirements established by the department.

(b) For families to receive services, the total family income must be at or below the financial eligibility requirements established by the department. Minor children are not financially eligible in their own right. The minor children are part of the family unit.

(c) An adult or family at risk of being placed in a residential care facility is eligible to receive the level of hourly or attendant care chore services as determined by WAC 388-15-212 who are adult recipients:

- (i) Of Supplemental Security Income and/or state supplementation;
- (ii) Of limited casualty program medical care as defined by RCW 74.09.010 at time of eligibility determination;

(iii) Who have gross family income, adjusted for family size, (~~not in excess of~~) at or below thirty percent of the state median income.

(d) Adult protective services clients are eligible to receive chore services without regard to income, if these services are an integral but subordinate part of the adult protective services plan. These services are limited to a maximum of ninety days during any twelve-month period.

(e) An adult or family with a gross family income over thirty percent of the state median income (SMI), at risk of being placed in a residential care facility, is eligible to receive a reduced level of hours in the hourly chore services program or a reduced level of payment in the attendant care chore services program. ((t))Deduct one hour of chore services for each percentage point income exceeds thirty percent SMI. Deduct an additional hour of service for each percentage point income exceeds fifty percent SMI. For attendant care, payment shall be reduced an equivalent to the hourly unit rate((t)). ~~((See Table A, as follows:~~

~~Hours of chore service to be authorized based on income and level of service needed—8/83~~

(f) Effort shall be made to obtain chore services from the volunteer chore services program, prior to approval of services by department paid providers, for individuals at risk of being placed in a residential care facility and who are age sixty or over, but eligible for five hours per month or less of services.

(g) Individuals at risk of being placed in a residential care facility and who are age sixty or over but not eligible for chore services because of income or need level, or eligible for a reduced level of service because of income, shall be referred to the volunteer chore services program where such program exists for needed hours or services not provided by the department.

(h) Clients or applicants are not eligible for chore services if the clients or applicants have resources in excess of ten thousand dollars for one person, fifteen thousand dollars for a two-person family. Another one thousand dollars is allowed for each additional family member. Adult protective services clients who are receiving chore services as an integral but subordinate part of an adult protective services plan and Supplemental Security Income and/or state supplementation recipients are exempt from the resource requirement in this section. Resources mean all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. Property that is available shall mean property over which the applicant has legal right of control.

The following resources shall be considered in determining the value of a client's or applicant's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a ((boat(s))) boat or boats, recreational ((vehicle(s))) vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature.

(i) The following resources, regardless of value, shall not be considered in determining the value of a client's or applicant's resources:

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or recipient to earn income or to rehabilitate himself or herself;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance.

~~((3)) "Grandfathering" of recipients:
(a) Recipients of chore services as of August 22, 1983 shall be "grandfathered" if application of the 1983 act would result in reduction or termination of services.~~

~~(b) The 1983 act eligibility requirements apply to all other recipients whose services, at time of review, would remain the same or would be increased. See subsection (2)(d) of this section.~~

~~(c) When chore services for grandfathered recipients are terminated for longer than 30 days, the eligibility requirements of the 1983 act is applied. See subsection (2)(d) of this section.~~

~~(d) Continuing eligibility of the grandfathered chore service recipients whose services would otherwise be reduced or terminated by application of the 1983 act, will be determined by applying the eligibility requirements of the 1981 act as determined by the department.))~~

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

WAC 388-15-212 SERVICE DETERMINATIONS. (1) Chore services need and amount determination for all applicants and recipients of chore services will be made by using the client review questionnaire ((σ)) for each adult.

(2) Department staff will administer the client review questionnaire.

(3) When administering the client review questionnaire, department staff will take into account the client's risk of being placed in a residential care facility and ability to perform activities of daily living, living conditions, and arrangements, and the availability and use of alternative resources, including immediate family, other relatives, neighbors, friends, community programs, and volunteers.

(4)(a) The client review questionnaire is a series of questions designed to determine the client's need for the tasks which are available

from the chore program. In answering each question, either "N," "M," "S," or "T" is circled to indicate the extent of assistance the client needs from the chore program for each task. "N," "M," "S," or "T" are defined as:

(i) N = None: The client is either able to perform this task without help or is already receiving or could receive all the help needed from other sources.

(ii) M = Minimal: The client cannot perform this task without help and needs a minimal amount of assistance from the chore program in addition to whatever help may or may not be received from other sources.

(iii) S = Substantial: The client cannot perform this task without help and needs a substantial amount of assistance from the chore program in addition to whatever help may or may not be received from other sources.

(iv) T = Total: Client is completely unable to perform this task and is not now receiving any help and needs total assistance from the chore program.

(b) Points are awarded for each task based on the degree of assistance needed from the chore services program. The number of points available for each task is set forth in subsection (5) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection (6) of this section. For clients needing attendant care, as defined in subsection (5) of this section, the amount of services authorized is based on the total number of hours per month the chore provider must be with the client.

(5) The allowable chore services program tasks, as defined by the department, are scored as follows:

(a) Escort/transport to medical services. The scoring is as follows, based on the need and frequency of service: N = 0, M = 1, S = 2, T = 3.

(b) Essential shopping and errands. The scoring is based on need and frequency of service: N = 0, M = 5, S = 10, T = 15. When the chore provider must perform these tasks for the client because the client is unable to go along, the scoring is N = 0, M = 1, S = 3, and T = 5.

(c) Laundry. The scoring is N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, additional points are awarded. The scoring for the additional points is N = 0, M = 3, S = 5, and T = 7.

(d) Splitting/stacking/carrying wood. The scoring is N = 0, M = 3, S = 5, and T = 7. This task is available only to persons who use wood as their sole source of fuel for heat and/or cooking.

(e) Housework. Housework is limited to tasks necessary to protect the client's health and safety and to those areas of the home actually used by the client, i.e., kitchen, bathroom, bedroom, living room, and dining room. The scoring is N = 0, M = 1, S = 2, and T = 3.

(f) Cooking. The scoring is based on the preparation of three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(g) Feeding. The scoring is based on feeding three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light meal N = 0, M = 4, S = 7, T = 10.

(iii) Main meal N = 0, M = 5, S = 10, T = 15.

(h) Dressing/undressing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(i) Care of appearance. The scoring is N = 0, M = 1, S = 3, and T = 5.

(j) Body care. The scoring is N = 0, M = 5, S = 10, and T = 15.

(k) Bed transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(l) Ambulation. The scoring is N = 0, M = 4, S = 7, and T = 10.

(m) Wheelchair transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(n) Bathing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(o) Toileting. The scoring is N = 0, M = 5, S = 10, and T = 15.

(p) Remind to take medicines. The scoring for reminding to take medication is N = 0, M = 1, S = 2, and T = 3.

(q) Family care. The family care question takes into consideration the ages, number, level of responsibility of the children, and the presence of a spouse when determining the need for chore services.

(i) Family housework determines the need for additional help cleaning the household because of the presence of children.

(ii) Family tasks determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children.

(iii) Supervision of children determines the need for physical supervision of the children. When the client is in the home, but unable to supervise them.

(iv) The total scoring for the above are N = 0, M = 14, S = 27, and T = 40.

(r) Attendant care for adults/supervision of children.

(i) Attendant care for adults determines that the chore provider is available to help a client who requires assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer or supervises or watches a client who cannot safely be left alone. Protective supervision may be necessary when a person may hurt himself or herself, others, or damage property if left alone, or is confused and may wander away, turn on a stove and forget to turn it off, or becomes easily disoriented. The chore service provider performs any household or personal care tasks or gives assistance with activities of daily living during the authorized attendant care hours. The scoring and authorization are based on the number of days per month and hours per day during which the chore service provider must be with a client in need of attendant care. The client or applicant shall provide verification of the need for attendant care by producing a statement from the client's or applicant's physician.

(ii) Supervision of children determines the need for supervision of children when the client is temporarily absent from the home because of hospitalization. This question is not scored. The number of days and the number of hours per day that the children need supervision is recorded. The monthly authorization is the total number of hours required for supervision. The chore service provider performs household and personal care tasks for the children during the hours of supervision. Supervision of children when the client is absent from the home must not exceed two weeks during any six-month period.

(6) Except for cases where attendant care for adults or supervision of children when the client is temporarily absent are required, as defined in subsection (5)(r) of this section, the amount of hours of chore services authorized per month shall be determined by translating the total number of points awarded on the client review questionnaire into a monthly authorization, utilizing the following CRQ authorization ceiling chart:

CRQ SCORE	CEILING HOURS PER MONTH
1 - 4	5
5 - 9	8
10 - 14	11
15 - 19	14
20 - 24	18
25 - 29	21
30 - 34	24
35 - 39	28
40 - 44	31
45 - 49	34
50 - 54	37
55 - 59	41
60 - 64	44
65 - 69	47
70 - 74	51
75 - 79	54
80 - 84	57
85 - 89	60
90 - 94	64
95 - 99	67
100 - 104	70
105 - 109	74
110 - 114	77
115 - 119	80
120 - 124	83
125 - 129	87
130 - 134	90
135 - 139	93
140 - 144	97
145 - 149	100

CRQ SCORE	CEILING HOURS PER MONTH
150 - 154	103
155 - 159	106
160 - 164	110
165 - 169	113
170 and above	116

The department may authorize fewer hours according to the client's individual circumstances and the provisions under WAC 388-15-215(8). Attendant care for adults and supervision of children when the client is temporarily absent are authorized for the number of days per month and hours per day the services are required.

(7) The client or applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection (6) of this section. The department shall authorize the number of additional hours not to exceed one hundred sixteen hours per month per client in the hourly program when:

(a) There are circumstances of a demonstrated duration, frequency, or severity which require additional hours of allowable chore services to avoid adverse effects to his or her health or safety; and((:))

(b) The need for additional hours is specific and clearly measurable.

(c) ~~((Hours))~~ Funds are available under provisions of WAC 388-15-215 ~~((+8))~~(11).

(8) All clients or applicants shall be informed in writing of the process as defined in subsection (7) of this section and shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection (6) of this section.

(9) When the department denies a request for additional hours or makes approval for fewer additional hours than requested, the client or applicant shall receive notice of his or her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

(10) Chore services may be provided either through the ~~((individual provider program))~~ individual provider program or through the contracted program, as deemed most appropriate by department policy established by the state office.

WSR 86-09-048
EMERGENCY RULES
DEPARTMENT OF REVENUE
 [Order ET 86-8—Filed April 15, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to manufacturers, tax credits, amending WAC 458-20-240.

I, Matthew J. Coyle, 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 effective date of the tax credits provisions in chapter 116, Laws of 1986, is April 1, 1986. Thus, an emergency rule adoption is necessary.

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

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 82.32.300.

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

APPROVED AND ADOPTED April 15, 1986.

By Matthew J. Coyle
Acting Director

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-240 (~~MANUFACTURING, TAX CREDITS. GENERAL RULE. RCW 82.04.435 provides for a credit against the business and occupation tax otherwise payable by qualified manufacturers as a result of tax actually paid under chapter 82.08 RCW (retail sales tax) or chapter 82.12 RCW (use tax) on materials, labor and services in the construction of new buildings or the enlarging of existing buildings directly used in such manufacturing activities. In general, the credit is extended to those persons whose activities are defined in RCW 82.04.120 (the definition of the term "to manufacture") with respect to retail sales tax or use tax paid by such persons, their lessors or their contract vendors, on materials, labor and services in connection with such construction or enlarging. The following general principles will apply.~~

LIMITATIONS:

(1) ~~By statutory restriction this credit is available only to "persons engaging in activities defined in RCW 82.04.120" (the definition of the term "to manufacture"), which will include only those persons whose business activities falling within the purview of the business and occupation tax occur under RCW 82.04.240 tax on manufacturers, RCW 82.04.260(2) flour and soybean or sunflower oil manufacturers, (3) seafood products manufacturers, (4) manufacturing fruit and vegetables, (5) manufacturing aluminum, and RCW 82.04.280 printing and publishing, and including manufacturing activities which might be reported for tax under RCW 82.04.250 (retailing) or RCW 82.04.270 (wholesaling) according to the provisions of RCW 82.04.440. As to persons taxable under RCW 82.04.260(8) (slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale) the credit will be allowable only as to tax paid on the construction of new buildings or the enlarging of existing buildings directly used in those of the listed activities which constitute "manufacturing" as defined in RCW 82.04.120 and not with respect to tax paid on buildings, or portions of buildings used in the storage, handling or marketing of unprocessed fresh perishable meat products.~~

(2) ~~Credits will not be allowable until an application therefor has been filed with and approved by the department of revenue. Such application must be made within two years of the date of payment of the taxes giving rise to such credits.~~

(3) ~~Credits are allowable only in respect to tax paid on the construction of new buildings or the enlargement of existing buildings (as hereinafter defined) directly used in manufacturing activities. Where a building is used partly for manufacturing and partly for purposes which do not qualify for credit under this rule, the applicable tax credit shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the building directly used~~

~~for manufacturing purposes bears to the construction cost per square foot of the total building.~~

(4) ~~The terms "manufacturer" and "manufacturing" are to be narrowly construed and the credit is not allowable in respect to buildings utilized for such nonmanufacturing activities as extracting, marketing, parking and transportation, nor to office and storage facilities except as specifically provided herein.~~

(5) ~~Credits are allowable only in respect to tax paid on the construction of new or enlarged buildings, not on the repair or renovation of existing buildings.~~

(6) ~~Credits may be taken only against tax payable which is attributable to manufacturing activities conducted in the particular factory, mill or manufacturing plant in which such buildings are located. Thus, the credit may not be taken against business and occupation tax liability occurring as the result of manufacturing activities conducted at a separate plant nor against the tax due on any nonmanufacturing activities.~~

(7) ~~No credit will be allowable for tax paid on purchases of labor, material or services on which the supplier becomes entitled to compensation after January 1, 1971, except that with respect to purchases made pursuant to any contract entered into prior to January 1, 1971, credit will be allowed in respect to tax paid on such purchases prior to July 1, 1972, further, as to the construction of buildings used directly in the manufacture of metals, the credit will include taxes paid on all purchases for construction which was in progress on January 1, 1971 and was completed after that date.~~

DEFINITIONS:

(1) ~~The term "contract vendor" shall mean only those persons who will convey by a contract of sale buildings, as defined herein, to a manufacturer to be used as a new manufacturing facility. The term will not include contractors who may be engaged by manufacturers for the purpose of the construction of structures, nor will it include vendors who will supply tangible personal property under contract to a manufacturer. The term will not include vendors of buildings which have been previously used for any purpose.~~

(2) ~~The term "lessors" shall mean only those persons who will rent or lease buildings, as herein defined, to a manufacturer to be used as a new manufacturing facility. The term will not include lessors of tangible personal property to manufacturers nor will it include lessors of manufacturing buildings which have previously been used for any purpose.~~

(3) ~~The term "manufacturer" shall include only those persons operating a manufacturing plant whose activities are described under the provisions of RCW 82.04.120 "to manufacture" and as further defined under the sub-heading "definitions" of the department of revenue's published WAC 458-20-136, manufacturing, processing for hire, fabricating.~~

(4) ~~The term "buildings" means and includes only those structures used to house or shelter manufacturing activities, including the usual lighting, heating, and sanitary plumbing facilities. The term does not include any construction performed outside the exterior walls of the building such as landscaping, walks and driveways,~~

~~parking areas, septic tanks and drain fields, water, electrical or sewer lines and the like. The term does include plant offices and facilities for the storage of raw materials or finished goods when such facilities are essential to and an integral part of the factory, mill or manufacturing plant in which they are located. The term includes potlines and furnaces used directly in the manufacture of metals, but does not include any other manufacturing or industrial fixtures or equipment such as tanks, conveyor systems, cranes, industrial machinery and related facilities irrespective of whether or not such facilities or equipment are affixed to the realty.~~

~~CHANGES IN OWNERSHIP. In general, a tax credit may be taken only by the person who has paid the retail sales tax or use tax, or whose lessors or contract vendors have paid the tax, and the credit may not be transferred or sold to a successor as defined in RCW 82.04.180. However, when the control of and beneficial interest in the subject matter of the transfer of assets remains in the same individuals or entity after completion, and the transfer of assets is deemed exempt from retail sales tax or use tax according to the principles set forth in WAC 458-20-106, any portion of the tax credit remaining unused may be utilized by the surviving entity under the limitations otherwise provided by the law.~~

~~DETERMINING ALLOWABLE CREDITS. Prior to taking any deduction under the business and occupation tax on a regular return filed, the amount of the sales tax or use tax paid on the constructing or enlarging of buildings directly used in performing manufacturing activities is to be established and approved by the department of revenue so that the appropriate credit can be established on the manufacturer's account, against which subsequent deductions will apply. In no event may a tax credit be deducted until the retail sales tax has been paid. In the case of a complex project where an advisory ruling is desired, application for a tentative determination by the department of revenue as to the eligibility of the project for credit may be made in letter form at any time. Application for tax credit shall be made by letter describing the project, setting forth all pertinent facts including the following: Name of contractor or material vendor, nature and location of work performed or materials supplied, date of invoice, date of payment, amount of invoice exclusive of sales tax and amount of tax paid. Tentative authorization must be secured from the department before deductions or offsets against the business and occupation tax will be allowed. Upon such authorization, special reporting forms will be supplied the taxpayer for purposes of deducting and reconciling the tax credit.)~~ **MANUFACTURERS, TAX CREDITS.**

(1) INTRODUCTION. Chapter 116, Laws of 1986 establishes a business and occupation tax credits program. Its purpose is to stimulate the economy and create employment opportunities in specific distressed areas of this state. In addition to the tax credit benefits of this program, specific financial incentives to employers who locate or expand business facilities in this state are administered by the Washington State Employment Security Department. The provisions of this section, however, apply only for manufacturing or research and

development activities conducted at specific business facilities in announced eligible areas of this state.

(2) Effective April 1, 1986, persons engaged in manufacturing or research and development activities, who otherwise qualify, will receive credits against their business and occupation tax due under chapter 82.04 RCW. Those credits amount to one thousand dollars for each qualified employment position directly created in an eligible business project, as those terms are defined in this section.

(3) DEFINITIONS. For purposes of the tax credits program the following definitions will apply.

(a) "Applicant" means a person applying for tax credit under this program.

(b) "Department" means the department of revenue.

(c) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed exceeds the average state unemployment for those years by twenty percent.

(i) The department will publish a list of such eligible areas by May 1 of each year during the life of this program.

(d) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility: PROVIDED, that in order to qualify as an eligible business project, the applicant's average full-time qualified employment positions at the specific facility will be at least fifteen percent greater in the year for which credit is being sought than they were at the same facility in the immediately preceding year.

(e) The term "eligible business project" defined earlier, does not include any of the following:

(i) Any business project undertaken by a light and power business;

(ii) Any portion of a business project creating employment positions outside an eligible area;

(iii) Any business projects of persons who are receiving sales tax deferrals under chapter 82.61 RCW (see WAC 458-20-24002).

(f) "Manufacturing" has the meaning given in RCW 82.04.110 and WAC 458-20-136. For purposes of this section the term also includes computer programming, the production of computer software, and other computer-related services, and the activities of research and development and commercial testing laboratories.

(g) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, services, or process before commercial sales have begun.

(h) "Qualified employment position" means a permanent full-time employee, employed in an eligible business project during the entire tax year, PROVIDED that,

(i) Once a full-time position is established and filled it will continue to qualify for tax credit purposes so long as it is filled by any person or, during any period of vacancy, the employer is training or actively recruiting a replacement employee, and;

(ii) A position will not be deemed to be filled in order to qualify for tax credit if it is vacant for any period in excess of thirty consecutive days.

(iii) The requirement for employment during the "entire" tax year will be satisfied if the full time position is filled for a period of twelve consecutive months.

(i) "Permanent full time employee" means a person who works for the recipient on a paid basis, at least thirty five hours per week. It does not include independent contractors, independent representatives, persons compensated exclusively on a commissioned basis, or seasonal and similar employment personnel who work for the recipient for only a part of the year.

(j) "Tax year" means the calendar year in which taxes are due.

(k) "Recipient" means a person receiving tax credits under this program.

(l) "Credit computation year" means the tax year for which credits are being sought. The first credit computation year for which any person can seek and qualify for credit approval under this program is tax year 1987.

(m) "Base year" means the entire calendar year immediately preceding the credit computation year. The first base year under this program is 1986.

(4) APPLICATION PROCEDURES. Application for tax credits under this program must be made using the prescribed Application for B&O Tax Credit on New Employees. These forms are available from the department on request. The completed application must be submitted to the department before the actual hiring of qualified employment positions for which credit is sought.

(5) The department will determine if the information contained on the application qualifies the applicant for tax credits and will either approve or disapprove the application within sixty days. If approved, the department will issue a credit approval notice which will notify the recipient in writing of the dollar amount of tax credits available for use and the credit taking procedures. If disapproved, the department will notify the applicant in writing of the specific reasons for disapproval. The applicant may seek administrative review of any credit disapproval pursuant to the provisions of WAC 458-20-100.

(6) Under the law, tax credits may be received only for the creation of qualified employment positions at specific facilities within "eligible areas" as defined earlier. For purposes of making application for tax credits the statewide and county unemployment statistics last published by the department will be used to determine eligible areas. The department will publish such statistics and a list of eligible areas by county, on May 1 of each year.

(7) A separate application must be submitted for each credit computation year.

(8) QUALIFYING FOR CREDIT. There are three qualifying tests, all of which must be met, in order to receive approval for tax credits under this program.

(a) The applicant must be a "manufacturing" business as defined earlier, and;

(b) The specific facility at which the manufacturing activities are being conducted must be within an eligible area as defined earlier, and;

(c) The average full time qualified employment positions at the specific facility during the credit computation year must be at least fifteen percent greater than such employment average for the preceding year.

(9) Because Chapter 116, Laws of 1986 includes an emergency effective date of April 1, 1986, and because the stated intent is to stimulate the economy and create employment opportunities, this tax credits program is effective immediately. Full-time employees expected to be hired after any application for credits is submitted but before January 1, 1987 will be deemed to be employed as of January 1, 1987. They will be includable within the qualified employment position computation for that year. Thus, credits may be available for all positions hired after the effective date of the law if they otherwise qualify and within the dollar limits explained later.

(10) The threshold, fifteen percent employment increase test (qualifying test number three) is met by:

(a) Stating in the application the actual average number of full-time employment positions which existed at the facility during the base year,

(b) Stating the projected number of new positions to be filled during the credit computation year,

(c) Stating the average number of full time employment positions for the credit computation year including the new projected positions;

(d) Achieving an increase of at least fifteen percent of (c) over (a) above.

(i) Examples. Applicant has no employees at the facility for base year 1986 and intends to hire ten persons, some in 1986 and some in 1987. Because for first year implementation of the program the 1986 hires will be deemed to be hired January 1, 1987, the applicant's base year average remains zero. Thus, its credit computation year average will always meet the fifteen percent increase test, even if only one new position is hired.

(ii) Applicant has an average employment of ten positions in base year 1986 and intends to hire two more persons, one yet in 1986 and one in 1987. This applicant must achieve a 1.5 position increase in 1987 to meet the fifteen percent threshold test. Since its new 1986 hiree will be attributed to January 1, 1987, it must project to hire the other new position by July 1, 1987 in order to meet the fifteen percent increase average of 1.5 for that credit computation year.

(iii) Applicant has an average employment of fifty positions in base year 1986 and intends to hire five more persons by January 1, 1987. This applicant will not qualify for 1987 tax credits because its 1987 average (fifty five positions) is not at least fifteen percent greater than its base year 1986. In order to qualify for any credits this applicant would have to project hiring of at least eight new positions (a 1987 average of at least 57.5 employment positions) to meet the needed percentage increase.

(iv) The applicant in the previous example intends to hire ten new positions, five yet in 1986 and the other five sometime in 1987. Since the 1986 hires will be attributed to January 1, 1987 hiring, this applicant must hire the other five new positions early enough in 1987 to be able to compute a 1987 average of at least 57.5 for that

year. Thus, the additional five 1987 hirings would have to be projected to be hired by at least July 1, 1987 in order to qualify for credits.

(11) NOTE. The department will be able to advise applicants of their minimum number of hiring needs and the latest time within the credit computation year that the positions must be filled to qualify for credits, based upon the information provided in the application.

(12) The carry-over of positions hired in 1986 into 1987 is a first year carry-over only. After 1986, all hiring increases must occur during the computation year for purposes of meeting the fifteen percent threshold test. Thus, applications for the 1988 credits computation year will be tested only by the average increase of 1988 employment positions over the 1987 base year average.

(13) In simplest terms, qualification for tax credits depends upon whether enough new positions are expected to be hired early enough to meet the fifteen percent average increase test.

(14) The fifteen percent threshold test to qualify for tax credits is a "look-ahead" test which has no relationship to the dollar amount of credits which may be available. Also, the test for qualifying for approval of tax credits is unrelated to the end-of-year reporting and verification of credits, the "look-back" test explained later in this section. Rather, the fifteen percent test is a credits qualification test only.

(15) Applications for tax credits under this program must include the applicant's expected hirings for the full credit computation year for which credits are sought. After an application is approved and tax credits are granted, no adjustment or amendment of the credits approval will be possible for that credit computation year.

(16) CREDITS APPROVAL AND USE. Tax credits approved by the department may be used to offset current business and occupation tax liability if the recipient has incurred any such liability during the credit computation year. The credits may be used as soon as actual hiring of the projected qualified employment positions begin. For example, if a recipient has been approved for \$10,000.00 of tax credits based upon projections to hire ten new positions, that recipient may use each \$1,000.00 of tax credit at the time it hires each new employee.

(17) The law provides that the tax credits available under this program must be used to offset business and occupation tax which has been paid during the same tax year. However, rather than paying the tax and then seeking a refund in the amount of credits available, the recipient will take the available credits against current tax liability as it accrues.

(18) The tax credits approved under this program will be taken by the recipients on their regular Combined Excise Tax Return for their regular assigned tax reporting period. The amount of credit taken should be filled in on line 42 on the front of the return form, with a copy of the credit approval notice issued to the recipient attached to that return.

(19) Credits may be used as hiring is done or may accrue until they are most beneficial for the recipient's use. This is true even for first year credits available for

hiring new positions in 1986. As soon as credits are approved and hiring begins, credits may be used, even during the remainder of 1986. However, all first year credits must be used before December 31, 1987. After the first credit year, all tax credits approved for a credit computation year must be used within that calendar year. If the recipient does not incur enough business tax liability to utilize all credits approved, the unused credits will expire on December 31 of that credit computation year. No tax refunds will be made for any tax credits which exceed actual tax liability during the credit year.

(20) If a recipient is approved for tax credits and has incurred and paid sufficient business and occupation tax liability to offset the credits, but for any reason has not used the available credits by December 31 of the credit year, a tax refund will be issued at the end of that tax year. Such recipients should contact the Olympia, headquarters office of the department to arrange for such refund.

(21) The tax credits approved for a recipient under this program may be used to offset business and occupation tax liability which the recipient owes because of business activity anywhere in this state. The liability for which the credit is used does not have to be incurred or flow from business engaged in at the specific facility in the eligible area.

(22) Tax credits available in any credit computation year may be used to offset business and occupation tax due on the fourth quarterly return or last monthly return of the tax year, even though that return is not actually filed with the department until January 15 of the following year.

(23) CREDIT AND PROGRAM LIMITATIONS. This is essentially a two year tax credit program. Unless it is extended by law, it will expire for all purposes on July 1, 1988. No applications will be accepted or credits approved, nor may any credits available under this program be used after July 1, 1988.

(24) No recipient is eligible for tax credits in excess of three hundred thousand dollars during the entire life of this program.

(25) The total of credits approved for all applicants under this program will not exceed fifteen million dollars per biennium. Any application for credits which is otherwise qualified but which is denied in whole or in part for a biennium because of this total program credit limit, will carryover for approval in the next biennium. However, once the total program credit limit has been met for the next biennium as well, no further tax credits will be approved.

(26) The law provides that no recipient may use tax credits approved under this program to decertify a union or to displace existing jobs in any community of the state. Thus, the average expected increase of qualified employment positions at the specific facility for which application is made must reflect a gross increase in the applicant's employment of persons at all locations in this state. Transfers of personnel from existing positions outside of an eligible area to new positions at the specific facility within an eligible area will not be allowed for

purposes of approving tax credits. Also, layoffs or terminations of employment by the recipient at locations outside an eligible area for the purpose of hiring new positions within an eligible area will result in the withdrawal of any credits taken or approved.

(27) PERFECTING APPROVED CREDITS. In order to perfect its entitlement to any credits approved and legally use such credits against business and occupation tax due, a recipient must actually hire the required number of qualified employment positions to comply with the application upon which tax credits were approved. Such created positions must be maintained for a continuous period of twelve consecutive months. (See the definition of "qualified employment position" at part (3)(h) of this section.) The law establishes a "look-back" test at the end of the credit computation year to determine that the tax recipient has complied.

For purposes of administering this program the department will consider a period of twelve consecutive months of employment to satisfy the definition of "qualified employment position," to perfect the entitlement to tax credits used.

(28) REPORTING AND MONITORING. All recipients of tax credits under this program must file an annual report with the department on or before December 31 of each credit computation year. Based upon this report the department will verify that the recipient is perfecting its entitlement to any tax credits approved by actually employing the required number of new qualified employment positions as represented in the recipient's credit application.

(29) Because this program is being fully implemented in mid-year 1986, the annual report due on December 31, 1986 will be an informational report only. No tax credits approved, whether actually used in 1986 or not, will be withdrawn or denied based upon this 1986 report. The annual report due on December 31, 1987 will be the first report which may result in tax credits being withdrawn.

(30) The law provides that if any recipient fails to submit a report or submits an inadequate report, the department may declare the amount of taxes for which credit has been used to be immediately assessed and payable. An inadequate report is one which fails to provide any information in the possession of a recipient which is necessary to confirm that the requisite number of employment positions have been created and maintained for twelve consecutive months. As credits are approved, the department will advise all recipients of the nature of information to be included on their annual reports.

(31) The department will monitor credit applications and annual reports on an ongoing basis over the life of this credit program. The department will maintain a running tabulation of credits approved for individual recipients as well as program credit totals and will advise applicants and recipients in writing of the program credit limitations which may affect their entitlement.

(32) NONCOMPLIANCE - WITHDRAWAL OF CREDITS. The law provides that if the department finds that a recipient is not eligible for tax credits for any reason other than failure to create the required number of qualified

employment positions, the amount of taxes for which any credit has been used shall be immediately due. No interest or penalty will be assessed in such cases.

(33) However, if the department finds that a recipient has failed to create the specified number of qualified employment positions, the department shall assess interest, but not penalties, on the taxes against which the credit has been used. This interest assessment is mandatory and will be assessed at the statutory rate under RCW 82.32.050, retroactively to the date the tax credit was used. Such interest will accrue until the taxes for which the credit was used are fully repaid.

(34) The administrative review and appeal provisions of chapter 83.32 RCW are available for any actions of the department, under this program, by which any applicant or recipient is adversely affected.

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 86-09-049
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Filed April 15, 1986]

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 determination of nursing home bed needs, amending WAC 248-19-373;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, in the Auditorium, Office Building #2, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 30, 1986.

The authority under which these rules are proposed is RCW 70.38.135.

The specific statute these rules are intended to implement is chapter 70.38 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 14, 1986
 By: Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 248-19 WAC.

Purpose of the Rule Change: To allow for the exercise of discretion in the use of state health plan nursing care bed need projections in certificate of need decisions. Also, errors in county-specific projections are being corrected, and a reallocation of beds by the Central Washington Health Systems Agency between Chelan and Douglas counties is shown.

Reason These Rules are Necessary: To provide a basis in administrative law for certificate of need decisions on nursing care bed proposals.

Statutory Authority: Chapter 70.38 RCW.

Summary of the Rule Changes: DSHS can approve nursing care beds in excess of state health plan bed need projections when such approval is indicated to allow beds to be located reasonably close to the persons who need them. County-specific projections are being changed to correct errors in the existing WAC and to reflect an HSA reallocation between two counties.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Frank Chestnut, Director, Certificate of Need Program, mailstop HB-31.

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

No small business economic impact statement is needed. This rule change bears on the basis of certificate of need decisions and does not increase the cost of compliance by small businesses.

AMENDATORY SECTION (Amending Order 2208, filed 2/15/85)

WAC 248-19-373 DETERMINATION OF NURSING HOME BED NEEDS. (1) The following rules are adopted for use in making decisions on certificate of need applications involving nursing home beds submitted for review under the provisions of RCW 70.38.105.

(a) With the assistance of a work group, the state health coordinating council developed a method for determining future nursing home bed needs with the intention of incorporating that method as an amendment to the 1982 state health plan. The secretary of the department reviewed the method and submitted it to the governor for adoption as an amendment to the state health plan. The governor adopted the method as part of an amendment of the state health plan on March 27, 1984. See RCW 70.38.045 and RCW 70.38.065.

(b) The nursing home bed need projections in subsection (3)(a) of this section shall be used to interpret the certificate of need review criteria in RCW 70.38.115 (2)(b) and WAC 248-19-370.

(2) The secretary finds:

(a) That in developing the amendment to the 1982 state health plan the state health coordinating council sought and received the assistance of a work group consisting of representatives from a wide variety of groups interested in nursing home bed needs in this state.

(b) That the work group consisted of representatives from the following: State health coordinating council; Puget Sound health systems agency; Washington association of homes for the aging; Washington state health facilities association; united nursing home association; area agency on aging; nursing home ombudsman; state nursing home advisory council; senior citizens lobby; state council on aging; the department's bureau of aging and adult services, bureau of nursing home affairs, and regional offices; and the house committee on social and health services.

(c) That the following assumptions which were incorporated in the amendment regarding the bed need projection method are the appropriate policy considerations for projecting nursing home bed needs.

(i) Nursing home bed need projections should reflect variations in nursing home use by different age groups of the population.

(ii) Nursing home beds should ordinarily be located reasonably close to the people they serve.

(iii) Equity and the availability in use of nursing home beds within the state should be increased by reducing the wide variation in nursing home use rates within age groups among areas of the state.

(iv) Areas of the state that are underbedded, adequately bedded, and overbedded should be identified and treated differently in the bed need projection process.

(v) The overall supply of beds in the state should represent a reasonable and appropriate state nursing home bed to elderly population ratio.

(vi) Most current nursing home use in the state reflects an appropriate need for formal services which should be met by nursing home beds or other services in long-term care continuum.

(vii) To be responsive to unique local circumstances, the nursing home bed need projection process should include local discretion in defining nursing home planning areas and bed allocations.

(d) That the amendment to the 1982 state health plan established a 1990 target state nursing home bed to elderly population ratio (see subsection (2)(c)(v) of this section) of 53.7 beds per one thousand persons aged sixty-five or older. Taken into account in establishing this ratio were the following:

(i) The national bed ratio and the bed ratios of other states judged to have reasonable and progressive long-term care policies, and

(ii) State policy goals for the allocation of scarce resources between nursing home beds and other institutional and community-based services in the long-term care continuum, and

(iii) The effects on nursing home bed needs of new health system developments, such as hospital diagnostic related group (DRG) reimbursement, and

(iv) Progress being made in developing other long-term care services for the population at risk of nursing home placement.

(e) That nursing home bed need projections derived from the state health plan bed need methodology should not be exceeded in decisions on applications for certificates of need.

(3) The following are the 1987 projections of total nursing home beds needed in each county as derived from the state health plan nursing home bed need projection methodology. These projections will remain in effect until updated. The next update is scheduled for the last half of 1986. The projections do not reflect necessary reductions for current licensed nursing home beds (excluding nursing home beds used for IMR), beds in hospitals used for long-term care, and the number of nursing home beds approved by certificate of need, but not yet licensed. The projections less these reductions equal additional beds needed.

(a)	Clallam	470
	Island	215
	Jefferson	129
	King	8,867
	Kitsap	1,151
	Pierce	3,105
	San Juan	((73)) 74
	Skagit	((505)) <u>585</u>
	Snohomish	2,270
	Whatcom	1,081
	Clark	1,178
	Cowlitz	585
	Grays Harbor	667
	Klickitat	100
	Lewis	493
	Mason	195
	Pacific	196
	Thurston	719
	Wahkiakum	53
	Benton	396
	Chelan	((439)) 446
	Douglas	((+07)) <u>101</u>
	Franklin	138
	Grant	((231)) <u>230</u>
	Kittitas	227
	Okanogan	275
	Yakima	1,436
	Adams	112

Asotin	233
Columbia	71
Ferry	27
Garfield	40
Lincoln	101
Pend Oreille	56
Spokane	2,667
Stevens	176
Walla Walla	497
Whitman	236

Dated: April 16, 1986
 By: Matthew J. Coyle
 Acting Director

STATEMENT OF PURPOSE

Title: WAC 458-57-570 and 458-57-610, Estate and Transfer Tax Reform Act rules.

Description of Purpose: To delete from the Washington Administrative Code those sections which are no longer applicable due to statutory change.

Statutory Authority: RCW 83.100.100.

Specific Statute Rule is Intended to Implement: RCW 83.100.050 and 83.100.080, chapter 44, Laws of 1986.

Reasons Supporting Proposed Action: The 1986 legislature deleted from RCW 83.100.050 and 83.100.080 the provisions for "release of nonliability." Therefore, those sections of chapter 458-57 WAC which relate to this type of return are extraneous.

Agency Personnel Responsible for Drafting: D. L. Cooper, 1101 South Eastside, Olympia, WA 98504, phone 753-7281; Implementation: Phoebe Thompson, 1101 South Eastside, Olympia, WA 98504, phone 753-5547; and Enforcement: Department of Revenue, Estate Tax Section, Post Office Box 448, Olympia, WA 98504, phone 753-5545.

(b) These bed need projections include the allocation plans of the applicable regional health council, as provided for in the nursing home bed need projection method. Where there is no regional health council allocation plan, the nonallocated projection is shown.¹

(c) Certificates of need issued by the department shall approve no more than the number of additional beds indicated as needed for a given county by the projection method as listed in subsection (3)(a) of this section unless the department finds additional beds are needed to further the projection method policy that nursing home beds should ordinarily be located reasonably close to the people they serve. When the department approves more beds than are projected as needed under this rule, the approval shall include a written explanation.

NOTE:

¹Step 5 of the state health plan nursing home bed need projection methodology concerns the determination of the appropriate number of nursing home beds in each county. The method states the regional health councils are responsible for the development of an allocation plan. The regional health councils may group counties into multiple county planning areas and allocate beds or reallocate beds among counties based on the planning areas. The allocation plan shall be developed separate from the review of individual certificate of need applications.

WSR 86-09-050

NOTICE OF PUBLIC MEETINGS
 HUMAN RIGHTS COMMISSION
 [Memorandum—April 14, 1986]

The Washington State Human Rights Commission will conduct a special meeting of its advisory council, the Washington Association of Human Rights Agencies, on Wednesday, May 7, 1986, at the Tukwila City Hall, Conference Room #3, 6200 Southcenter Boulevard, Tukwila, Washington, beginning at 7:00 p.m.

WSR 86-09-051

PROPOSED RULES
 DEPARTMENT OF REVENUE
 [Filed April 16, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning:

- Amd WAC 458-57-570 Tax returns to be filed.
- Amd WAC 458-57-610 Releases.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 27, 1986.

The authority under which these rules are proposed is RCW 83.100.100.

The specific statute these rules are intended to implement is RCW 83.100.050 and 83.100.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

AMENDATORY SECTION (Amending Order IT 83-2, filed 8/11/83)

WAC 458-57-570 TAX RETURNS TO BE FILED. (1) For purposes of these rules, the word "return" shall mean the "report" called for under provisions of RCW 83.100.050. The Washington Estate Tax Return shall be filed on or before the date the Federal Estate Tax Return is required to be filed.

(2) Section 6075 of the Internal Revenue Code requires that federal estate tax returns be filed within nine months after the date of the decedent's death.

(3) Section 6081 of the Internal Revenue Code permits the granting of reasonable extensions of time for filing estate tax returns for periods generally not to exceed six months.

(4) In the case of any estate for which a federal return must be filed, a Washington state Estate Tax Return shall be filed with the department on or before the date on which the federal return is required to be filed. If a federal extension of the time to file is granted, the date for filing the Washington return is extended thereby. However, if the personal representative shall fail to file with the department a true copy of the extension within thirty days of the issuance of such extension, the department may require the personal representative to file the state return on the date that the federal return would have been due had the extension not been granted. Too, the penalty provided (RCW 83.100.070(2)) for late filing of the tax return shall be applicable if the tax return is filed after the due date, an extension of time to file has been requested, and the extension is denied.

(5) ~~((A "release" means a release of no tax due, a release of nonliability or an automatic release.~~

(6)) (a) A release shall be issued, when requested, in every case in which the department determines that an estate is not liable for the payment of the state estate tax in any amount. In instances in which the department is unable to make the determination, it may require proof by the personal representative that no tax is in fact due.

(b) If the department determines that no tax is due, it shall issue a release to the personal representative. The release shall state that the estate tax liability to the state of Washington has been fulfilled, and that the release shall give the personal representative authority to effectuate the transfer of all property comprising the decedent's estate.

(c) The release may be conditional. If, for example, the estate has avoided federal and state tax liability by reason of electing special use valuation under section 2032A of the Internal Revenue Code (entitled "Valuation of Certain Farm, etc. Real Property"), and if state tax will be due in the event the specially valued property is disposed of or taken out of qualified use within the period provided for in section 2032A(c), the request for the release must be joined in by those persons required

to sign the agreement mentioned in section 2032A (d)(2), and when issued the release shall specify that it is issued in reliance upon representation that no such disposition or removal from qualified use is contemplated, and the qualified heir will notify the department if removal from qualified use thereafter occurs within ten years following the date of the decedent's death. Should removal from qualified use result in a tax being due the state of Washington, the qualified heir shall notify the department, pay the tax, together with interest at the rate of twelve percent per annum if the tax is not paid within six months of removal of the property from qualified use.

(d) "Qualified heir" shall mean those persons specified in section 2032A (e)(1).

AMENDATORY SECTION (Amending Order IT 83-2, filed 8/11/83)

~~WAC 458-57-610 RELEASES. (1) ((If the department determines that no taxes imposed by the act are due, the department shall issue a release to the personal representative upon receipt of a request for a release. The request shall be made by completing and submitting to the department the form entitled "Release of Nontiability" which shall be available from the department and which requires the sworn statement of the personal representative that no taxes imposed by the act are due.~~

~~((2))~~ In cases in which taxes are due under the act, the department shall issue a release to the personal representative upon request and after such taxes have been paid. The request shall be accompanied by a completed Washington Estate Tax Return and by a completed copy of the Federal Estate Tax Return (Form #706). The final determination of the amount of taxes due from the estate is contingent on receipt of a copy of the final closing letter issued by the Internal Revenue Service.

~~((3))~~ (2) The department may require additional information to substantiate information provided by the estate.

~~((4))~~ (3) The release issued by the department will not bind or estop the department in the event of a misrepresentation of facts.

WSR 86-09-052

PROPOSED RULES

DEPARTMENT OF RETIREMENT SYSTEMS

[Filed April 16, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Retirement Systems intends to adopt, amend, or repeal rules concerning this notice proposes to amend that section of chapter 415-02 WAC entitled actuarial tables, schedules and factors. The proposal sets forth in WAC the tables, schedules and factors currently being used by the Department of Retirement Systems to calculate benefits;

that the agency will at 10:00 a.m., Tuesday, May 27, 1986, in the Board Room, Department of Retirement Systems, 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 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

Dated: April 16, 1986
By: Robert L. Hollister, Jr.
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 415-02-090 Actuarial tables, schedules and factors.

Statutory Authority: RCW 41.50.050(5) and 41.50.090.

Summary of Rule: This notice proposes to amend a section to chapter 415-02 WAC entitled actuarial tables, schedules and factors. The proposal sets forth in WAC the actuarial tables, schedules and factors currently used by the department in calculating retirement benefits.

Description of the Purpose of the Rule: To protect the tax status of the several plans as qualified plans pursuant to section 401(a) of the Internal Revenue Code.

Reasons for Supporting the Proposed Rule: On October 12, 1982, the Internal Revenue Service determined that each of the retirement systems administered by the Department of Retirement Systems was qualified pursuant to section 401(a) of the Internal Revenue Code. In order to maintain the qualification, however, the service directed the department to amend each retirement plan to provide definitely determinable benefits. Chapter 227, Laws of 1984, provided members of the various retirement systems the right to participate in the tax deferral benefits of 26 U.S.C. 414(h). This section of the Internal Revenue Code mandates that participating retirement systems be qualified under section 401(a) of the code. By including the actuarial tables, schedules, and factors in the WAC, the department will have complied with the Internal Revenue Service direction to provide definitely determinable benefits, and will have protected the status of the several plans as qualified under section 401(a) of the Internal Revenue Code.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Robert L. Hollister, Jr., Director, Department of Retirement Systems, 1025 East Union, Olympia, Washington, (206) 753-5281.

Name of the Governmental Agency Proposing the Rule: Department of Retirement Systems.

The Department of Retirement Systems has no additional comments regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

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 86-1, filed 3/13/86)

WAC 415-02-090 ACTUARIAL TABLES, SCHEDULES, AND FACTORS. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems pursuant to the authority granted by RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065, and 43.43.200 for calculating optional retirement allowances of members of retirement systems administered by the director. These tables, schedules, and factors were adopted by the director upon the recommendation of and in light of the findings of the state actuary in his regular actuarial investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of such retirement systems. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from ~~((February 1, 1983))~~ April 12, 1986 until such time as these tables, schedules, and factors are

amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before ((February 1, 1983)) April 12, 1986 shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I
EARLY RETIREMENT FACTORS

1	.9918
2	.9837
3	.9755
4	.9674
5	.9592
6	.9511
7	.9429
8	.9348
9	.9266
10	.9185
11	.9103
1 0	.9022
1	.8949
2	.8877
3	.8805
4	.8733
5	.8661
6	.8589
7	.8517
8	.8445
9	.8373
10	.8301
11	.8229
2 0	.8157
1	.8093
2	.8029
3	.7965
4	.7901
5	.7837
6	.7773
7	.7709
8	.7645
9	.7581
10	.7517
11	.7453
3 0	.7390
1	.7333
2	.7276
3	.7219
4	.7162
5	.7105
6	.7048
7	.6992
8	.6935
9	.6878
10	.6821
11	.6764
4 0	.6707
1	.6657
2	.6606
3	.6555
4	.6504
5	.6454
6	.6403
7	.6352
8	.6302
9	.6251
10	.6200
11	.6149
5 0	.6099

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0058390
21	.0058513
22	.0058643
23	.0058783
24	.0058931
25	.0059089
26	.0059257
27	.0059437
28	.0059629
29	.0059833
30	.0060051
31	.0060283
32	.0060531
33	.0060796
34	.0061078
35	.0061380
36	.0061702
37	.0062045
38	.0062412
39	.0062804
40	.0063221
41	.0063665
42	.0064135
43	.0064633
44	.0065160
45	.0065717
46	.0066304
47	.0066925
48	.0067579
49	.0068271
50	.0069001
51	.0069773
52	.0070590
53	.0071454
54	.0072369
55	.0073337
56	.0074363
57	.0075451
58	.0076606
59	.0077836
60	.0079147
61	.0080549
62	.0082052
63	.0083669
64	.0085413
65	.0087297
66	.0089334
67	.0091538
68	.0093920
69	.0096493
70	.0099272
71	.0102271
72	.0105505
73	.0108990
74	.0112743
75	.0116781
76	.0121122
77	.0125785
78	.0130787
79	.0136149
80	.0141897
81	.0148057
82	.0154658
83	.0161717
84	.0169230
85	.0177167
86	.0185452
87	.0193974
88	.0202596
89	.0211126
90	.0219458
91	.0227413
92	.0234886

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN I OPTION I

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

93	.0241825
94	.0248232
95	.0254146
96	.0259627
97	.0264737
98	.0269527
99	.0274037

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

0	0	1.0000
	1	.9913
	2	.9826
	3	.9740
	4	.9653
	5	.9566
	6	.9479
	7	.9393
	8	.9306
	9	.9219
	10	.9132
	11	.9046
1	0	.8959
	1	.8883
	2	.8806
	3	.8730
	4	.8654
	5	.8578
	6	.8501
	7	.8425
	8	.8349
	9	.8273
	10	.8197
	11	.8120
2	0	.8044
	1	.7977
	2	.7910
	3	.7843
	4	.7775
	5	.7708
	6	.7641
	7	.7574
	8	.7507
	9	.7439
	10	.7372
	11	.7305
3	0	.7238
	1	.7179
	2	.7119
	3	.7060
	4	.7000
	5	.6941
	6	.6882
	7	.6822
	8	.6763
	9	.6704
	10	.6644
	11	.6585
4	0	.6525
	1	.6473
	2	.6420
	3	.6367
	4	.6315
	5	.6262
	6	.6210
	7	.6157
	8	.6104
	9	.6052
	10	.5999

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

	11	.5946
5	0	.5894
	1	.5847
	2	.5800
	3	.5753
	4	.5707
	5	.5660
	6	.5613
	7	.5566
	8	.5519
	9	.5473
	10	.5426
	11	.5379
6	0	.5332
	1	.5291
	2	.5249
	3	.5207
	4	.5166
	5	.5124
	6	.5082
	7	.5041
	8	.4999
	9	.4957
	10	.4916
	11	.4874
7	0	.4832
	1	.4795
	2	.4758
	3	.4721
	4	.4683
	5	.4646
	6	.4609
	7	.4572
	8	.4535
	9	.4497
	10	.4460
	11	.4423
8	0	.4386
	1	.4352
	2	.4319
	3	.4286
	4	.4253
	5	.4219
	6	.4186
	7	.4153
	8	.4119
	9	.4086
	10	.4053
	11	.4019
9	0	.3986
	1	.3956
	2	.3926
	3	.3897
	4	.3867
	5	.3837
	6	.3807
	7	.3777
	8	.3747
	9	.3717
	10	.3688
	11	.3658
10	0	.3628
	1	.3601
	2	.3574
	3	.3547
	4	.3521
	5	.3494
	6	.3467
	7	.3440
	8	.3413
	9	.3386
	10	.3360
	11	.3333

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

11	0	.3306
	1	.3282
	2	.3258
	3	.3234
	4	.3209
	5	.3185
	6	.3161
	7	.3137
	8	.3113
	9	.3089
	10	.3065
	11	.3040
12	0	.3016
	1	.2994
	2	.2973
	3	.2951
	4	.2929
	5	.2907
	6	.2886
	7	.2864
	8	.2842
	9	.2820
	10	.2799
	11	.2777
13	0	.2755
	1	.2735
	2	.2716
	3	.2696
	4	.2676
	5	.2657
	6	.2637
	7	.2617
	8	.2598
	9	.2578
	10	.2559
	11	.2539
14	0	.2519
	1	.2501
	2	.2484
	3	.2466
	4	.2448
	5	.2430
	6	.2413
	7	.2395
	8	.2377
	9	.2359
	10	.2341
	11	.2324
15	0	.2306
	1	.2290
	2	.2274
	3	.2258
	4	.2242
	5	.2225
	6	.2209
	7	.2193
	8	.2177
	9	.2161
	10	.2145
	11	.2129
16	0	.2113
	1	.2098
	2	.2084
	3	.2069
	4	.2054
	5	.2040
	6	.2025
	7	.2011
	8	.1996
	9	.1981
	10	.1967
	11	.1952

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

17	0	.1938
	1	.1924
	2	.1911
	3	.1898
	4	.1885
	5	.1871
	6	.1858
	7	.1845
	8	.1831
	9	.1818
	10	.1805
	11	.1792
18	0	.1778
	1	.1766
	2	.1754
	3	.1742
	4	.1730
	5	.1718
	6	.1706
	7	.1694
	8	.1682
	9	.1670
	10	.1658
	11	.1646
19	0	.1634
	1	.1623
	2	.1612
	3	.1601
	4	.1590
	5	.1579
	6	.1568
	7	.1557
	8	.1546
	9	.1535
	10	.1524
	11	.1513
20	0	.1502
	1	.1492
	2	.1482
	3	.1472
	4	.1462
	5	.1452
	6	.1442
	7	.1432
	8	.1422
	9	.1412
	10	.1402
	11	.1392
21	0	.1382
	1	.1373
	2	.1364
	3	.1355
	4	.1345
	5	.1336
	6	.1327
	7	.1318
	8	.1309
	9	.1300
	10	.1291
	11	.1281
22	0	.1272
	1	.1264
	2	.1256
	3	.1247
	4	.1239
	5	.1231
	6	.1222
	7	.1214
	8	.1206
	9	.1197
	10	.1189
	11	.1181

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

23	0	.1172
	1	.1165
	2	.1157
	3	.1149
	4	.1142
	5	.1134
	6	.1127
	7	.1119
	8	.1111
	9	.1104
	10	.1096
	11	.1088
24	0	.1081
	1	.1074
	2	.1067
	3	.1060
	4	.1053
	5	.1046
	6	.1039
	7	.1032
	8	.1025
	9	.1018
	10	.1011
	11	.1004
25	0	.0997
	1	.0991
	2	.0984
	3	.0978
	4	.0971
	5	.0965
	6	.0959
	7	.0952
	8	.0946
	9	.0939
	10	.0933
	11	.0927
26	0	.0920
	1	.0914
	2	.0909
	3	.0903
	4	.0897
	5	.0891
	6	.0885
	7	.0879
	8	.0873
	9	.0868
	10	.0862
	11	.0856
27	0	.0850
	1	.0845
	2	.0839
	3	.0834
	4	.0828
	5	.0823
	6	.0818
	7	.0812
	8	.0807
	9	.0802
	10	.0796
	11	.0791
28	0	.0785
	1	.0780
	2	.0775
	3	.0771
	4	.0766
	5	.0761
	6	.0756
	7	.0751
	8	.0746
	9	.0741
	10	.0736
	11	.0731

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

29	0	.0726
	1	.0722
	2	.0717
	3	.0712
	4	.0708
	5	.0703
	6	.0699
	7	.0694
	8	.0690
	9	.0685
	10	.0681
	11	.0676
30	0	.0672
	1	.0667
	2	.0663
	3	.0659
	4	.0655
	5	.0651
	6	.0647
	7	.0642
	8	.0638
	9	.0634
	10	.0630
	11	.0626
31	0	.0621
	1	.0618
	2	.0614
	3	.0610
	4	.0606
	5	.0602
	6	.0598
	7	.0595
	8	.0591
	9	.0587
	10	.0583
	11	.0579
32	0	.0575
	1	.0572
	2	.0568
	3	.0565
	4	.0561
	5	.0558
	6	.0554
	7	.0551
	8	.0547
	9	.0543
	10	.0540
	11	.0536
33	0	.0533
	1	.0530
	2	.0526
	3	.0523
	4	.0520
	5	.0516
	6	.0513
	7	.0510
	8	.0507
	9	.0503
	10	.0500
	11	.0497
34	0	.0494
	1	.0491
	2	.0488
	3	.0485
	4	.0482
	5	.0479
	6	.0476
	7	.0473
	8	.0470
	9	.0467
	10	.0464
	11	.0461

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS

35	0	.0458
	1	.0419
	2	.0381
	3	.0343
	4	.0305
	5	.0267
	6	.0229
	7	.0191
	8	.0153
	9	.0114
	10	.0076
	11	.0038
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
38	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
39	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0036396
21	.0036589
22	.0036791
23	.0037003
24	.0037225

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

25	.0037458
26	.0037702
27	.0037957
28	.0038226
29	.0038507
30	.0038803
31	.0039113
32	.0039440
33	.0039783
34	.0040144
35	.0040523
36	.0040923
37	.0041344
38	.0041787
39	.0042254
40	.0042746
41	.0043264
42	.0043808
43	.0044380
44	.0044980
45	.0045609
46	.0046270
47	.0046963
48	.0047691
49	.0048456
50	.0049260
51	.0050105
52	.0050996
53	.0051933
54	.0052922
55	.0053964
56	.0055065
57	.0056229
58	.0057460
59	.0058766
60	.0060153
61	.0061630
62	.0063207
63	.0064896
64	.0066708
65	.0068657
66	.0070755
67	.0073014
68	.0075449
69	.0078071
70	.0080897
71	.0083939
72	.0087216
73	.0090743
74	.0094540
75	.0098624
76	.0103014
77	.0107731
78	.0112795
79	.0118228
80	.0124056
81	.0130308
82	.0137012
83	.0144186
84	.0151831
85	.0159917
86	.0168371
87	.0177086
88	.0185923
89	.0194688
90	.0203271
91	.0211489
92	.0219227
93	.0226428
94	.0233088
95	.0239245
96	.0244955

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II OPTION I
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

97	.0250278
98	.0255267
99	.0259962

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u> <u>BENEFICIARY OLDER</u>	<u>OPTION 3</u>
0.970	-20	0.987
0.968	-19	0.985
0.965	-18	0.984
0.962	-17	0.982
0.958	-16	0.980
0.954	-15	0.978
0.950	-14	0.976
0.945	-13	0.974
0.941	-12	0.971
0.936	-11	0.969
0.931	-10	0.966
0.926	-09	0.963
0.921	-08	0.960
0.915	-07	0.957
0.910	-06	0.954
0.900	-05	0.948
0.890	-04	0.943
0.880	-03	0.937
0.864	-02	0.929
0.848	-01	0.920

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u> <u>BENEFICIARY YOUNGER</u>	<u>OPTION 3</u>
0.838	0	0.914
0.827	1	0.907
0.817	2	0.901
0.809	3	0.897
0.803	4	0.893
0.790	5	0.885
0.784	6	0.881
0.778	7	0.878
0.765	8	0.869
0.759	9	0.865
0.753	10	0.862
0.748	11	0.858
0.743	12	0.855
0.729	13	0.846
0.724	14	0.842
0.719	15	0.839
0.714	16	0.836
0.700	17	0.826
0.695	18	0.823
0.691	19	0.820
0.687	20	0.817
0.683	21	0.814
0.679	22	0.811
0.675	23	0.808
0.671	24	0.805
0.667	25	0.802
0.663	26	0.799
0.659	27	0.796
0.655	28	0.793

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u> <u>BENEFICIARY YOUNGER</u>	<u>OPTION 3</u>
0.651	29	0.790
0.647	30	0.787
0.643	31	0.784
0.639	32	0.781
0.635	33	0.778
0.631	34	0.775
0.627	35	0.772
0.623	36	0.769
0.619	37	0.766
0.615	38	0.763
0.611	39	0.760
0.607	40	0.757

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u> <u>BENEFICIARY OLDER</u>	<u>OPTION 3</u>
0.966	-20	0.988
0.962	-19	0.986
0.958	-18	0.984
0.954	-17	0.982
0.950	-16	0.980
0.945	-15	0.978
0.938	-14	0.975
0.932	-13	0.972
0.925	-12	0.968
0.918	-11	0.965
0.910	-10	0.961
0.902	-09	0.957
0.894	-08	0.953
0.885	-07	0.949
0.877	-06	0.944
0.864	-05	0.937
0.851	-04	0.928
0.838	-03	0.920
0.820	-02	0.908
0.802	-01	0.895

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u> <u>BENEFICIARY YOUNGER</u>	<u>OPTION 3</u>
0.787	0	0.884
0.773	1	0.876
0.759	2	0.866
0.747	3	0.857
0.737	4	0.851
0.727	5	0.844
0.717	6	0.837
0.708	7	0.831
0.699	8	0.825
0.690	9	0.818
0.681	10	0.812
0.673	11	0.806
0.665	12	0.800
0.657	13	0.795
0.649	14	0.789

PUBLIC EMPLOYEES RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY YOUNGER</u>	
0.642	15	0.784
0.635	16	0.778
0.628	17	0.773
0.622	18	0.768
0.615	19	0.763
0.609	20	0.759
0.604	21	0.754
0.598	22	0.749
0.593	23	0.744
0.588	24	0.739
0.583	25	0.734
0.578	26	0.729
0.574	27	0.724
0.569	28	0.719
0.565	29	0.714
0.561	30	0.709
0.558	31	0.704
0.554	32	0.699
0.551	33	0.694
0.547	34	0.689
0.544	35	0.684
0.541	36	0.679
0.538	37	0.674
0.535	38	0.669
0.533	39	0.664
0.530	40	0.659

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS' RETIREMENT SYSTEM

PLAN I OPTION 1

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0058107
21	.0058209
22	.0058318
23	.0058435
24	.0058560
25	.0058693
26	.0058835
27	.0058986
28	.0059147
29	.0059319
30	.0059502
31	.0059698
32	.0059906
33	.0060129
34	.0060366
35	.0060619
36	.0060889
37	.0061177
38	.0061485
39	.0061814
40	.0062165
41	.0062540
42	.0062941
43	.0063370
44	.0063827
45	.0064314
46	.0064830
47	.0065377
48	.0065955
49	.0066566
50	.0067212
51	.0067893
52	.0068612
53	.0069370
54	.0070171

TEACHERS' RETIREMENT SYSTEM

PLAN I OPTION 1

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

55	.0071017
56	.0071210
57	.0072853
58	.0073851
59	.0074908
60	.0076028
61	.0077218
62	.0078485
63	.0079837
64	.0081285
65	.0082841
66	.0084520
67	.0086335
68	.0088302
69	.0090435
70	.0092748
71	.0095257
72	.0097977
73	.0100927
74	.0104126
75	.0107597
76	.0111364
77	.0115456
78	.0119904
79	.0124742
80	.0130007
81	.0135738
82	.0141980
83	.0148781
84	.0156205
85	.0164335
86	.0173278
87	.0183144
88	.0194044
89	.0206072
90	.0219300
91	.0233771
92	.0249513
93	.0266410
94	.0284835
95	.0304470
96	.0325413
97	.0347687
98	.0371380
99	.0396689

TEACHERS RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY OLDER</u>	
0.976	-20	0.988
0.973	-19	0.986
0.971	-18	0.985
0.968	-17	0.984
0.966	-16	0.982
0.962	-15	0.981
0.960	-14	0.980
0.956	-13	0.977
0.953	-12	0.976
0.949	-11	0.974
0.946	-10	0.972
0.942	-09	0.970
0.939	-08	0.968
0.935	-07	0.966
0.931	-06	0.964
0.924	-05	0.960
0.917	-04	0.956

TEACHERS RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY OLDER</u>	
0.909	-03	0.952
0.901	-02	0.948
0.883	-01	0.938

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM

PLAN I

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY YOUNGER</u>	
0.872	0	0.932
0.864	1	0.927
0.851	2	0.919
0.843	3	0.914
0.838	4	0.912
0.833	5	0.909
0.823	6	0.902
0.818	7	0.900
0.807	8	0.893
0.802	9	0.890
0.798	10	0.888
0.794	11	0.885
0.789	12	0.883
0.786	13	0.880
0.778	14	0.875
0.774	15	0.873
0.771	16	0.871
0.768	17	0.871
0.764	18	0.869
0.761	19	0.865
0.759	20	0.863
0.756	21	0.861
0.753	22	0.859
0.750	23	0.857
0.747	24	0.855
0.744	25	0.853
0.741	26	0.851
0.738	27	0.849
0.735	28	0.847
0.732	29	0.845
0.729	30	0.843
0.727	31	0.841
0.725	32	0.839
0.723	33	0.837
0.721	34	0.836
0.719	35	0.835
0.717	36	0.834
0.715	37	0.833
0.713	38	0.832
0.711	39	0.831
0.709	40	0.830

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY OLDER</u>	
0.910	-20	0.955
0.910	-19	0.955
0.910	-18	0.955

TEACHERS RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY OLDER</u>	
0.910	-17	0.955
0.902	-16	0.950
0.895	-15	0.946
0.886	-14	0.942
0.878	-13	0.937
0.870	-12	0.932
0.861	-11	0.927
0.853	-10	0.922
0.844	-09	0.917
0.836	-08	0.912
0.826	-07	0.907
0.818	-06	0.901
0.806	-05	0.894
0.793	-04	0.886
0.780	-03	0.878
0.764	-02	0.867
0.740	-01	0.852

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM

PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY YOUNGER</u>	
0.719	0	0.838
0.706	1	0.830
0.694	2	0.821
0.681	3	0.813
0.673	4	0.807
0.665	5	0.801
0.657	6	0.796
0.650	7	0.790
0.643	8	0.785
0.636	9	0.779
0.629	10	0.774
0.622	11	0.769
0.616	12	0.764
0.610	13	0.760
0.600	14	0.752
0.595	15	0.748
0.590	16	0.744
0.585	17	0.740
0.580	18	0.736
0.575	19	0.732
0.570	20	0.728
0.566	21	0.725
0.562	22	0.721
0.558	23	0.718
0.554	24	0.715
0.550	25	0.712
0.547	26	0.709
0.544	27	0.706
0.540	28	0.703
0.537	29	0.701
0.534	30	0.698
0.532	31	0.696
0.529	32	0.693
0.526	33	0.691
0.524	34	0.689
0.521	35	0.687
0.519	36	0.685
0.517	37	0.683

TEACHERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
	<u>BENEFICIARY YOUNGER</u>	
0.515	38	0.681
0.513	39	0.679
0.511	40	0.678

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION 1

MONTHLY BENEFIT per \$1.00 of ACCUMULATION

20	.0035919
21	.0036089
22	.0036266
23	.0036452
24	.0036647
25	.0036851
26	.0037065
27	.0037288
28	.0037523
29	.0037768
30	.0038026
31	.0038297
32	.0038580
33	.0038878
34	.0039190
35	.0039519
36	.0039863
37	.0040226
38	.0040608
39	.0041009
40	.0041432
41	.0041877
42	.0042346
43	.0042840
44	.0043360
45	.0043907
46	.0044482
47	.0045085
48	.0045717
49	.0046381
50	.0047077
51	.0047808
52	.0048574
53	.0049379
54	.0050223
55	.0051111
56	.0052044
57	.0053025
58	.0054058
59	.0055147
60	.0056296
61	.0057510
62	.0058796
63	.0060161
64	.0061615
65	.0063167
66	.0064828
67	.0066609
68	.0068522
69	.0070578
70	.0072786
71	.0075157
72	.0077703
73	.0080433
74	.0083361
75	.0086497
76	.0089856
77	.0093448

TEACHERS RETIREMENT SYSTEM
PLAN II OPTION 1
MONTHLY BENEFIT per \$1.00 of ACCUMULATION

78	.0097286
79	.0101380
80	.0105739
81	.0110369
82	.0115273
83	.0120455
84	.0125917
85	.0131654
86	.0137656
87	.0143890
88	.0150299
89	.0156797
90	.0163280
91	.0169635
92	.0175741
93	.0181484
94	.0186825
95	.0191686
96	.0196071
97	.0200007
98	.0203537
99	.0206708

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

0	0	1.0000
	1	.9918
	2	.9836
	3	.9755
	4	.9673
	5	.9591
	6	.9509
	7	.9428
	8	.9346
	9	.9264
	10	.9182
	11	.9100
1	0	.9019
	1	.8946
	2	.8874
	3	.8801
	4	.8728
	5	.8656
	6	.8583
	7	.8511
	8	.8438
	9	.8366
	10	.8293
	11	.8221
2	0	.8148
	1	.8084
	2	.8019
	3	.7955
	4	.7890
	5	.7826
	6	.7761
	7	.7697
	8	.7632
	9	.7568
	10	.7503
	11	.7439
3	0	.7374
	1	.7317
	2	.7259
	3	.7202
	4	.7144
	5	.7087
	6	.7029

TEACHERS RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS
by Year and Month

	7	.6971
	8	.6914
	9	.6856
	10	.6799
	11	.6741
4	0	.6684
	1	.6633
	2	.6581
	3	.6530
	4	.6479
	5	.6427
	6	.6376
	7	.6324
	8	.6273
	9	.6222
	10	.6170
	11	.6119
5	0	.6068
	1	.6022
	2	.5976
	3	.5930
	4	.5884
	5	.5838
	6	.5792
	7	.5746
	8	.5700
	9	.5654
	10	.5608
	11	.5562
6	0	.5516
	1	.5474
	2	.5433
	3	.5392
	4	.5351
	5	.5309
	6	.5268
	7	.5227
	8	.5186
	9	.5144
	10	.5103
	11	.5062
7	0	.5021
	1	.4984
	2	.4947
	3	.4909
	4	.4872
	5	.4835
	6	.4798
	7	.4761
	8	.4724
	9	.4687
	10	.4650
	11	.4613
8	0	.4576
	1	.4542
	2	.4509
	3	.4476
	4	.4442
	5	.4409
	6	.4376
	7	.4342
	8	.4309
	9	.4275
	10	.4242
	11	.4209
9	0	.4175
	1	.4145
	2	.4115
	3	.4085
	4	.4055
	5	.4025
	6	.3995

TEACHERS RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS
by Year and Month

	7	.3965
	8	.3934
	9	.3904
	10	.3874
	11	.3844
10	0	.3814
	1	.3787
	2	.3760
	3	.3733
	4	.3705
	5	.3678
	6	.3651
	7	.3624
	8	.3597
	9	.3569
	10	.3542
	11	.3515
11	0	.3488
	1	.3463
	2	.3439
	3	.3414
	4	.3390
	5	.3365
	6	.3340
	7	.3316
	8	.3291
	9	.3267
	10	.3242
	11	.3217
12	0	.3193
	1	.3170
	2	.3148
	3	.3126
	4	.3104
	5	.3081
	6	.3059
	7	.3037
	8	.3015
	9	.2992
	10	.2970
	11	.2948
13	0	.2925
	1	.2905
	2	.2885
	3	.2865
	4	.2845
	5	.2824
	6	.2804
	7	.2784
	8	.2764
	9	.2744
	10	.2723
	11	.2703
14	0	.2683
	1	.2665
	2	.2646
	3	.2628
	4	.2610
	5	.2591
	6	.2573
	7	.2554
	8	.2536
	9	.2518
	10	.2499
	11	.2481
15	0	.2463
	1	.2446
	2	.2429
	3	.2413
	4	.2396
	5	.2379
	6	.2363

<u>TEACHERS RETIREMENT SYSTEM</u>			<u>TEACHERS RETIREMENT SYSTEM</u>		
<u>PLAN II</u>			<u>PLAN II</u>		
<u>EARLY RETIREMENT FACTORS</u>			<u>EARLY RETIREMENT FACTORS</u>		
<u>by Year and Month</u>			<u>by Year and Month</u>		
	7	.2346		7	.1429
	8	.2329		8	.1419
	9	.2312		9	.1410
	10	.2296		10	.1400
	11	.2279		11	.1390
16	0	.2262	22	0	.1381
	1	.2247		1	.1372
	2	.2232		2	.1363
	3	.2217		3	.1354
	4	.2202		4	.1345
	5	.2186		5	.1336
	6	.2171		6	.1328
	7	.2156		7	.1319
	8	.2141		8	.1310
	9	.2126		9	.1301
	10	.2110		10	.1292
	11	.2095		11	.1283
17	0	.2080	23	0	.1274
	1	.2066		1	.1266
	2	.2052		2	.1258
	3	.2038		3	.1250
	4	.2025		4	.1242
	5	.2011		5	.1234
	6	.1997		6	.1226
	7	.1983		7	.1218
	8	.1969		8	.1209
	9	.1955		9	.1201
	10	.1941		10	.1193
	11	.1928		11	.1185
18	0	.1914	24	0	.1177
	1	.1901		1	.1170
	2	.1888		2	.1162
	3	.1876		3	.1155
	4	.1863		4	.1147
	5	.1851		5	.1140
	6	.1838		6	.1132
	7	.1825		7	.1125
	8	.1813		8	.1117
	9	.1800		9	.1110
	10	.1787		10	.1102
	11	.1775		11	.1095
19	0	.1762	25	0	.1088
	1	.1750		1	.1081
	2	.1739		2	.1074
	3	.1727		3	.1067
	4	.1716		4	.1060
	5	.1704		5	.1053
	6	.1693		6	.1046
	7	.1681		7	.1040
	8	.1670		8	.1033
	9	.1658		9	.1026
	10	.1647		10	.1019
	11	.1635		11	.1012
20	0	.1623	26	0	.1005
	1	.1613		1	.0999
	2	.1602		2	.0993
	3	.1592		3	.0987
	4	.1581		4	.0980
	5	.1571		5	.0974
	6	.1560		6	.0968
	7	.1550		7	.0961
	8	.1539		8	.0955
	9	.1528		9	.0949
	10	.1518		10	.0943
	11	.1507		11	.0936
21	0	.1497	27	0	.0930
	1	.1487		1	.0924
	2	.1477		2	.0918
	3	.1468		3	.0913
	4	.1458		4	.0907
	5	.1448		5	.0901
	6	.1439		6	.0895

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.0889
	8	.0884
	9	.0878
	10	.0872
	11	.0866
28	0	.0860
	1	.0855
	2	.0850
	3	.0845
	4	.0839
	5	.0834
	6	.0829
	7	.0823
	8	.0818
	9	.0813
	10	.0807
	11	.0802
29	0	.0797
	1	.0792
	2	.0787
	3	.0782
	4	.0777
	5	.0772
	6	.0767
	7	.0762
	8	.0757
	9	.0752
	10	.0748
	11	.0743
30	0	.0738
	1	.0733
	2	.0729
	3	.0724
	4	.0720
	5	.0715
	6	.0711
	7	.0706
	8	.0702
	9	.0697
	10	.0692
	11	.0688
31	0	.0683
	1	.0679
	2	.0675
	3	.0671
	4	.0667
	5	.0663
	6	.0658
	7	.0654
	8	.0650
	9	.0646
	10	.0642
	11	.0638
32	0	.0633
	1	.0630
	2	.0626
	3	.0622
	4	.0618
	5	.0614
	6	.0610
	7	.0606
	8	.0603
	9	.0599
	10	.0595
	11	.0591
33	0	.0587
	1	.0584
	2	.0580
	3	.0577
	4	.0573
	5	.0570
	6	.0566

TEACHERS RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.0562
	8	.0559
	9	.0555
	10	.0552
	11	.0548
34	0	.0545
	1	.0541
	2	.0538
	3	.0535
	4	.0532
	5	.0528
	6	.0525
	7	.0522
	8	.0518
	9	.0515
	10	.0512
	11	.0509
35	0	.0505
	1	.0463
	2	.0421
	3	.0379
	4	.0337
	5	.0295
	6	.0253
	7	.0211
	8	.0168
	9	.0126
	10	.0084
	11	.0042
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
38	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
39	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000

TEACHERS RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

by Year and Month

7	.0000
8	.0000
9	.0000
10	.0000
11	.0000

LAW ENFORCEMENT OFFICERS

AND FIREFIGHTERS

RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

by Year and Month

0	0	1.0000
	1	.9920
	2	.9841
	3	.9761
	4	.9682
	5	.9602
	6	.9523
	7	.9443
	8	.9364
	9	.9284
	10	.9204
	11	.9125
1	0	.9045
	1	.8974
	2	.8903
	3	.8833
	4	.8762
	5	.8691
	6	.8620
	7	.8549
	8	.8478
	9	.8407
	10	.8336
	11	.8265
2	0	.8194
	1	.8131
	2	.8067
	3	.8004
	4	.7941
	5	.7877
	6	.7814
	7	.7751
	8	.7687
	9	.7624
	10	.7561
	11	.7497
3	0	.7434
	1	.7377
	2	.7320
	3	.7264
	4	.7207
	5	.7150
	6	.7094
	7	.7037
	8	.6980
	9	.6923
	10	.6867
	11	.6810
4	0	.6753
	1	.6702
	2	.6652
	3	.6601
	4	.6550
	5	.6499
	6	.6448
	7	.6397
	8	.6346

LAW ENFORCEMENT OFFICERS

AND FIREFIGHTERS

RETIREMENT SYSTEM

PLAN II

EARLY RETIREMENT FACTORS

by Year and Month

	9	.6296
	10	.6245
	11	.6194
5	0	.6143
	1	.6097
	2	.6052
	3	.6006
	4	.5960
	5	.5914
	6	.5869
	7	.5823
	8	.5777
	9	.5732
	10	.5686
	11	.5640
6	0	.5595
	1	.5554
	2	.5512
	3	.5471
	4	.5430
	5	.5389
	6	.5348
	7	.5307
	8	.5266
	9	.5225
	10	.5184
	11	.5142
7	0	.5101
	1	.5064
	2	.5027
	3	.4990
	4	.4953
	5	.4916
	6	.4879
	7	.4842
	8	.4805
	9	.4768
	10	.4731
	11	.4694
8	0	.4657
	1	.4623
	2	.4590
	3	.4556
	4	.4523
	5	.4489
	6	.4456
	7	.4423
	8	.4389
	9	.4356
	10	.4322
	11	.4289
9	0	.4255
	1	.4225
	2	.4195
	3	.4165
	4	.4134
	5	.4104
	6	.4074
	7	.4044
	8	.4013
	9	.3983
	10	.3953
	11	.3923
10	0	.3892
	1	.3865
	2	.3838
	3	.3810
	4	.3783
	5	.3756
	6	.3728

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	7	.3701
	8	.3674
	9	.3646
	10	.3619
	11	.3591
11	0	.3564
	1	.3539
	2	.3514
	3	.3490
	4	.3465
	5	.3440
	6	.3415
	7	.3390
	8	.3366
	9	.3341
	10	.3316
	11	.3291
12	0	.3266
	1	.3244
	2	.3221
	3	.3199
	4	.3176
	5	.3154
	6	.3131
	7	.3109
	8	.3086
	9	.3064
	10	.3041
	11	.3019
13	0	.2996
	1	.2976
	2	.2955
	3	.2935
	4	.2914
	5	.2894
	6	.2873
	7	.2853
	8	.2833
	9	.2812
	10	.2792
	11	.2771
14	0	.2751
	1	.2732
	2	.2714
	3	.2695
	4	.2676
	5	.2658
	6	.2639
	7	.2620
	8	.2602
	9	.2583
	10	.2565
	11	.2546
15	0	.2527
	1	.2510
	2	.2494
	3	.2477
	4	.2460
	5	.2443
	6	.2426
	7	.2409
	8	.2392
	9	.2375
	10	.2358
	11	.2341
16	0	.2324
	1	.2309
	2	.2293
	3	.2278
	4	.2262

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	5	.2247
	6	.2231
	7	.2216
	8	.2200
	9	.2185
	10	.2169
	11	.2154
17	0	.2138
	1	.2124
	2	.2110
	3	.2096
	4	.2082
	5	.2068
	6	.2054
	7	.2040
	8	.2026
	9	.2012
	10	.1997
	11	.1983
18	0	.1969
	1	.1956
	2	.1943
	3	.1930
	4	.1918
	5	.1905
	6	.1892
	7	.1879
	8	.1866
	9	.1853
	10	.1840
	11	.1827
19	0	.1814
	1	.1803
	2	.1791
	3	.1779
	4	.1767
	5	.1755
	6	.1744
	7	.1732
	8	.1720
	9	.1708
	10	.1697
	11	.1685
20	0	.1673
	1	.1662
	2	.1651
	3	.1641
	4	.1630
	5	.1619
	6	.1608
	7	.1597
	8	.1587
	9	.1576
	10	.1565
	11	.1554
21	0	.1543
	1	.1533
	2	.1524
	3	.1514
	4	.1504
	5	.1494
	6	.1484
	7	.1474
	8	.1464
	9	.1454
	10	.1444
	11	.1435

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

22	0	.1425
	1	.1416
	2	.1407
	3	.1397
	4	.1388
	5	.1379
	6	.1370
	7	.1361
	8	.1352
	9	.1343
	10	.1334
	11	.1325
23	0	.1316
	1	.1307
	2	.1299
	3	.1291
	4	.1282
	5	.1274
	6	.1266
	7	.1257
	8	.1249
	9	.1241
	10	.1233
	11	.1224
24	0	.1216
	1	.1208
	2	.1201
	3	.1193
	4	.1185
	5	.1178
	6	.1170
	7	.1162
	8	.1155
	9	.1147
	10	.1139
	11	.1132
25	0	.1124
	1	.1117
	2	.1110
	3	.1103
	4	.1096
	5	.1089
	6	.1082
	7	.1075
	8	.1068
	9	.1061
	10	.1054
	11	.1047
26	0	.1040
	1	.1033
	2	.1027
	3	.1020
	4	.1014
	5	.1007
	6	.1001
	7	.0994
	8	.0988
	9	.0981
	10	.0975
	11	.0969
27	0	.0962
	1	.0956
	2	.0950
	3	.0944
	4	.0938
	5	.0932
	6	.0926
	7	.0920
	8	.0914
	9	.0908

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	10	.0903
	11	.0897
28	0	.0891
	1	.0885
	2	.0880
	3	.0874
	4	.0869
	5	.0863
	6	.0858
	7	.0852
	8	.0847
	9	.0841
	10	.0836
	11	.0830
29	0	.0825
	1	.0820
	2	.0815
	3	.0810
	4	.0805
	5	.0800
	6	.0795
	7	.0789
	8	.0784
	9	.0779
	10	.0774
	11	.0769
30	0	.0764
	1	.0760
	2	.0755
	3	.0750
	4	.0746
	5	.0741
	6	.0736
	7	.0732
	8	.0727
	9	.0722
	10	.0718
	11	.0713
31	0	.0708
	1	.0704
	2	.0700
	3	.0695
	4	.0691
	5	.0687
	6	.0682
	7	.0678
	8	.0674
	9	.0670
	10	.0665
	11	.0661
32	0	.0657
	1	.0653
	2	.0649
	3	.0645
	4	.0641
	5	.0637
	6	.0633
	7	.0629
	8	.0625
	9	.0621
	10	.0617
	11	.0613
33	0	.0609
	1	.0605
	2	.0602
	3	.0598
	4	.0594
	5	.0591
	6	.0587
	7	.0583

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	8	.0580
	9	.0576
	10	.0572
	11	.0569
34	0	.0565
	1	.0562
	2	.0558
	3	.0555
	4	.0551
	5	.0548
	6	.0545
	7	.0541
	8	.0538
	9	.0534
	10	.0531
	11	.0528
35	0	.0524
	1	.0481
	2	.0437
	3	.0393
	4	.0350
	5	.0306
	6	.0262
	7	.0218
	8	.0175
	9	.0131
	10	.0087
	11	.0044
36	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
37	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
38	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000
	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000
39	0	.0000
	1	.0000
	2	.0000
	3	.0000
	4	.0000
	5	.0000

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II
EARLY RETIREMENT FACTORS
by Year and Month

	6	.0000
	7	.0000
	8	.0000
	9	.0000
	10	.0000
	11	.0000

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II OPTION I

	20	.0036854
	21	.0037066
	22	.0037288
	23	.0037521
	24	.0037765
	25	.0038020
	26	.0038289
	27	.0038571
	28	.0038866
	29	.0039177
	30	.0039503
	31	.0039846
	32	.0040207
	33	.0040586
	34	.0040985
	35	.0041406
	36	.0041848
	37	.0042315
	38	.0042806
	39	.0043325
	40	.0043871
	41	.0044447
	42	.0045052
	43	.0045687
	44	.0046352
	45	.0047048
	46	.0047775
	47	.0048536
	48	.0049331
	49	.0050162
	50	.0051031
	51	.0051940
	52	.0052893
	53	.0053892
	54	.0054942
	55	.0056047
	56	.0057211
	57	.0058441
	58	.0059741
	59	.0061120
	60	.0062584
	61	.0064141
	62	.0065800
	63	.0067571
	64	.0069461
	65	.0071481
	66	.0073639
	67	.0075944
	68	.0078407
	69	.0081037
	70	.0083844
	71	.0086841
	72	.0090038
	73	.0093446
	74	.0097076
	75	.0100938
	76	.0105040

LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS
RETIREMENT SYSTEM
PLAN II OPTION 1

77	.0109388
78	.0113988
79	.0118848
80	.0123977
81	.0129386
82	.0135092
83	.0141104
84	.0147416
85	.0153996
86	.0160774
87	.0167652
88	.0174514
89	.0181218
90	.0187587
91	.0193543
92	.0198948
93	.0203734
94	.0207882
95	.0211409
96	.0214355
97	.0216775
98	.0218727
99	.0220272

LAW ENFORCEMENT OFFICERS AND
FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY OLDER</u>		
0.933	-20	0.967
0.927	-19	0.963
0.920	-18	0.960
0.914	-17	0.956
0.907	-16	0.952
0.900	-15	0.949
0.892	-14	0.944
0.885	-13	0.940
0.877	-12	0.936
0.869	-11	0.931
0.861	-10	0.927
0.853	-09	0.922
0.845	-08	0.917
0.837	-07	0.913
0.829	-06	0.908
0.821	-05	0.903
0.813	-04	0.898
0.805	-03	0.893
0.797	-02	0.888
0.789	-01	0.883

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.781	0	0.878
0.773	1	0.873
0.766	2	0.868
0.758	3	0.863
0.750	4	0.859
0.743	5	0.854
0.736	6	0.849

LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS RETIREMENT SYSTEM
PLAN II

<u>OPTION 2</u>	<u>AGE DIFFERENCE</u>	<u>OPTION 3</u>
<u>BENEFICIARY YOUNGER</u>		
0.729	7	0.844
0.722	8	0.839
0.715	9	0.835
0.708	10	0.830
0.701	11	0.825
0.695	12	0.821
0.688	13	0.816
0.682	14	0.812
0.676	15	0.808
0.670	16	0.803
0.664	17	0.799
0.658	18	0.795
0.653	19	0.791
0.648	20	0.787
0.643	21	0.783
0.638	22	0.780
0.633	23	0.776
0.628	24	0.773
0.624	25	0.769
0.620	26	0.766
0.616	27	0.763
0.612	28	0.760
0.608	29	0.757
0.604	30	0.754
0.601	31	0.751
0.597	32	0.749
0.594	33	0.746
0.591	34	0.744
0.588	35	0.741
0.585	36	0.739
0.582	37	0.737
0.579	38	0.735

AGE DIFFERENCE = MEMBERS AGE MINUS BENEFICIARY AGE

**WSR 86-09-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Commission for Vocational Rehabilitation)
[Filed April 16, 1986]**

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 Vocational rehabilitation—Administrative review and fair hearing, amending WAC 490-500-560 and 490-500-570;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, 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 May 30, 1986.

The authority under which these rules are proposed is RCW 74.29.025.

The specific statute these rules are intended to implement is chapter 74.29 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 9, 1986

By: Lee D. Bomberger, Acting Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Amending WAC 490-500-560 (1), (5) and (6) and 490-500-570 (1), (3), (4) and (5).

Purpose of the Rule Changes: WAC 490-500-560 Administrative review and 490-500-570 concerns fair hearing process, distinguishing between "client" and "applicant," stipulating that the director may not delegate decision making when an IWRP is at issue, specifying circumstances under which a client can request a review by the secretary of education, and deleting reference to subsection (1)(d) of WAC 388-08-00401.

Statutory Authority: RCW 74.29.025.

Summary of the Rule Changes: WAC 490-500-560, in subsection (1) add word "applicant." In subsections (5) and (6) delete obsolete designation of "district" and replace with "regional"; and 490-500-570 clarifies appeal process at the point of client's dissatisfaction with fair hearing decision of DVR director regarding services provided under the individualized written rehabilitation plan, which includes the right to request a review by the secretary of education. Makes distinction between "client" and "applicant."

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Leslie F. James, Director, Division of Vocational Rehabilitation, mailstop OB 21C, phone 753-0293.

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

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-560 ADMINISTRATIVE REVIEW. (1) Any client or applicant who feels aggrieved by, or is otherwise dissatisfied with, any decision or action by the division or its agents with regard to his or her vocational rehabilitation case may file a request with the division for, and shall thereupon receive, an administrative review and redetermination of that decision or action.

(2) A request for an administrative review may be made either verbally or in writing and may be filed in any office of the division. A verbal request shall promptly be ~~((reduced to))~~ documented in writing.

(3) All requests for administrative reviews shall:

(a) Specify the date of the decision or action being appealed,

(b) Specify as precisely as possible the issue to be resolved by the administrative review,

(c) Set forth the address of the client or of his or her representative, and

(d) Be signed by the client or by his or her representative.

(4) A request for an administrative review must be made within sixty days after receiving notice from the division of the decision or action by the division which is the basis for the request for review.

(5) An administrative review and redetermination shall be provided by the ~~((district))~~ regional administrator of the vocational rehabilitation ~~((district))~~ region in which the client has been receiving services, and shall be provided within thirty days after the submission of the request for review.

(6) As soon as possible after the conclusion of the administrative review, the ~~((district))~~ regional administrator shall certify his or her findings to the client in writing specifying in reasonable detail the reasons for his or her findings and informing the client of his or her right to request and receive a fair hearing if dissatisfied with those findings.

AMENDATORY SECTION (Amending Order 1821, filed 6/2/82)

WAC 490-500-570 FAIR HEARING. (1) Any ~~((client))~~ applicant or recipient dissatisfied with the finding of an administrative review may request from the division, and shall thereupon be granted, a fair hearing.

(a) ~~((A client))~~ An applicant or recipient desiring a fair hearing shall request such hearing within thirty days after receiving notice from the division of the finding of the administrative review.

(b) A request for a fair hearing may be made either verbally or in writing and may be filed in any office of the division. If made verbally, such a request shall promptly be ~~((reduced to))~~ documented in writing.

(c) All requests for fair hearings shall:

(i) Specify the date of the administrative review being appealed~~((:));~~

(ii) Specify as precisely as possible the issue to be adjudicated at the fair hearing~~((:));~~

(iii) Set forth the address of the client, his or her representative, or his or her attorney.

(iv) Be signed by the client, his or her representative, or his or her attorney.

~~((2))~~ ~~((Any party desiring a continuance shall immediately upon receipt of a notice of hearing, or as soon thereafter as facts requiring such continuance come to his or her knowledge notify the hearings examiner of said desire, stating in detail the reasons why such continuance is necessary. The hearings examiner in passing upon a request for continuance, shall consider whether such request was promptly and timely made. The hearings examiner may grant a continuance for good cause shown, and may at any time order a continuance upon his or her own motion. If during the hearing it appears further testimony or argument should be received in the interest of justice, the hearings examiner conducting the hearing may, at his or her discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument.~~

~~((3))~~ ~~The following sections of chapter 388-08 WAC shall apply to hearings requested under this section:~~

~~WAC 388-08-00401 except subsection (1)(d);~~

~~WAC 388-08-00601 through 388-08-405;~~

~~WAC 388-08-408 through 388-08-414;~~

~~WAC 388-08-420 through 388-08-503, and~~

~~WAC 388-08-520.~~

~~((4))~~ Fair hearings in the vocational rehabilitation program are governed by chapters 10-08 and 388-08 WAC and this section. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(a) The decision-making procedure is the initial decision-petition for review-decision procedure. See WAC 388-08-409 and 388-08-413.

(b) The director, division of vocational rehabilitation, is the hearing authority to review and rule on petitions for review of initial decisions and orders and to write review decisions and orders.

~~((5))~~ (3) Any client not satisfied with ((the)) a decision of the director, division of vocational rehabilitation regarding services under the IWRP, may request the secretary of education to review the decision pursuant to 29 U.S.C. Section 722.

WSR 86-09-054
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed April 16, 1986]

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 alignment of the merit system rules to conform to Fair Labor Standards Act requirements;

that the agency will at 10:00 a.m., Thursday, May 8, 1986, 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 (FLSA) and Code of Federal Regulations, Chapter 29, parts 500-900.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 6, 1986.

This notice is connected to and continues the matter in Notice No. WSR 86-06-056 filed with the code reviser's office on March 5, 1986.

Dated: April 16, 1986
 By: Leonard Nord
 Secretary

WSR 86-09-055
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed April 16, 1986]

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 ch. 356-47 WAC Career executive program.
 Rep WAC 356-47-120 Career executive program—Appeals;

that the agency will at 10:00 a.m., Thursday, May 8, 1986, 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 41.06.430.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 6, 1986.

This notice is connected to and continues the matter in Notice Nos. WSR 86-06-015 and 86-06-055 filed

with the code reviser's office on February 24, 1986, and March 5, 1986.

Dated: April 16, 1986
 By: Leonard Nord
 Secretary

WSR 86-09-056
EMERGENCY RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Order 245—Filed April 16, 1986]

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 alignment of the merit system rules to conform to Fair Labor Standards Act requirements.

We, the State Personnel Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the U.S. Department of Labor has established a date of April 16, 1986, for the state of Washington to be in compliance with the Fair Labor Standards Act (FLSA). The rule changes implement the provisions of FLSA.

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

This rule is promulgated pursuant to RCW 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of the Fair Labor Standards Act and Code of Federal Regulations, Chapter 29, parts 500-900.

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

APPROVED AND ADOPTED April 10, 1986.

By Leonard Nord
 Secretary

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-010 ADMINISTRATIVE PERSONNEL. *Employees who (~~regularly exercise discretion and independent judgment in the performance of:~~ (1) ~~Work related directly to management policy,~~ or (2) ~~work providing direct assistance to executive or administrative personnel~~)) customarily and regularly exercise discretion and independent judgment, and whose primary duty (fifty percent or more of the time) consists of either: (1) Work directly related to management policies or the general business operations of the agency or the agency's customers, or (2) direct assistance to a person in a bona fide executive or administrative capacity.*

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-165 EXECUTIVE PERSONNEL. (As used in chapter 15 of these rules) Employees ((who customarily and regularly exercise discretionary powers in directing and controlling program operations of an agency or division or customarily recognized subdivision thereof and personnel who are responsible for (1) hiring or firing or making substantial recommendation for same and (2) directing the work of and (3) regulating the working hours of)) whose primary duty (fifty percent or more of the time) is directing and controlling program operations of an agency or division or customarily recognized subdivision thereof; who regularly and customarily exercise discretionary powers; and who supervise two or more employees.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-210 LAW ENFORCEMENT PERSONNEL. Employees empowered by statute to enforce laws designed to maintain public peace and order, whose primary duty (fifty percent or more of the time) is to protect life and property, and detect and prevent crimes. Employees in these positions must have the power of arrest, and have ((been trained in rules of evidence, laws of arrest, search and seizure and legal rights of citizens)) training which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid, and ethics.

NEW SECTION

WAC 356-05-233 OUTSIDE SALES PERSONNEL. Persons whose primary duty is to work away from the employer's places of business in selling tangible or intangible items such as goods, insurance, stocks, bonds, or real estate, or in obtaining orders or contracts for services or use of facilities; and who spend eighty percent or more of their work time in activities which are exempt from the overtime provisions of the Fair Labor Standards Act.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-315 PROFESSIONAL PERSONNEL. For determination of work period designation: Employees performing work which requires consistent exercise of independent judgment and ((is in a specialized field requiring)) requires advanced knowledge normally gained through achieving at least a baccalaureate degree in a specialized field as opposed to general academic instruction, but which may be gained through ((equivalent)) experience and home study. For other merit system purposes: Employees performing work which requires consistent application of advanced knowledge normally gained through achieving a baccalaureate degree but which may be gained through equivalent experience.

NEW SECTION

WAC 356-05-332 RECREATIONAL ESTABLISHMENT. An amusement or recreational establishment, organized camp, or nonprofit educational conference center if (1) it does not operate for more than seven months in any calendar year, or (2) during the preceding calendar year, its average receipts for any six months of such year were not more than thirty-three percent of its average receipts for the other six months of such year.

NEW SECTION

WAC 356-05-353 REGULAR RATE. The sum of the basic salary and all other payments which are made at less than time-and-one-half the basic salary for all hours worked in a pay period or work period, divided by the total number of hours worked that pay period or work period. Time-and-one-half rates are then calculated by adding one-half of the regular rate for each hour of overtime worked.

Included: Basic salary for all hours worked, including paid leave; assignment pay; shift premium; standby pay (not hours); the cost of employees' personal expenses such as meals, if these are for the employees' own benefit, and not for the benefit of the employer.

Excluded: The half-time pay included in any time-and-one-half rate; penalty payments such as call-back, which are not based on the number of hours worked; per diem or other expense reimbursement; hours (not pay) for standby; discretionary bonuses such as suggestion awards; group incentive awards authorized by RCW 41.60.120.

NEW SECTION

WAC 356-05-483 WORK PERIOD. A term used in lieu of "workweek" or "pay period" for calculating overtime for employees in the "law enforcement" work period designation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-05-190 HOUSED PERSONNEL.

AMENDATORY SECTION (Amending Order 98, filed 1/13/77, effective 2/13/77)

WAC 356-14-240 ((SALARY=)) OVERTIME COMPENSATION METHOD. Overtime for state employees shall be compensated in accordance with WAC 356-15-030.

(1) Scheduled ((and)), nonscheduled ((work period)), and law enforcement employees shall be compensated ((for overtime)) in cash or compensatory time off, both at the rate of time-and-one-half. Cash payment shall be at the overtime rate, while compensatory time shall be credited as 1.5 hours of compensatory time for each hour of overtime worked. (See WAC 356-14-265 for computing cash value compensatory time.)

Compensatory time off may be used in lieu of cash only when an agency and the employee agree ((may

~~compensatory time off be used in lieu of cash compensation for overtime)), except as provided for law enforcement positions in WAC 356-15-030 (5)(a). When compensatory time off is utilized, it shall be liquidated in accordance with WAC 356-14-260.~~

~~(2) ((Cash compensation for overtime shall be deemed salary for the purposes of state retirement contributions and taxation:)) Time during which an employee is excused from work for holidays, sick leave, vacations or compensatory time shall be considered time worked for payroll purposes. However, time records shall indicate that the employee did not work during these excused absences.~~

~~(3) Advisory note: Cash compensation for overtime is subject to deductions for state retirement and taxes.~~

AMENDATORY SECTION (Amending Order 188, filed 7/20/83)

~~WAC 356-14-250 ((SALARY—MAXIMUM—))COMPENSATORY TIME—MAXIMUM BALANCE. The maximum compensatory time ((accrual is limited to 320 hours in any 365 calendar days)) balance may not exceed 480 hours for employees engaged in public safety, emergency response, or seasonal activities (as may be defined in the Code of Federal Regulations chapter 29), or 240 hours for all other employees.~~

~~((†) Compensatory time exceeding these limitations shall be compensated monthly in cash.~~

~~(2) Cash compensation for compensatory time shall be computed using the salary applicable to the employee at the time the compensatory time was accrued.~~

~~(3) If any compensatory time has not been liquidated within 365 days of accrual, the employee will be compensated in cash for that compensatory time, except that all compensatory time accumulated during a fiscal biennium shall be compensated in cash at the end of that biennium (June 30 of each odd-numbered year) if it has not been previously liquidated in cash or compensatory time:))~~

NEW SECTION

WAC 356-14-265 COMPENSATORY TIME CASH-OUT. (1) All of an employee's accrued compensatory time shall be compensated in cash under the following circumstances:

(a) At the end of each biennium (June 30 of each odd-numbered year) or at more frequent intervals set by the employing agency.

(b) When the employee separates from state service for any reason, including death.

(c) When the employee moves from one state agency to another. Payment will be made by the agency in which the compensatory time was accrued, except that if a function or program, together with assigned employees, is transferred from one to another agency, all accumulated compensatory time shall also be transferred.

(2) When accrued compensatory time is cashed out as the result of death or other termination of employment, it shall be at a rate of not less than:

(a) The average "regular rate" (defined in WAC 356-05-353) received by the employee during the last three years of employment; or

(b) The final regular rate received by the employee, whichever is higher.

(3) When accrued compensatory time is cashed out for any reason other than death or termination of employment, it shall be at the current "regular rate."

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-14-270 SALARY—OVERTIME PAYMENT ON SEPARATION FROM JOB.

AMENDATORY SECTION (Amending Order 239, filed 12/6/85)

WAC 356-15-020 WORK PERIOD DESIGNATIONS. (1) The personnel board shall assign a specific work period designation to each ((classification)) job class. In deciding which work period designation is appropriate, the personnel board shall consider the following factors:

(a) Whether the positions are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

(b) Whether the positions have been historically paid overtime by the state.

(c) Whether the private sector or other governmental jurisdictions have a historical or prevailing overtime pay practice for direct counterpart positions.

(d) Other factors it may deem to be appropriate.

(2) The personnel board may authorize a work period designation for an individual position which differs from the class-wide designation ((for specific positions having)) when the position has atypical working conditions. When two or more designations are indicated for a job ((classification)) class, the first designation listed shall constitute the class-wide designation. Each position shall be assigned only one designation. The work period designation for persons on "in-training" and "underfill" appointments shall be the same as that of the position to which they are appointed, except that if the position is designated "exceptions," the employee's work period designation will be "nonscheduled".

((†)) (a) Scheduled (S):

((†)) (i) Standard: Full time positions with conditions of employment which may be completed within five consecutive work days, each having the same starting time and lasting not more than eight working hours, and occurring within the same workweek.

((†)) (ii) Alternate: Full time positions with conditions of employment which may be completed within:

((†)) (A) Five work days lasting not more than eight working hours within the same workweek but which, because of operational necessity, cannot be scheduled with the same daily starting time or with consecutive days off; or

~~((iii))~~ (B) Four work days lasting not more than ten working hours each within the same workweek; or

~~((iii))~~ (C) Ten consecutive work days with four consecutive days off; or

~~((iv))~~ (D) Ten work days lasting not more than eight working hours and occurring within a scheduled fourteen consecutive day period. Positions are restricted to employees in the registered nurse class series who work in an institutional hospital primarily engaged in the care of residents.

~~((v))~~ (E) Continuous five work-days-per-week shifts which rotate each 28 days to a different schedule of regular days and hours per week. The rotation involves extended or shortened time off between the ending shift of one schedule and the beginning shift of the next, but does not require more than eight hours work in any one 24-hour period within a schedule, nor more than fifty-two 40-hour workweeks per year. Positions are limited to communications officers and scheduled commercial vehicle enforcement officers of the state patrol.

After giving written notice to the employee and the certified exclusive representative, the employer may implement an alternate schedule provided the employer can document a program need for the alternate schedule or the alternate schedule is mutually agreeable to the employer and employee.

~~((c))~~ (iii) Unlisted: Full time positions for which the director of personnel has approved a schedule or scheduling plan not allowed above. Such unlisted schedules may be approved by the director of personnel when both the agency and the affected employees are in agreement. Approval by the exclusive representative shall constitute approval of employees within a certified bargaining unit.

~~((2))~~ (b) Nonscheduled (NS): Full time positions with conditions of employment which necessitate adjustment of hours by employees within forty working hours within the workweek. These positions (normally have no scheduled starting and/or quitting time, but management may designate specific tasks which require assigned hours.

(3) ~~Exceptions (E):~~ In determining which positions are designated in the "exceptions" work period, the personnel board shall consider the following factors:

(a) ~~Positions which meet the definition (chapter 356-05 WAC) of administrative personnel, agricultural personnel, executive personnel, housed personnel, law enforcement personnel, professional personnel.~~

(b) ~~Positions which have historically been paid overtime by the state.~~

(c) ~~Positions which have direct counterparts in private industry or other governmental jurisdictions and which have an historical or prevailing practice of paying overtime.~~

(d) ~~Other factors it may deem to be appropriate.~~

~~(4))~~ may have preset schedules or task assignments which require their attendance at certain hours, but are generally responsible to adjust their hours to best accomplish their workload.

(c) Law enforcement (I): Full time positions which meet the law enforcement criteria of section 7(k) of the Fair Labor Standards Act. (Defined as Law Enforcement Personnel in WAC 356-05-210.)

(d) Exceptions (e): Full time positions which are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

AMENDATORY SECTION (Amending Order 239, filed 12/6/85)

WAC 356-15-030 OVERTIME PROVISIONS AND COMPENSATION. (1) The following conditions constitute overtime:

(a) For full-time employees, work in excess of the workshift within the work day.

(b) Work in excess of forty working hours in one workweek or eighty working hours in a scheduled fourteen consecutive day period as authorized under WAC 356-15-020 (1)(b)(iv).

(c) Work on a holiday (except Sunday when it is within the assigned workshift).

(d) Work on a scheduled day off.

(e) Time worked in excess of the 28-day work period by law enforcement positions.

(2) Scheduled work period employees shall receive overtime compensation for work which meets subsection (1)(a) through (d) of this section. However, an agency is not obligated to pay overtime due to a change in the work day or workweek, when such change is in response to a written request from an employee for employee convenience, and the employee still works no more than forty hours during a workweek.

(3) Nonscheduled work period employees shall receive overtime compensation for work which meets subsection (1)(b) through (d) of this section and may be paid overtime compensation for work which meets subsection (1)(b) of this section.

(4) ~~((Exceptions work period employees are not required to be compensated beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.~~

~~(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed one and one-half times the employee's regular rate of pay. As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.~~

~~(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed 174 hours.~~

~~(c) Employees must be allowed, and may be required, to use all exchange time in excess of 80 hours prior to each April 1 and October 1, or other semi-annual dates fixed by an agency and made known to its employees and the director of personnel by that agency's director. As an exception to the above, the director of personnel may establish a single annual date based on the special~~

needs of the requesting agency. Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

~~(d) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.~~

~~(e) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.~~

~~(5) Law enforcement positions have a 160-hour, 28-day work period, rather than a 40-hour work week.~~

~~(a) When the combination of credited work hours (vacation, sick leave, holidays, or compensatory time) and actual work hours exceeds 160 hours, the employee shall be compensated at time and one-half rates in cash or compensatory time at the option of the agency.~~

~~(b) Overtime compensation for actual work in excess of 171 hours in a work period may be in the form of compensatory time off if the employee and the agency agree.~~

~~(c) Assigned, actual work on a holiday shall be considered as work in excess of 160 hours.~~

~~(d) For the positions receiving assignment pay for an extended work period, the following special provisions apply:~~

~~(i) These law enforcement classes or positions have a 171-hour, 28-day work period, for which they receive four ranges (approximately ten percent) above the base salary range.~~

~~(ii) When the combination of credited work hours and actual work hours exceeds 171 hours, the employee shall be compensated at time and one-half rates. Compensation may be in the form of compensatory time off if the employee and the agency agree.~~

~~(iii) Assigned, actual work on a holiday shall be considered as work in excess of 171 hours.~~

~~(6) Unless otherwise provided in the work period designations or other personnel board decisions, the rate of overtime compensation for scheduled and nonscheduled work period employees shall be time and one-half.~~

~~Overtime compensation shall be paid in either cash or compensatory time off, provided that such compensation is paid in a manner consistent with the overtime liquidation provisions of the merit system rules.~~

~~Compensatory time off may be used in lieu of cash compensation for overtime only when an agency and the employee agree, except as provided for law enforcement officers in subsection (5) of this section. When compensatory time is utilized by scheduled or nonscheduled work period employees it shall be compensated at the rate of time and one-half.)~~ Law enforcement positions have a one hundred sixty-hour, twenty-eight-day work period, rather than a forty-hour workweek.

(a) When the combination of credited work hours (vacation, sick leave, holidays, or compensatory time)

and actual work hours exceeds one hundred sixty hours, the employee shall be compensated at time and one-half rates in cash or compensatory time at the option of the agency.

(b) Overtime compensation for actual work in excess of one hundred seventy-one hours in a work period may be in the form of compensatory time off if the employee and the agency agree.

(c) Assigned, actual work on a holiday shall be considered as work in excess of one hundred sixty hours.

(d) For the positions receiving assignment pay for an extended work period, the following special provisions apply:

(i) These law enforcement classes or positions have a one hundred seventy-one-hour, twenty-eight-day work period, for which they receive four ranges (approximately ten percent) above the base salary range.

(ii) When the combination of credited work hours and actual work hours exceeds one hundred seventy-one hours, the employee shall be compensated at time and one-half rates. Compensation may be in the form of compensatory time off if the employee and the agency agree.

(iii) Assigned, actual work on a holiday shall be considered as work in excess of one hundred seventy-one hours.

(5) Exceptions work period employees are not required to be compensated beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.

(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed one and one-half times the employee's regular rate of pay. As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.

(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed one hundred seventy-four hours.

(c) Employees must be allowed, and may be required, to use all exchange time in excess of eighty hours prior to each April 1 and October 1, or other semiannual dates fixed by an agency and made known to its employees and the director of personnel by that agency's director. As an exception to the above, the director of personnel may establish a single annual date based on the special needs of the requesting agency. Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

(d) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.

(e) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state

service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.

(6) Overtime shall be compensated in accord with the provisions of WAC 356-14-230 through 356-14-265.

(7) Part time employees whose positions are in job classes designated as scheduled, nonscheduled, or law enforcement shall receive overtime compensation for work which meets subsection (1)(b) or (c) of this section.

NEW SECTION

WAC 356-15-035 DUAL EMPLOYMENT. An employee in a merit system position may accept simultaneous employment in a different position only if the hours of work do not overlap; and all merit system employers know and agree to the other employment; and one of the following three conditions applies.

(1) Regular dual employment—Related employers. The dual employment occurs on a regular basis either within merit system agencies, or among employers who use the employee on a project which is shared by a merit system employer of that person.

If the majority of work done in all such positions is covered by the overtime provisions of the Fair Labor Standards Act, then all work in all such positions is subject to the Fair Labor Standards Act, even though an entire position might otherwise have been exempt.

Overtime responsibility for FLSA-covered dual employment:

(a) Each state merit system agency shall calculate and pay any overtime earned on its own position, using the regular rate as defined in WAC 356-05-353.

(b) In addition, each agency shall determine the number of hours actually worked each week by the employee on all dual employment positions. If the total of all hours worked exceeds forty, then dual employment overtime must be calculated.

(c) Dual employment overtime is calculated for the combination of positions as follows:

(i) Add together for the pay period: Straight-time pay for all hours actually worked, shift premium, assignment pay, standby pay, the cost of employees' personal expenses such as meals, if these are for the employees' own benefit and not for the benefit of the employer. Do not include: The extra half-time pay which would be part of a normal time-and-one-half calculation; pay for holidays not worked or any other hours which were not actually worked; penalty payments such as call back, which are not based on the number of hours worked; per diem or other expense reimbursement; discretionary bonuses such as suggestion awards, group incentive awards authorized by RCW 41.60.120.

(ii) Divide this straight-time pay for all hours worked by the total number of hours actually worked within the pay period or work period. (Do not include standby

hours as hours worked.) The result is the "dual employment hourly rate."

(iii) Add one-half of the "dual employment hourly rate" for all hours actually worked in excess of forty in any workweek to the total straight-time pay. If the total is greater than all the normal merit system straight-time and premium payments due from the individual employing agencies, then the excess must be paid as "dual employment overtime pay."

(iv) If all employers of a shared employee reach an agreement which assures full payment for each instance of dual employment overtime, they may share the cost according to their agreement. Otherwise, each employing agency shall pay the same proportion of "dual employment overtime pay" as its proportion of the total straight-time pay. Nothing in chapter 356-15 WAC is intended to lessen an agency's right to share part of an employee's services with another agency on an interagency reimbursement basis.

(2) Irregular dual employment—Same capacity or employer caused. A person is employed in any status in one merit system agency, and is also occasionally or sporadically employed in the same job class or capacity in the same or different merit system agency, or is obligated by one merit system position to be employed in another.

Overtime responsibility: Overtime is payable under the provisions of subsection (1) of this section.

(3) Unrelated occasional or sporadic dual employment. An employee in one merit system position is occasionally or sporadically (not regularly) employed in a second position in the same or a different agency and the following conditions are true.

(a) Employment in the second position is solely at the option of the employee.

(b) The occasional or sporadic employment is in a different capacity than the regular employment.

Overtime responsibility: Any overtime earned by the employee shall be the exclusive responsibility of the agency in which the overtime occurs. Time worked in the occasional or sporadic position shall not be combined with time worked in any other position for the purpose of calculating overtime.

AMENDATORY SECTION (Amending Order 238, filed 11/18/85)

WAC 356-15-050 HOLIDAY COMPENSATION. (1) All full-time employees shall be compensated for the days that are designated as holidays, except Sundays, as listed in WAC 356-18-020 and 356-18-030 (2), (3) and (4) at a straight-time rate even though they do not work. In addition:

(a) Scheduled and nonscheduled work period employees shall be compensated for the hours actually worked on a holiday at a time-and-one-half rate.

(b) Exception work period employees, while not normally compensated additionally for work performed on a holiday, may be compensated for the hours actually worked on a holiday at a rate not to exceed time-and-one-half, when their appointing authority deems it appropriate.

(2) ~~((Compensation for hours actually worked shall be in cash, compensatory time, or exchange time as indicated in WAC 356-15-030 (4) and (5).))~~

~~(3))~~ Part-time employees shall be compensated for holidays in ~~((accordance))~~ accord with WAC 356-18-030 ~~((5))~~ (7).

AMENDATORY SECTION (Amending Order 242, filed 2/24/86)

WAC 356-15-060 SHIFT PREMIUM PROVISIONS AND COMPENSATION. (1) For purposes of this section, night shift and evening shift are defined as work shifts of eight or more hours which start by 3 a.m. or end at or after 10 p.m. respectively.

(2) Employees are entitled to shift premium in the amount specified in WAC 356-15-061 under the following circumstances only:

(a) Scheduled standard work period employees:

(i) For their scheduled hours which extend before 6 a.m. or after 6 p.m.

(ii) For all hours on their scheduled evening and/or night shift.

(iii) For all additional compensated hours worked by employees whose work schedules consist entirely of evening and/or night shifts.

(b) Scheduled alternate, unlisted, nonscheduled, exceptions, and law enforcement work period employees:

(i) For conditions mentioned in (a) of this subsection, shift premium is payable.

(ii) Employees who are scheduled to work at least one, but not all, night or evening shifts each week, are entitled to shift premium for those scheduled evening or night shifts, and for all adjoining hours which are worked and compensated.

(c) Part-time employees:

(i) For all assigned hours of work after 6 p.m. and before 6 a.m.

(ii) For assigned full night or evening shifts, as defined in subsection (1) of this section.

(d) Intermittent and temporary employees are entitled to shift premium depending on whether their assignment fits into the part-time category ((c) of this subsection) or into one of the full-time categories ((a) or (b) of this subsection).

(3) Monthly shift premium rates: In cases where shift premium hours are regularly scheduled over a year, agencies may pay shift premium at a monthly rate which is equal for all months of the year. Such monthly rates shall be calculated by dividing twelve into the amount of shift premium an employee would earn in a year if the hourly rules in subsection (1) of this section were applied. This option is granted to simplify bookkeeping and is not authorized to establish shift premium rates higher or lower than those set by the board.

(4) Shift premium and overtime: When an employee is compensated for working overtime during hours for which shift premium is authorized in subsection (2)(a) through (c) of this section, the overtime rate shall be calculated ~~((on the combined basic salary and shift premium rate))~~ using the "regular rate" as defined in WAC 356-05-353.

(5) Payment during leave periods: Employees eligible for shift premium for all or part of their regular shifts will receive the same proportion of shift premium for authorized periods of paid leave, i.e., vacation leave, sick leave, military leave, holiday leave, etc.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-15-080 STANDBY ~~((PROVISIONS AND))~~ COMPENSATION. (1) Requirements:

(a) An employee is in standby status when ~~((she/he is required to put in time (outside her/his normal working hours) during which))~~ not being paid for time actually worked and both of the following conditions exist:

(i) ~~((She/he is required by her/his agency to remain in a specified duty station or predetermined location during specified hours.))~~ The employee is required to be present at a specified location. The location may be the employee's home or other specific location, but not a work site away from home. When the standby location is the employee's home, and the home is on the same state property where the employee works, the home is not considered a work site.

(ii) ~~((She/he is required by her/his))~~ The agency requires the employee to be prepared to ((do full time)) report immediately for work if the need arises, although the need ((for her/him to work)) might not arise.

NOTE: ~~((Standing by must include restriction to a specific location.))~~ When the nature of a duty station confines an employee during ~~((her/his))~~ off duty hours (e.g., a ship), and that ~~((duty station))~~ confinement is a normal condition of work in the employee's position, standby compensation is not required merely because the employee is confined.

(b) An agency may issue a written policy stating that an employee is in standby status ~~((b) (outside her/his normal working hours))~~ when not being paid for time worked while required to leave a telephone number with the agency or remain in communication with a dispatching authority to respond to a call to begin work in a specified time limit.

(c) Standby status ((b)) shall not be ((considered time worked for any employee)) concurrent with work time.

(2) Payment: Any scheduled or nonscheduled work period employee required ~~((by her/his agency))~~ to stand by shall be paid the hourly standby rate as shown in the ~~((standby pay schedule))~~ state compensation plan. Standby pay may be authorized by an agency for exceptions work period employees ~~((if the appointing authority deems it appropriate)).~~ ~~((For))~~ Exceptions work period employee((s)) standby may be compensated ((for by the use of)) with compensatory time. ((This)) The compensatory time shall be equal in ((an)) base salary to the dollar amount ((equivalent to the proportion of the hourly salary schedule salary that the hourly standby pay schedule salary represents. Overtime pay and standby pay shall not be paid for the same hours. Shift differential premium and standby pay shall not be paid for the same hours.

~~(3) In cases where standby hours are scheduled over a number of months, agencies may pay standby pay at a monthly rate which is equal for all months in which an employee stands by. Such monthly rates shall be calculated by dividing the number of months containing standby time into the total amount of standby pay the employee would earn during those months if the hourly standby pay schedule identified in subsection (2) of this rule was applied. This option is granted to simplify bookkeeping and is not authorization to establish standby rates higher or lower than those set by the personnel board) of standby pay earned.~~

AMENDATORY SECTION (Amending Order 191, filed 8/31/83)

WAC 356-15-090 SCHEDULE(~~/SHFT~~) CHANGE (~~(PROVISIONS)~~) AND COMPENSATION. (~~The appointing authority shall schedule the working days/hours of their scheduled work period employees.~~)

(1) The appointing authority shall schedule the working days and hours of scheduled work period employees. This schedule shall remain in effect for at least seven calendar days, and may (~~only~~) be changed only with seven or more calendar days notice. If seven calendar days notice is not given, a new schedule does not exist until the notice period expires. Agencies may notify employees of more than one future schedule change in a single notice.

The seven calendar days notice of changes in working days and/or hours must be given to the affected employees during their scheduled working hours. The day that notification is given shall constitute a day of notice.

(2) If the appointing authority changes (~~(employees')~~) the assigned (~~(days')~~) hours or days of scheduled work period employees without giving them at least seven days notice of the change, employees will be paid for all time worked outside the scheduled (~~(days')~~) hours or days at the overtime rate for the duration of the notice period.

(a) When changes in employees' assigned (~~(days')~~) hours or days are made without proper notice, employees may work their scheduled (~~(days')~~) hours or days unless the appointing authority deems that:

(i) The employees are unable to perform satisfactorily as the result of excessive overtime hours; or

(ii) The work which normally would have been performed within the scheduled (~~(days')~~) hours or days cannot be performed.

(b) The state is not obligated to pay for those scheduled (~~(days')~~) hours or days not worked, unless the employee is on an authorized leave of absence with pay.

(c) Overtime pay and (~~(schedule')~~) shift or schedule change pay shall not be paid for the same incident.

~~(3) ((The transition period for necessary schedule changes from one scheduled standard work period to another scheduled standard work period shall be considered and filed as a scheduled alternate work period in accordance with WAC 356-15-020 (1)(b) except that:~~

~~(a) Transitioning employees may receive the overtime rate for all hours worked in the month which exceed the number of scheduled hours of Monday through Friday~~

~~counterpart employees during the month of the transition; or~~

~~(b) Transitioning employees may receive the overtime rate of pay for those shifts actually worked that would be the sixth and/or seventh scheduled shift in the previous work week if the employee is not scheduled to have two consecutive days off.~~

~~The new scheduled standard work period and work day shall be identified and begin during the schedule transition period:~~

~~(4)) Contingency scheduling is allowed for ((those)) employees in scheduled work period positions having the following responsibilities: Highway snow, ice and avalanche control, grain inspection, horticulture inspection, and in the department of natural resources, forest fire suppression, "hoot owl," forest fuels management and aerial applications.~~

~~Therefore, for ((those)) employees in scheduled work period positions, the appointing authority shall not be bound by the above scheduled shift change notice requirement, if the appointing authority notifies affected employees of the contingency schedule in writing when they enter the position or not less than 30 days prior to implementation.~~

~~When conditions mandate the activating of the contingency schedule, the appointing authority shall pay affected employees the overtime rate for all hours worked outside the original schedule at least for the employee's first shift of the contingency schedule and for other overtime hours covered by subsection (4) of this section.~~

(4) When a scheduled or nonscheduled work period employee experiences a schedule change (within or between agencies) which causes an overlap in workweeks and requires work in excess of forty hours in either the old or the new workweek, the employee must receive overtime compensation at least equal to the amount resulting from the following calculation:

(a) Starting at the beginning of the "old" workweek, count all hours actually worked before the end of that workweek, and calculate the straight-time pay and the overtime pay (based on "regular rate" as defined in WAC 356-05-353).

(b) Starting at the conclusion of the "new" workweek, count back to include all hours actually worked since the beginning of that workweek, and calculate the straight time and overtime (based on "regular rate" as defined in WAC 356-05-353).

(c) Pay the larger amount calculated under (a) and (b) of this subsection. If any other combination of straight-time and time-and-one-half-rate pay required by these rules results in an amount of pay, for either workweek, which is greater than the amount calculated in (c) of this subsection, then no additional payment is due.

(5) If overtime is incurred as a result of employee movement between state agencies, the overtime will be borne by the receiving agency.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-18-010 HOURS OF WORK.

WSR 86-09-057
EMERGENCY RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 246—Filed April 16, 1986]

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 alignment of the merit system rules to conform to Fair Labor Standards Act requirements.

We, the State Personnel Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the U.S. Department of Labor has established a date of April 16, 1986, for the state of Washington to be in compliance with the Fair Labor Standards Act (FLSA). The rule changes implement the provisions of FLSA.

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

This rule is promulgated pursuant to RCW 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of the Fair Labor Standards Act and Code of Federal Regulations, Chapter 29, parts 500-900.

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

APPROVED AND ADOPTED April 10, 1986.

By Leonard Nord
Secretary

NEW SECTION

WAC 356-05-231 OVERTIME RATE. *The sum of the basic salary for each hour of overtime worked, and all other payments authorized for each hour of overtime worked, and one-half of the regular rate (WAC 356-05-353) for each hour of overtime worked.*

NEW SECTION

WAC 356-05-237 PAY PERIOD. *The first through the fifteenth day of each month, and the sixteenth through the last day of each month. (RCW 42.16.010)*

AMENDATORY SECTION (Amending Order 98, filed 1/13/77, effective 2/13/77)

WAC 356-15-040 ((OVERTIME COMPENSATION FOR)) TRAVEL TIME. *((Overtime compensation shall not be paid for travel time outside an*

employee's normal working hours except where such travel time, or a portion thereof, is considered to be time worked. If such travel time is scheduled at the convenience of the employee, overtime compensation shall not be paid.)) Travel time shall be considered as time worked when:

(1) It occurs during the employee's normal hours of work and is from one work site to another, or

(2) The employee has a regularly assigned work site, and the travel is to carry out a work assignment at a different location than the regularly assigned work site, to the extent that it exceeds normal home-to-work travel time, is outside of normal working hours, and does not exceed the shortest reasonable means for the employee to reach and return from the location.

NEW SECTION

WAC 356-15-085 HOURS OF WORK. *Requirements regarding working hours shall be specified for all employees by each agency but shall not result in full time employment being compensated for less than forty hours per week.*

AMENDATORY SECTION (Amending Order 242, filed 2/24/86)

WAC 356-15-100 CALL-BACK ((PROVISIONS AND COMPENSATION)) FOR WORK PRECEDING OR FOLLOWING A SCHEDULED WORK-SHIFT. *(1) Scheduled work period employees shall be notified prior to their scheduled quitting time either to return to work after their workshift ends or to change the starting time of their next scheduled workshift.*

(a) ((Failure to give)) Lack of such notice for such work shall be considered call-back and shall result in a penalty of three hours of pay at the ((straight time rate for two hours at one and one-half times the regular rate of pay)) basic salary in addition to all other compensation due. This penalty shall apply to each call.

(b) The appointing authority may cancel a call-back notification to work extra hours at any time but cancellation shall not waive the penalty cited in this subsection.

(c) These provisions shall not apply to the mid-shift interval in a split shift and an employee called back while in standby status.

(2) Nonscheduled, exceptions, and law enforcement work period employees are not normally paid for call-back. However, if the appointing authority deems it appropriate, those employees may receive compensation, not to exceed the penalty cited above, for call-back.

AMENDATORY SECTION (Amending Order 206, filed 6/6/84)

WAC 356-15-110 CALL-BACK ((PROVISIONS AND COMPENSATION)) FOR WORK ON SCHEDULED DAYS OFF OR HOLIDAYS. *(1) Management may assign employees to work on a day off or holiday. Scheduled and nonscheduled work period employees shall be notified of such assignments at least prior to the employees' normal quitting times on their second work day preceding the day off or holiday (except Sunday when it is within the assigned workshift).*

(a) If management ((fails to)) does not give such notice, affected employees shall receive a penalty payment of three hours pay at ((their straight time rate (or two hours at one and one-half times the regular rate of pay))) the basic salary in addition to all other compensation due them.

(b) Management may cancel work assigned on a day off or holiday. However, if management ((fails to)) does not notify affected employees of such cancellation at least prior to their normal quitting times on their second work day preceding the day off or holiday work assignment, affected employees shall receive a penalty payment of three hours pay at ((their straight time rate (or two hours at one and one-half times the regular rate of pay))) the basic salary.

(2) These provisions shall apply to employees in paid leave status.

(3) These provisions shall not apply to an employee assigned work on a day off or holiday while in standby status or on a contingency schedule as provided in WAC 356-15-090(3).

WSR 86-09-058
ADOPTED RULES
DEPARTMENT OF REVENUE
[Order ET 86-7—Filed April 17, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 458-20-102 Resale certificates.
Amd WAC 458-20-122 Sales of feed, seed, fertilizer and spray materials.
Amd WAC 458-20-135 Extracting natural products.

This action is taken pursuant to Notice No. WSR 86-06-047 filed with the code reviser on March 5, 1986. 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 Revenue as authorized in RCW 82.32.300.

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

APPROVED AND ADOPTED April 17, 1986.
By Matthew J. Coyle
Acting Director

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

WAC 458-20-102 RESALE CERTIFICATES. Except as hereinafter noted, all sales are deemed to be retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, to the effect that the property purchased is:

(1) For resale in the regular course of business without intervening use, or

(2) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or

(3) A chemical to be used in processing an article to be produced for sale. (See WAC 458-20-113.)

When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor. When any resale certificate is found to have been fraudulently tendered to any seller or given under false or knowingly misleading circumstances, any retail sales tax which should have been paid but for the tendering of the certificate, which is assessed against the buyer, will automatically incur an evasion penalty of fifty percent of the tax found to be due.

No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for ((resale)) one of the three purposes set forth above signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:

"I hereby certify that this purchase is for resale without intervening use by me in the regular course of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.
Registration No. Name as Registered Firm Name Address ...
Type of Business
Authorized Signature
Title Date"

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from will be purchased for resale in the regular course of business without intervening use by me, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in

processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.
 Registration No. Name as Registered
 Firm Name Address . . .
 Type of Business
 Authorized Signature
 Title Date"

Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new certificate of registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years. Sellers who have valid blanket resale certificates on file without the additional language required by the March, 1983 amendment to this rule are not required to obtain revised blanket resale certificates except where a purchaser's registration with the department of revenue has been cancelled or revoked, a change occurs in the ownership of a purchaser's business and a new registration is required, or the blanket resale certificate was completed more than four years prior to the effective date of the amendment.

EXCEPTION AS TO NONRESIDENT BUYERS. In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the above form, omitting a registration number, but including a statement to the effect that the articles purchased are for resale by him in his regular course of his business.

EXCEPTION AS TO FARMERS. The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon ~~((his)) their~~ own lands, or upon lands in which ~~((he has)) they have~~ a present right of possession, any agricultural ~~((or horticultural))~~ product ~~((or crop))~~ whatsoever, including ((the raising for sale of any animal, bird or insect or the)) milk, eggs, wool, fur, meat, honey, or other substances obtained ((therefrom. It does not mean a person raising any animal, agricultural or horticultural product primarily for his own use or consumption, nor does it)) from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughterhouse, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.

Farmers ~~((who do not sell at retail))~~ as defined in this rule are not required to register. Sales of feed, seed, fertilizer, and spray materials to farmers ~~((for the purpose~~

~~of producing for sale any agricultural product whatsoever))~~ are sales at wholesale not subject to the retail sales tax. Farmers who purchase livestock for the purpose of fattening and later reselling the same are making purchases at wholesale not subject to the retail sales tax. Upon sales of any such articles to farmers (including farmers operating in other states), the seller should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale at wholesale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.)

PURCHASES FOR DUAL PURPOSE. It may happen that a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the department of revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, if the buyer has not given a resale certificate but has paid tax on all purchases of such articles and subsequently resells at retail a portion thereof, he must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

Such deduction shall be designated as "resale purchases on which tax was paid" and listed under sales tax deductions on the back of the tax return form. Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the tax which was paid. (See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.)

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

✓ WAC 458-20-122 SALES OF FEED, SEED, FERTILIZER AND SPRAY MATERIALS. As used in this ruling:

The word "feed" means a substance used as food for animals ~~((or poultry))~~, birds, fish, or insects, and includes whole and processed grains or mixtures thereof,

hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, cod liver oil, double purpose limestone grit, oyster shell and other similar substances used to sustain or improve livestock or poultry. The word does not include substances which do not contribute directly to a resulting agricultural product, such as peat moss or litter, nor does it include hormones or products which are used as medicines rather than as food.

The word "seed" means propagative portions of plants, commonly used for seeding or planting whether true seeds, bulbs, plants, seedlike fruits, seedlings or tubers.

The word "fertilizer" means a substance which increases the productivity of the soil by adding plant foods or nutrients which improve and stimulate plant growth.

The term "spray materials" means materials in liquid, powder or gaseous form used by agricultural producers as described in RCW 82.04.330 for the purpose of controlling or destroying insects, parasites, vermin, animals, fungi, weeds, pests or plants of a similar nature, deleterious to the growth or conservation of horticultural plants, animals, or products derived therefrom. It includes pesticides as defined in RCW 15.58.030(1). It does not include mechanical devices for the elimination of pests nor does it include materials used for spraying forest trees by commercial timber producers.

The word "farmers" as used in this rule means any persons engaged in the business of growing or producing for sale at wholesale upon their own lands, or upon lands in which they have a present right of possession, any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects. "Farmers" does not mean persons selling such products at retail, persons using such products as ingredients in a manufacturing process, or persons growing or producing such products for their own consumption. It does not mean any person dealing in livestock as an operator of a stockyard, slaughter house, or packing house; nor does it mean any person who is an "extractor" within the meaning of WAC 458-20-135.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of selling feed, seed, fertilizer or spray materials are taxable under either the retailing or wholesaling classification on gross proceeds of sales. ~~((See WAC 458-20-161 for special classification of sales of unprocessed wheat, oats, dry peas, corn or barley.))~~ Sales of feed, seed, fertilizer, and spray materials to farmers as defined herein are taxable under the wholesaling-other classification: PROVIDED, That wholesale sales of certain unprocessed grain and legumes may be taxable at a lower rate under the wholesaling wheat, oats, corn, barley, dry peas, dry beans, lentils, triticale classification (see WAC 458-20-161), even though the sale of such unprocessed grains or legumes is to a farmer for use as feed. Sales of feed, seed, fertilizer, and spray materials to consumers other than farmers are taxable under the retailing classification. Sales of feed for use in the cultivating or raising for sale of fish are taxable under the retailing classification.

Persons engaged in the business of spraying crops for hire are taxable under the service and other business activities classification on the gross income therefrom.

RETAIL SALES TAX

The retail sales tax does not apply upon the sale of feed, seed, fertilizer, and spray materials to farmers as defined herein.

The retail sales tax applies upon the sale of all such articles ~~((, unless sold to a person for resale in the regular course of business, or unless sold to a person for the purpose of commercial production of agricultural products))~~ to consumers other than farmers.

The retail sales tax also applies upon sales of spray materials to persons engaged in the business of spraying crops for hire, unless purchased by such persons for the purpose of resale to others for a price separate and apart from the charge made for the actual spreading of the spray.

The retail sales tax does not apply upon sales of any such articles sold to persons for the purpose of producing for sale any agricultural product whatsoever, including substances obtained from animals, birds or insects.

~~((Thus,))~~ Sales of feed to persons for use in the cultivating or raising for sale of fish entirely within confined rearing areas or the person's own land or on land in which the person has a present right of possession are expressly exempt of retail sales tax.

Sales of feed ~~((, however large the quantity,))~~ are taxable retail sales when sold to a riding club or race track operator, or for the purpose of feeding pets or work animals, or of producing poultry or eggs for home consumption. Likewise, sales of seed, fertilizer and spray materials ~~((, however large the quantity,))~~ are taxable retail sales when sold to persons for the growing or improving of lawns or home gardens, or for any use other than for resale or for commercial production of agricultural products.

The burden of proving that a sale of any of said articles was not a sale at retail is upon the seller, and all sales will be deemed retail sales unless the seller shall take from the purchaser, ~~((be he either))~~ whether a registered dealer or a farmer, a resale certificate in accordance with WAC 458-20-102.

Revised June 1, 1970.

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

✓ WAC 458-20-135 EXTRACTING NATURAL PRODUCTS. ((^a)) The word "extractor" means every person who, from ~~((his))~~ the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes ~~((, cultivates, or raises))~~ fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products ~~((; it)).~~ "Extractor" does not include persons performing under contract the necessary

labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

(1) Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees. It includes other activities necessary and incidental to logging, such as logging road construction, slash burning, slashing, scari-fication, stream cleaning, miscellaneous cleaning, and trail work, where such activities are performed pursuant to a timber harvest operation: PROVIDED, That persons performing such activities must identify in their business records the timber harvest operation of which their work is a part.

(2) Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.

(3) Fishing operations, including the taking of any fish, or the taking, cultivating, or raising ~~((in fresh or salt water,))~~ of ((fish,)) shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them. It does not include cultivating or raising fish entirely within confined rearing areas under RCW 82.04.100.

~~((4) Construction of logging roads on federal or state land in connection with timber contracts, whether as an extractor or extractor for hire.))~~

BUSINESS AND OCCUPATION TAX

EXTRACTING-LOCAL SALES. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification retailing and those who sell such products at wholesale in this state are taxable under the classification wholesaling-all others. Persons taxable under the classification retailing and wholesaling-all others are not taxable under the classification extracting with respect to the extracting of products so sold within this state.

EXTRACTING-INTERSTATE OR FOREIGN SALES. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification extracting upon the value of the products so sold, and are not taxable under retailing or wholesaling-all others in respect to such sales. (See also WAC 458-20-193.)

EXTRACTING-FOR COMMERCIAL USE. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, manufacturing, processing for hire, fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the extracting for hire classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public roads, such persons are also taxable under the motor transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the service classification of the business and occupation tax upon the gross income received from such hauling. (See WAC 458-20-180.)

FOREST EXCISE TAX

In addition to all other taxes, a person engaged in business as a harvester of timber is subject to the forest excise tax levied by chapter 84.33 RCW. The word "harvester" means every person who from ~~((his))~~ the persons own ((privately owned)) land or from the ~~((privately owned))~~ land of another under a right or license granted by lease or contract, either directly or by contracting with ~~((another))~~ others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

See chapter 458-40 WAC for detailed provisions, procedures, and other definitions.

RETAIL SALES TAX

The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244, Food products.

USE TAX

Persons constructing logging roads ~~((on state or federal land in connection with))~~ pursuant to timber ((contracts)) harvest operations are subject to use tax on all materials used in such construction, except for materials on which sales tax was paid at the time of purchase.

WSR 86-09-059

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 17, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning certificates of registration, amending WAC 458-20-101.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 27, 1986.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is RCW 82.32.030, 82.32.210, 82.32.215, 82.32.290 and 82.32.300.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

Dated: April 17, 1986
By: Matthew J. Coyle
Acting Director

STATEMENT OF PURPOSE

Title: WAC 458-20-101 Certificates of registration.

Description of Purpose: To incorporate existing policy positions administered by the Department of Revenue regarding cancellations and reinstatements of tax registration certificates. All amendments are ministerial, housekeeping matters which do not affect any changes of tax liability, deductions, or tax exemptions. The new provisions included in this rule are advisory and informational, for the benefit of tax registrants. They also provide warnings about legal penalties and legal consequences of noncompliance with existing statutory and rule requirements.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.32.030, 82.32.210, 82.32.215, 82.32.290 and 82.32.300.

Reasons Supporting Proposed Action: Tax registrants are entitled to know the express conditions under which registration certificates will be withdrawn or tax accounts closed as well as the statutory penalties, crimes, and other consequences of registration certificate misuse or abuse. This rule requires updating to incorporate the department's administrative positions on such matters based upon existing statutory law and administrative policies. The amendatory provisions are statements of longstanding and consistently applied positions of the department. Because of the strictly ministerial nature of the amendments, no public hearing is necessary or being conducted.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

AMENDATORY SECTION (Amending Order ET 83-15, filed 3/15/83)

WAC 458-20-101 CERTIFICATES OF REGISTRATION.

CERTIFICATES OF REGISTRATION

(1) PERSONS REQUIRED TO OBTAIN CERTIFICATES. Every person who is required by law to collect and account for tax, or who shall engage in any business for which a tax is imposed under the Revenue Act, shall, whether taxable or not, apply for and obtain a certificate of registration from the department of revenue upon the payment of \$15.00. A registration certificate is personal and nontransferable and is valid for as long as the taxpayer continues in business.

(2) LEASED DEPARTMENTS. Operators of leased departments or concessions are permitted under certain conditions to include their tax liability on the returns of the lessor, or grantor of the concession, instead

of filing separate returns; nevertheless such operators must apply for and obtain a certificate of registration.

(3) ORIGINAL AND BRANCH CERTIFICATES. Whenever a taxpayer transacts business at two or more separate places in the state, a separate certificate of registration shall be required for each place at which business is transacted. An original certificate shall be obtained for the main office or principal place of business from which returns are to be filed and a branch certificate shall be obtained for each other place of business in this state. Where the taxpayer's principal place of business is outside the state, the original certificate will be issued for such place and a branch certificate for each place of business within this state. No additional fee is required for branch certificates. The term "place of business" means:

((+)) (a) Any separate establishment, office, stand, cigarette vending machine or other fixed location; or

((+)) (b) Any vessel, train, or the like, at any of which the taxpayer solicits or makes sales of tangible personal property or contracts for or renders services in this state or otherwise transacts business with customers.

(4) SEPARATE CERTIFICATE FOR BRANCH. A taxpayer desiring to make a separate return covering a branch location, or for a specific construction contract, may apply for and receive without charge a separate certificate of registration therefor, in addition to ~~((his))~~ the original certificate. Application may be made on Form 2401, or by letter and should show the number of the taxpayer's original certificate, a description of the particular branch or contract for which the separate certificate is to be issued, and the address to which tax return forms shall be forwarded.

(5) USE TAX CERTIFICATE OF REGISTRATION. Out-of-state vendors must register and collect use tax upon all of their sales in this state if any of the following circumstances prevail:

~~((+)) The vendor regularly solicits orders here whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or~~

((+)) (a) The vendor regularly engages in the delivery of property into this state other than by common carrier or United States mail; or

((+)) (b) The vendor regularly engages in any activity in connection with the leasing or servicing of property located within this state; or

(c) The vendor maintains any place of business in this state, even if such place of business is unrelated to sales made here.

Also, all other out-of-state vendors making sales in any manner who elect to collect the use tax from their retail buyers in this state must first apply for and obtain a use tax certificate of registration. See WAC 458-20-193B and 458-20-221. The necessary forms will be furnished on request.

(6) TEMPORARY CERTIFICATE OF REGISTRATION. A temporary certificate of registration may be issued to any person who operates a business of a temporary nature, such as operators of Christmas tree stands, Christmas card ~~((salesmen))~~ sales, and operators of fireworks stands. These certificates are issued without charge and may be obtained by making application to any office of the department of revenue. These are not issued to carnivals or to any business which should be issued a regular certificate of registration due to the scope or extent of the business activity.

(7) DISPLAY OF CERTIFICATE. The taxpayer is required to display the certificate of registration in a conspicuous place at the business location for which it is issued.

(8) CHANGE IN OWNERSHIP. Whenever there is a change in ownership of a business, the certificate of registration previously issued to the withdrawing owner, or owners, must be surrendered to the department for cancellation. The new owner shall apply for and obtain a new certificate of registration upon the payment of the registration fee.

(9) A "change in ownership" for purposes of registration occurs upon the sale of a business by one individual, firm or corporation to another individual, firm or corporation; upon the dissolution and winding up of a partnership; upon incorporation of a business previously operated as a partnership or sole proprietorship; or upon changing from a corporation to a partnership or sole proprietorship.

(10) For the purposes of this rule the withdrawal of one or more partners or the substitution or addition of one or more partners will not be considered as a "change in ownership" where the partnership continues as a business organization. In such cases the partnership, upon notifying the department in writing of its reorganization, may continue operation under the certificate of registration previously issued.

(11) No "change in ownership" occurs upon the transfer of assets to an assignee for the benefit of creditors or upon the appointment of a

receiver or trustee in bankruptcy. Furthermore, no "change in ownership" occurs upon the death of a sole proprietor in those cases where there will be a continuous operation of the business by the executor, administrator, or trustee of ((his)) the estate or, where the business was owned by a marital community, by the surviving spouse of the deceased owner.

(12) CHANGE IN LOCATION OR NAME. Whenever the place of business is moved to a new location, or the name under which business is conducted is changed, without change in ownership, the taxpayer must notify the department in writing of such change. New certificates will be issued upon request, and without charge.

(13) LOST CERTIFICATES. If any certificate of registration is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new certificate will be issued to the taxpayer free of charge upon request.

(14) REVOKING AND REINSTATING CERTIFICATES OF REGISTRATION. The department of revenue may, by order, revoke a certificate of registration ((for the following reasons:

(+)) if any tax warrant issued under the provisions of RCW 82.32-.210 is not paid within thirty days after it has been filed with the clerk of the superior court(;) or for any other reason expressly provided by law. Actions to revoke registrations are contested cases which must be conducted by the department pursuant to the provisions of the Administrative Procedure Act and the Uniform Procedural Rules of chapter 458-08 WAC.

((2) If any taxpayer is delinquent for three consecutive periods in reporting and paying retail sales tax collected by him:))

(15) The revocation order will be posted in a conspicuous place at the main entrance to the taxpayer's place of business and must remain posted until the certificate has been reinstated. A revoked certificate will not be reinstated until:

(a) The amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department; and

(b) The taxpayer has posted with the department a bond or other security in an amount not exceeding one half the estimated average annual liability of the taxpayer. It is unlawful for any taxpayer to engage in business after ((his)) its certificate of registration has been revoked.

(16) CLOSURE OF TAXPAYER ACCOUNTS. Whenever a taxpayer has submitted tax returns for two consecutive years reporting no gross income and tax liability, the department of revenue may, at its discretion, notify the taxpayer in writing that it has closed the taxpayer's account and rescinded its certificate of registration. Within thirty days of receiving the notice of closure of the account any taxpayer may request that the department keep the account active. The taxpayer's request must be in writing and must state the reasons why the account should remain active. The following are acceptable reasons for remaining an active taxpayer account:

(a) The taxpayer is or will be engaging in business activities in Washington which may result in tax liability.

(b) The taxpayer presently engages in any one of the following businesses or activities: Timber, forestry, commercial fishing, construction, banking, real estate, insurance, financial investment, educational services, museum, art gallery, membership organization, public administration, banking, agricultural credit union, credit union, or mortgage brokers.

(c) The taxpayer has in fact been liable for excise taxes during the previous two years.

(17) A taxpayer who responds with a request to remain active within thirty days of the department's notification of closure will have that request reviewed by the department and, if found to be warranted, will have its account immediately reopened. In addition, a taxpayer whose account has been closed by the department of revenue shall, upon written request and under the same guidelines as set forth above, have the account reopened any time within two years from the date of notification without liability for payment of a new registration fee. After review no taxpayer shall have its account closed without first receiving written notification from the department of revenue.

(18) PENALTIES FOR NONCOMPLIANCE. The law provides that it shall be unlawful for any person to engage in any taxable business without having obtained a certificate of registration ((or)). To do so constitutes a gross misdemeanor. To engage in business after ((such)) a certificate of registration shall have been revoked by the department constitutes a Class C felony. ((Any person violating this provision shall be guilty of a gross misdemeanor and punishable in the manner provided by law.

~~Where a certificate of registration has been revoked by the department for failure to pay any warrant issued against the taxpayer, the law also provides that his certificate shall not be reinstated or a new certificate issued until the taxpayer has made satisfactory arrangements for the payment of the warrant and, in addition, has deposited with the department a bond guaranteeing the payment of his tax liability which will accrue in the future:)) Also, any tax found to have been due but unreported by any person when that person has knowingly engaged in business in this state without a certificate of registration shall automatically incur a tax evasion penalty of fifty percent of the amount found to have been due.~~

WSR 86-09-060
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—April 10, 1986]

Pierce College, being a state institution of higher education, hereby complies with the Washington Open Public Meetings Act (chapter 42.30 RCW) with regard to advertising the meeting schedule of the Services and Activities Fees (Budget) Committee meetings. Upon the advice of the AGO 1983 1, reference RCW 28B.15.045(4), meetings for the 1986-87 budget process are listed below:

Dates—Spring Quarter	Location	Time
April 14	Pierce College	2-4:00 p.m.
April 15	Dining Bay C—Student Center	
April 16	9401 Farwest Drive S.W.	
April 17	Tacoma, Washington 98498	
April 18		
April 22		
April 23		
April 28		
April 29		
April 30		
May 1		
May 2		

WSR 86-09-061
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—April 15, 1986]

Pierce College, being a state institution of higher education, hereby complies with the Washington Open Public Meetings Act (chapter 42.30 RCW) with regard to advertising the meeting schedule of the associated students of Pierce College senate meetings. Upon the advice of the AGO 1983 1, reference RCW 28B.15.045(4), meetings for spring quarter 1986 are listed below:

Dates—Spring Quarter	Location	Time
April 18	Pierce College	3:00 p.m.
April 25	Room (TBA)	
May 2	9401 Farwest Drive S.W.	
May 9	Tacoma, Washington 98498	
May 16		
May 23		
May 30		
June 6		
June 13		

WSR 86-09-062
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY
 [Memorandum—April 15, 1986]

The regular meeting of the Central Washington University board of trustees previously scheduled for Friday, June 20, 1986, will be held Monday, June 23, 1986, at 2:00 p.m., Bouillon Hall, Room 143 on the Central Washington University campus.

WSR 86-09-063
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
 [EO 86-02]

AMENDING EXECUTIVE ORDER 85-08
RELATING TO THE ESTABLISHING OF THE
FIRE PROTECTION SERVICES IN THE
DEPARTMENT OF COMMUNITY
DEVELOPMENT

Executive Order 86-08 [85-08] established the executive intent for implementation of Chapter 470, Laws of 1985.

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, by virtue of the power vested in me, do hereby declare that:

Executive Order 86-08 [85-08] will continue in effect until April 4, 1986. This extension is to allow for review by me of SHB 1709, passed by the Legislature, which establishes the Fire Protection Services within the Department of Community Development.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 2nd day of April, A.D., nineteen hundred and eighty-six.

Booth Gardner

 Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

 Acting Deputy Secretary of State

WSR 86-09-064
ADOPTED RULES
COUNCIL ON HEARING AIDS
 [Order PL 586—Filed April 17, 1986]

Be it resolved by the Washington State Council on Hearing Aids, acting at Seattle, Washington, that it

does adopt the annexed rules relating to the fitting and dispensing of hearing aids:

Amd	WAC 308-50-330	Purchaser recision rights.
Rep	WAC 308-50-230	Unfair or deceptive practices, unethical conduct and unfair methods of competition—Misrepresenting business establishments.
New	WAC 308-50-420	Reasonable cause for recision.
New	WAC 308-50-430	Procedure for declaratory ruling.

This action is taken pursuant to Notice No. WSR 86-05-034 filed with the code reviser on February 19, 1986. 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 18.35.161 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 11, 1986.

By Thomas S. Rees, Ph.D.
 Chairman

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

✓WAC 308-50-330 PURCHASER RECISION 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 notice((s)) to buyer in ten point boldface type or larger on the front page in reasonable proximity to the purchaser signature line.

The notice of additional rights must be made known to the purchaser before the contract is executed. Such knowledge shall be demonstrated by the signature of the purchaser following a statement of those "additional rights" or following a statement on the face of the contract that the purchaser has been advised and is aware of the "additional rights." The "additional rights" must be provided in writing to the purchaser by the licensee and be in ten point boldface type or larger.

((^A))NOTICE TO BUYER((:))

((^A))(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.

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

((^A))(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 ((^A))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.

~~((^A))~~ ADDITIONAL RIGHTS

~~((^A))~~ 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, ~~((:))~~ ~~((^A+))~~ ~~You consult a licensed physician and such licensed physician advises you against the purchase or use of a hearing aid and specifies in writing the medical reason for such advice.~~ ~~))~~ for reasonable cause, ~~((^A(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.

~~((^A))~~ 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 postmarked 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))~~.

~~((^A))~~ You, the buyer, shall incur no additional liability for such cancellation. ~~((^A))~~ 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.

NEW SECTION

WAC 308-50-420 REASONABLE CAUSE FOR RESCISION. The purchaser of the hearing aid(s) may rescind the purchase and recover monies in accordance with RCW 18.35.190(3) for reasonable cause. The term "reasonable cause" is defined to include the following:

(1) Any material misstatement of fact or misrepresentation by the licensee regarding the hearing aid(s) or fitting and dispensing services to be provided which the purchaser relied on or which induced the purchaser into making the agreement;

(2) Failure by the licensee to provide the purchaser with the hearing aid(s) and fitting and dispensing services which conform to those specified in the purchase agreement between the parties;

(3) Diagnosis of a medical condition unknown to the purchaser at the time of purchase, which precludes the purchaser from using the hearing aid(s);

(4) Failure by the licensee to remedy a significant material defect of the hearing aid(s) within a reasonable period of time in accordance with RCW 18.35.190(3)(c);

(5) The hearing aid(s) and/or fitting and dispensing services would not be in accordance with accepted practices of the industry; and

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

NEW SECTION

WAC 308-50-430 PROCEDURE FOR DECLARATORY RULING. (1) In accord with RCW 34.04.080, on petition of any interested person, the Council may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it.

(2) Such interested person shall submit the petition for declaratory ruling in written form to the Council's departmental staff.

(3) The petition shall set forth, at a minimum, the following:

(a) The name of the person(s) seeking the ruling,

(b) The person's or persons' interest in the subject matter of the petition,

(c) The rule or statute at issue,

(d) A concise statement of the facts at issue, and

(e) A statement by the petitioner that he or she understands that he or she waives any possible objections to the Council's fitness to hear the same matter as a disciplinary case should the Council decline to issue a declaratory ruling or should the Council issue a ruling contrary to the petitioner(s) argument and the facts otherwise warrant prosecution.

(4) The Council shall make the preliminary decision whether or not to accept the petition at the first meeting subsequent to the department's receipt of the request or as soon thereafter as reasonably possible.

(5) If the Council accepts the petition, the matter may be referred to committee, but shall ultimately be decided by a quorum of the Council.

(6) The party or parties to the petition may request leave to present argument which may or may not be heard at the discretion of the Council.

(7) The ruling shall be binding, pursuant to RCW 34.04.080, if issued after argument and stated to be binding between the Council and the petitioner.

REPEALER

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

WAC 308-50-230 UNFAIR OR DECEPTIVE PRACTICES, UNETHICAL CONDUCT AND UNFAIR METHODS OF COMPETITION—MISREPRESENTING BUSINESS ESTABLISHMENTS.

WSR 86-09-065**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 17, 1986]

April 23, 1986
 Wednesday, 7:00 p.m.
 Board of Trustees Meeting
 Lynnwood Hall, Room 424

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 86-09-066**EMERGENCY RULES
DEPARTMENT OF RETIREMENT SYSTEMS**

[Order III—Filed April 17, 1986]

I, Robert L. Hollister, Jr., director of the Department of Retirement Systems, do promulgate and adopt at Olympia, Washington, the annexed rules relating to this notice proposes to add a section to chapter 415-108 WAC entitled Public Employees Retirement Board. The purpose of this rule is to implement the provisions of RCW 41.40.120(17) relating to city managers, enacted in the 1986 session.

I, Robert L. Hollister, Jr., 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 legislature passed SSB 3182 containing, in part, the provisions which are the subject of this WAC. SSB 3182 contained an emergency clause. I have to administer it immediately and need the WAC to establish the administrative procedures.

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

This rule is promulgated pursuant to RCW 41.40.120(17) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 17, 1986.

By Robert L. Hollister, Jr.
 Director

NEW SECTION

WAC 415-108-500 PUBLIC EMPLOYEES RETIREMENT BOARD The purpose of the WAC is to implement the provisions of RCW 41.40.120(17) relating to city managers.

Effective immediately and until December 31, 1986
 any current member described in RCW 41.40.120(17)

may, at his/her option, elect to withdraw from membership in the retirement system provided by chapter 41.40 RCW. Such election is to be made in writing on a form provided for that purpose by the department. Persons making this election will be refunded the contributions and related interest which were credited while in their current position. The effect of such a withdrawal will be to terminate and cancel the service credit acquired while in that position. Such action is final and no service credit may ever be obtained in the future for that period cancelled.

Effective immediately any person described in RCW 41.40.120(17) who is employed in one of the positions described shall not become a member of the system provided by chapter 41.40 RCW unless within thirty (30) days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

WSR 86-09-067**PROPOSED RULES****DEPARTMENT OF RETIREMENT SYSTEMS**

[Filed April 17, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Retirement Systems intends to adopt, amend, or repeal rules concerning this notice proposes to add a section to chapter 415-108 WAC entitled Public Employees Retirement Board. The purpose of this rule is to implement the provisions of RCW 41.40.120(17) relating to city managers;

that the agency will at 11:00 a.m., Tuesday, May 27, 1986, in the Board Room, Department of Retirement Systems, 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 41.40.120(17).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

Dated: April 17, 1986

By: Robert L. Hollister, Jr.
 Director

STATEMENT OF PURPOSE

Title and Number of Rule Section: Chapter 415-108 WAC, Public Employees Retirement Board (adding a new section).

Statutory Authority: RCW 41.40.120(17).

Summary of Rule: Deals with the eligibility for retirement membership of city managers.

Description of the Purpose of the Rule: To implement the provisions of RCW 41.40.120(17) relating to city managers enacted in the 1986 session.

Reasons for Supporting the Proposed Rule: It provides a uniform procedure for administering a new law.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Robert L. Hollister, Jr., Director, Department of Retirement Systems, 1025 East Union, Olympia, Washington, (206) 753-5281.

Name of the Governmental Agency Proposing the Rule: Department of Retirement Systems.

The Department of Retirement Systems has no additional comments regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

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.

NEW SECTION

WAC 415-108-500 PUBLIC EMPLOYEES RETIREMENT BOARD The purpose of the WAC is to implement the provisions of RCW 41.40.120(17) relating to city managers.

Effective immediately and until December 31, 1986 any current member described in RCW 41.40.120(17) may, at his/her option, elect to withdraw from membership in the retirement system provided by chapter 41.40 RCW. Such election is to be made in writing on a form provided for that purpose by the department. Persons making this election will be refunded the contributions and related interest which were credited while in their current position. The effect of such a withdrawal will be to terminate and cancel the service credit acquired while in that position. Such action is final and no service credit may ever be obtained in the future for that period cancelled.

Effective immediately any person described in RCW 41.40.120(17) who is employed in one of the positions described shall not become a member of the system provided by chapter 41.40 RCW unless within thirty (30) days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

WSR 86-09-068

EMERGENCY RULES

DEPARTMENT OF NATURAL RESOURCES

[Order 474—Filed April 18, 1986]

I, Brian J. Boyle, Commissioner of Public Lands, Department of Natural Resources, do promulgate and adopt at Olympia, Washington, the annexed rules relating to mineral prospecting leases and mining contracts, chapter 332-16 WAC.

I, Brian J. Boyle, Commissioner of Public Lands, 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 to protect the interests of state trust land beneficiaries, revisions to regulations governing the method of computation of royalty payments are required before existing prospecting leases can be converted to mining contracts.

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

This rule is promulgated pursuant to RCW 79.01.618 which directs that the Department of Natural Resources has authority to implement the provisions of RCW 79.01.616 through 79.01.650.

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

APPROVED AND ADOPTED April 17, 1986.

By Brian J. Boyle
Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 3, filed 2/6/68)

WAC 332-16-270 ROYALTIES — COMPUTATION. Royalties shall be payable to the department for all valuable minerals and specified materials removed from lands subject to the Mineral Leasing Law computed in one of the following ways:

(1) *Established Royalty.* The department may, from time to time, without notice, and at any time that no application for lease or contract is on file in regard to a specific tract of land, adopt a schedule of royalties for specific valuable minerals and specified materials to be collected upon production from such tract of land. All such established royalties shall be published from time to time and a current file shall be kept available in the office of the department in Olympia, Washington. Any valuable minerals or specified materials contained in a specific tract of land for which no schedule of royalties has been adopted shall be subject to a royalty established in accordance with subparagraph 2, below.

(2) *Standard Royalty.* In the absence of a royalty established in accordance with subparagraph 1, above, and unless a different royalty has been adopted under the provisions of WAC 332-16-270(3), royalties shall be payable to the department upon production from lands held under any lease or mining contract on the basis of ((3% of the "gross income from the property from mining," as hereinafter defined in WAC 332-16-280.)):

(a) In the case of valuable minerals or specified materials produced primarily for their metal content, 3% of the net smelter returns. "Net smelter returns" shall mean the amount paid by any smelter, or other purchasers, for the products extracted from the leased premises, with allowance only for the following:

(i) Custom smelting costs and penalties including, but not limited to, metal losses, penalties for impurities and charges for refining, selling and handling by the smelter, or refinery, provided, however, that in the case of leaching operations or other solution mining techniques, where the metal being treated is precipitated or otherwise directly derived from such leach or solution, all processing and recovery costs incurred beyond the point at which the metal being treated is in solution shall be considered as refining charges;

(ii) Costs of handling, transportation and insuring the products from a concentrator, or other processing facility, to a smelter or refinery.

(iii) No allowances will be permitted for mining or milling, or similar beneficiation costs or charges, or for the transportation of ore to a mill or concentrator.

(b) In the case of valuable minerals or specified materials considered to be industrial minerals of value for their physical or chemical properties rather than their metal content, including, but not limited to, sulfur, potash, barite, gypsum, fluor spar, talc, phosphate rock, limestone, and silica and clays used in manufacturing processes produced from the leased premises, 3% of the gross value of the products at the point of sale as determined by the sales value of marketable products as shown by sales receipts.

(c) In the case of valuable minerals or specified materials produced for their uranium content, 3% of the gross value of the uranium oxide contained in the ore, concentrate or precipitate, as determined at the point of sale by the sales receipts.

(d) In cases where the use of the products takes place within a company, a point of sale shall be mutually agreed upon and the value of the products for the purpose of calculating the royalty shall be based upon prices published by the Engineering and Mining Journal in the Markets section, or other prices mutually agreed upon, in writing, by the Lessee and the department.

(3) Negotiated Royalty. If either an established royalty or the standard royalty is unacceptable to a prospective lessee, he may, at the time of making application for a lease or mining contract, submit, in writing, a proposal for the basis for the payment of royalties. The department shall, within 45 days after receipt of such application and proposal, accept or reject the proposed royalty schedule. In the event the proposed royalty schedule is rejected by the department, the department shall enter into negotiations with the prospective lessee in an attempt to reach agreement upon a royalty schedule. In the event agreement is not reached within 60 days after the application is filed, the applicant for a lease or mining contract shall have the option of either (a) adopting the established royalty or the standard royalty, whichever royalty is in effect, or (b) withdrawing his application. If the application is withdrawn, the first year's payment, but not the application fee, shall be refunded forthwith. In the establishment of a negotiated royalty, a royalty schedule may be adopted which provides for (~~payment of not less than 3% of the "gross income from the property from mining," or which provides for~~) computation upon the basis of tonnage or quantity rather than of value, or which provides adjustment of royalty payments until after recoupment of agreed-upon exploration and development costs have occurred, or which provides for any other royalty arrangement which may be proposed and agreed upon.

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 repealed:

(1) WAC 332-16-280 ROYALTIES — GROSS INCOME

WSR 86-09-069

PROPOSED RULES

UTILITIES AND TRANSPORTATION

COMMISSION

[Filed April 18, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to transfer of permit rights, WAC 480-12-050. The proposed amendatory section is shown below as Appendix A, Cause No. TV-1963. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, May 28, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, 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 80.01.040 and 81.80.290.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 23, 1986.

Dated: April 16, 1986

By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 480-12-050 relating to transfer of permit rights.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 81.80.290 which direct that the commission has authority to implement the provisions of chapter 81.80 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to provide for transfer of common or contract carrier permit authority without hearing when the transfer merely changes the business form [from] under which the permittee is conducting operations.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040, 81.80.290 and 81.80.270.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-24, filed 4/16/71)

WAC 480-12-050 TRANSFER OF PERMIT RIGHTS. (1) For purposes of this section applications for transfer of permit rights shall include requests for authority to transfer outstanding common or contract carrier permits or portions thereof, and requests for authority to acquire control of common or contract carriers holding permits through ownership of their stock or through purchase, lease or contract to manage the business, or otherwise, as provided in RCW 81.80.270.

(2) Applications for transfer of permit rights shall be subject to the docketing, hearing, and protest provisions of WAC 480-12-045: PROVIDED, That applications need not be published in the commission's weekly application docket subject to protest, and the commission may grant the requested authority without hearing in the following cases:

(a) Transfers authorized by the proviso of RCW 81.80.270 and transfers authorized by RCW 81.80.272.

(b) ~~((Transfers for the purpose of changing the business organization, where the commission finds that the transfer will result in no change in ownership, management, or control of the carrier operations:))~~ A transfer by an individual to a corporation established to incorporate the transferor's business, where the transferor is the majority stockholder.

(c) A transfer by a partnership to a corporation established to incorporate the partnership business, where the partners are the majority stockholders.

(d) A transfer by a corporation to another corporation where both corporations are wholly owned by the same stockholders.

(3) The transferor (seller) or someone familiar with the details of his business will be required to be present if a hearing is held on the application. The transferee (buyer) is also required to be present at the hearing. In case either of these parties is a corporation, a duly authorized representative familiar with the details of the corporation's business will suffice, as will one of the partners having familiarity with the business of the partnership. Transferee will be required to establish his, or its, fitness, willingness, and ability to conduct operations under the authority sought to be transferred.

(4) (a) If a hearing is held on the application, the permit holder will be required to produce proof that said permit holder was ready, able and willing, and so held himself out to the public to handle the traffic in question within the territory involved.

(b) Bills of lading or other records, as evidence of freight movements, if available, shall be produced by the permit holder and must be segregated by commodity groups and territory. A summary sheet shall be offered in evidence which lists, by commodity groups and territory, each bill of lading or other shipping document by number, date, commodity, weight, point of origin, point of destination, consignor and consignee. The summary sheet shall show whether it contains all shipments or only representative shipments. If representative shipments are shown, the basis for selection shall be explained, and be representative of the traffic handled, throughout the one year test period hereinafter described.

(c) A period of one year immediately prior to the date on which the application was filed shall be examined for evidence of operations. Where effective control of the operations of the permit holder has passed to the transferee prior to the date on which the application was filed, a period of one year immediately prior to the date that effective

control passed to the transferee shall be examined for evidence of operations. Upon a finding that unusual circumstances existed the commission may use a different period, prior to the date the application was filed.

(d) The parties to a transfer may offer, and if offered, the commission shall give consideration to the nature of operating authority, the amount of traffic that is available in the territory in question, the type of equipment the carrier has had in his or its possession and suitability of the equipment for the traffic in question, the extent of active solicitation of such traffic, and the type of solicitation, whether the operation in question is one of regular or irregular route, whether scheduled or nonscheduled, whether the traffic demands employees having special skills and whether the permit holder had such skilled employees, and all other facts and circumstances tending to show whether or not the permit holder was at all times ready, able and willing and so held himself out to the public, to handle such traffic in question within the territory involved.

(e) In the event a cessation of operations occurred during the test year when service would normally be expected, the proposed transfer or acquisition of control will be denied unless the permit holder shows that such cessation was caused by circumstances over which he had no control.

(5) In the case of applications to transfer outstanding permit rights or acquire control of a carrier holding a permit, if any rights in the subject permit are not authorized to be transferred or acquired, the application shall be denied in its entirety unless applicants consent to the elimination from the permit of such rights in writing within 30 days of a final determination of the application. If the application is for transfer of a part only, of a right or rights in a permit, it will be denied if it is found that the partition would create duplicative rights, would divide rights at a point other than along clearly defined geographical or political lines, or permit minute or multiple division of operating rights, or would permit the separation of a commodity or commodities from a class of substantially related commodities or from a commodity classification set forth in Appendix "A" herein, entitled "Classification of brokers, forwarders and motor carriers of property."* The commission will not accept restrictive amendments to applications for the transfer of a permit or a portion thereof nor will it impose restrictive conditions on such a transfer where it is found that the restrictive amendment or conditions requested by the parties would divide rights at a point other than along clearly defined geographical or political lines, or would permit the separation of a commodity or commodities from a class of substantially related commodities or from a commodity classification set forth in Appendix "A" herein entitled "Classification of brokers, forwarders and motor carriers of property."* The commission will not approve the transfer of a permit or a portion thereof where the transferee does not intend to engage in bona fide motor carrier operations under the operating rights or if the transferor acquired the operating rights for the purpose of reselling said permit rights or otherwise trafficking therein for profit. No transfer will be authorized of rights to a transferee where an affiliate of the transferee already has substantially duplicating territorial and commodity rights. Transfers except those involving acquisition of control, will not be authorized until all claims for loss and damage against a transferor are settled or until all C.O.D. collections made by the transferor are remitted. If authorized, transfer will include identification stamps, tariffs, and regulatory fees.

*In the case of the commodity classification "general freight" where such authority was issued prior to May 1, 1944, the commission construes such authority to include all other commodity classifications and will permit the separation of a commodity classification from such general freight authority provided such separation meets the other requirements of subsection (5).

WSR 86-09-070

ADOPTED RULES

CORRECTIONS STANDARDS BOARD

[Resolution No. 86-05—Filed April 18, 1986]

Be it resolved by the Corrections Standards Board, acting at the Tacoma Sheraton Hotel, Tacoma,

Washington, that it does adopt the annexed rules relating to maximum capacities, amending WAC 289-15-225.

This action is taken pursuant to Notice No. WSR 86-05-038 filed with the code reviser on February 19, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.48.050 (1)(a) and 70.48.070 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 11, 1986.

By Robert W. Cote
Executive Secretary

AMENDATORY SECTION (Amending Order 86-04, filed 12/24/85)

✓ WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities

Auburn (22)
Bremerton (23)
Issaquah (~~((6))~~) (10)
Olympia (temporary) (19)
Stevens County (22)

Correctional Facilities

Asotin County (16)
Benton County (109)
Chelan County (132)
Clallam County (102)
Clark County (300)
Cowlitz County (91)
Ferry County (22)
Forks (11)
Franklin County (76)
Grant County (~~((54))~~) (85)
Grays Harbor County (~~((74))~~) (82)
Island County (50)
Jefferson County (~~((18))~~) (20)
Kent (~~((20))~~) (56)
King County (~~((1038))~~) (784)
Kitsap County (103)
Kitsap County Work Release (42)
Kittitas County (45)
Klickitat County (30)
Lewis County (68)
Lincoln County (15)
Mason County (34)
Okanogan County (67)
Pacific County (29)
Pend Oreille County (18)
Pierce County (470)
Skagit County (83)
Skamania County (17)
Snohomish County (116)
Snohomish County Work Release (60)
Spokane County (352)
Thurston County (94)
Walla Walla County (44)
Whatcom County (82)
Whitman County (34)
Yakima County (274)

WSR 86-09-071
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 303—Filed April 18, 1986]

Be it resolved by the State Game Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to amendment to 1986 Washington game fish seasons and catch limits—Definition of wild steelhead release, WAC 232-28-61511.

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 definition change is needed due to the presence of unmarked hatchery-origin steelhead in Columbia and Snake river system waters. The definition change will reinstate the use of the dorsal fin restriction regulation, thereby allowing anglers to harvest hatchery-origin fish not marked by removal of the adipose fin.

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 April 18, 1986.

By Jack S. Wayland
Director

NEW SECTION

WAC 232-28-61511 AMENDMENT TO 1986 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—DEFINITION OF WILD STEELHEAD RELEASE. Notwithstanding the provisions of WAC 232-28-615, the definition of Wild Steelhead Release will read as follows:

WILD STEELHEAD RELEASE

In Puget Sound and Washington coastal tributaries designated as "WILD STEELHEAD RELEASE," only steelhead with missing adipose or ventral fins may be possessed. It is unlawful to possess a steelhead with a freshly cut or mutilated adipose or ventral fin.

In Columbia River and Snake River system waters designated as "WILD STEELHEAD RELEASE," 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. It is unlawful to possess a steelhead with a freshly cut or mutilated dorsal, ventral or adipose fin.

WSR 86-09-072
ADOPTED RULES
HORSE RACING COMMISSION
 [Order 86-02—Filed April 21, 1986]

Be it resolved by the Washington Horse Racing Commission, acting at the Hyatt House, 17001 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to:

- Amd WAC 260-36-020 Relating to licenses of jockeys et al.
- Amd WAC 260-36-030 Relating to veterinarians et al.
- Amd WAC 260-36-040 Relating to registration of personnel et al.
- Amd WAC 260-36-080 Relating to direction of licenses.
- Amd WAC 260-40-100 Relating to performance records.
- Amd WAC 260-70-010 Relating to definitions in chapter 260-70 WAC.
- New WAC 260-48-035 Relating to payoffs on minus pools.

This action is taken pursuant to Notice No. WSR 86-04-042 filed with the code reviser on January 31, 1986. 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 67.16.020 and 67.16.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 1, 1986.

By Billy Aliment
 Executive Secretary
 for Barbara Black
 Chairperson

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

✓ WAC 260-36-020 **LICENSES REQUIRED OF JOCKEYS, APPRENTICES, OWNERS, TRAINERS.** All jockeys and apprentice jockeys must first secure occupational license before accepting a mount; no trial ride will be permitted without such occupational license, except as provided in WAC 260-32-020(1). Each owner and trainer must secure occupational license before entering a horse and the racing secretary shall be required to secure such occupational license number of owner and trainer making such entry. The ~~((annual))~~ license fee for jockeys, apprentices, owners, and trainers shall be ~~(((\$14.00))~~ for three years and shall be \$45.00.

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

✓ WAC 260-36-030 **VETERINARIANS, PLATERS, AND DENTISTS—LICENSE REQUIRED—INELIGIBLE AS TRAINERS.** The license fee for veterinarians, platers and dentists shall ~~((pay an annual occupational license fee of \$14.00, and))~~ be for three years and shall be \$45.00. They must be approved by the commission before practicing their professions on the

grounds of an association. They shall not be eligible to hold a license to train horses while holding said occupational license.

AMENDATORY SECTION (Amending Order 82-05, filed 6/25/82)

✓ WAC 260-36-040 **REGISTRATION OF PERSONNEL OTHER THAN OWNERS, TRAINERS AND JOCKEYS—FEE.** (1) Any person acting in an official capacity or any person employed on a race track other than ~~((an owner, trainer or jockey, shall register with))~~ a groom or concession employee shall be licensed by the Washington horse racing commission ~~((and procure an occupational permit, by paying annually a fee of \$5.00))~~ for three years and the fee shall be \$15.00.

(2) All grooms and concession employees shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.

(3) All employees of the Washington horse racing commission shall be exempt from any license fees but shall be issued a photo identification badge which shall be displayed in the same manner as all other licensees while in the performance of their duties at the track.

AMENDATORY SECTION (Amending Rules of racing, § 345, filed 4/21/61)

✓ WAC 260-36-080 **DURATION OF LICENSE.** Every permit or license ~~((shall be for not more than one year, and shall expire on December 31st of each year))~~ for a three-year period shall expire on December 31st of the third year after it was issued. Every permit or license for a one-year period shall expire on December 31st of the year it was issued.

AMENDATORY SECTION (Amending Order 78-2, filed 7/31/78)

✓ WAC 260-40-100 **PERFORMANCE RECORDS.** (1) A horse which during the past calendar year, has started in a race which is not reported in the daily racing form monthly chart book shall not be entered at a Washington track unless and until the owner shall have furnished to the racing secretary, at least forty-eight hours prior to such entry, performance records as hereinafter designated. Such performance records shall show where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.

(2) In a maiden race, a horse which at any time, has started in a race which is not reported in daily racing form monthly chart book shall not be entered at a Washington track unless and until the owners shall have furnished to the racing secretary at least forty-eight hours prior to such entry, complete performance records hereinafter designated. Such performance of said horse; where and when said horse raced; the distance; the weight carried; amount earned; said horse's finishing position and time. Such performance records furnished to the racing secretary shall be signed and sworn to by the owner of the horse.

(3) No horse may be permitted to enter in a race whose recent workouts have not been properly recorded with the stewards.

(4) If the net value to the winner of a race run in the state of Washington is nine hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at Longacres, if the net value to the winner of a race run in the state of Washington is four hundred dollars or less, said winnings shall not be counted in considering eligibility of horses running at Playfair and Yakima Meadows; however, the maiden allowance shall be lost by the winning of any race at a track whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts. Furthermore, for any race to count against a horse's eligibility at Longacres, Playfair or Yakima Meadows the complete results of that race must be carried in the daily racing form, morning telegraph, quarter running horse chart book or appaloosa horse club charts.

All wins, regardless of the net value to the winner, shall be considered in eligibility requirements in all races, including maiden races at all tracks other than ((Longacres, Playfair and Yakima Meadows)) at a track whose complete official results are carried in the daily racing form, morning telegraph, quarter running horse chart book, or appaloosa horse club charts.

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

✓ WAC 260-70-010 DEFINITIONS APPLICABLE TO CHAPTER 260-70 WAC. As used in this chapter, unless the context clearly requires a different meaning, the following terms shall have the following meanings:

(1) "Permitted medication" or "medication" means and includes any substance used to treat, cure, and prevent disease, relieve pain, or improve or preserve health, including vitamins, food additives, minerals, and domestic remedies.

(2) "Prohibited drugs" means (a) any medication or metabolic derivatives thereof which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse; or (b) any interfering substance ~~(; or (c) phenylbutazone carried in the body of a two-year-old horse in violation of WAC 260-70-090).~~

(3) "Interfering substance" or "interfere" means and refers to any medication which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures. Such terms include permitted medication when used in quantities which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures.

(4) "Phenylbutazone" means phenylbutazone, oxyphenylbutazone, or their derivatives or metabolites thereof.

(5) "Bleeder" means a horse which hemorrhages from the respiratory tract during a race or within one hour-post race or during exercise or within one hour of such exercise.

(6) "Bleeder list" means a tabulation of all bleeders to be maintained by the commission.

NEW SECTION

✓ WAC 260-48-035 PAYOFF ON MINUS POOLS. The association must pay to the holder of any ticket or tickets entitling him to participate in the distribution of a parimutuel pool the amount wagered by such holder plus a minimum of five percent thereof. This requirement is unaffected by the existence of a parimutuel pool which does not contain sufficient money to distribute said five percent to all persons holding such tickets.

WSR 86-09-073
NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—April 16, 1986]

Notice is hereby given that the regular Conservation Commission meeting scheduled for "the third Thursday" (WAC 135-04-020) of May 1986 will be rescheduled to:

Meeting Dates: May 14-15, 1986
Meeting Place: Osprey Restaurant
Spruce-Fir Room
West 1000 Hubbard
Coeur d'Alene, Idaho
Meeting Times: May 14 - 1:00 p.m.
May 15 - 8:30 a.m.

Please contact Shirley Casebier, Conservation Commission, Olympia, Washington 98504, phone 459-6226 for further information.

Dates and places for other forthcoming meetings are yet to be determined.

WSR 86-09-074
ADOPTED RULES
LIQUOR CONTROL BOARD
[Order 182, Resolution No. 191—Filed April 22, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to "minor prohibited" posting required in classified premises, WAC 314-16-025.

This action is taken pursuant to Notice No. WSR 86-07-047 filed with the code reviser on March 17, 1986. 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 April 22, 1986.

By L. H. Pedersen
Chairman

NEW SECTION

✓ WAC 314-16-025 "MINOR PROHIBITED" POSTING REQUIRED IN CLASSIFIED PREMISES. (1) Licensees of licensed premises classified by the board pursuant to RCW 66.44.310(2) shall post a notice in a conspicuous location at each entryway to each such classified tavern or cocktail lounge informing persons under twenty-one years of age that they are not permitted to enter or remain on such classified premises.

(2) The board will provide the notices required by subsection (1) of this section to licensees without charge: PROVIDED, HOWEVER, That licensees may design and post their own notices. Licensees choosing to do so must ensure that the notices are legible and that they contain, at a minimum, the following language:

(a) For a premises classified as a tavern: "Persons under twenty-one years of age not permitted on these premises."

(b) For a premises classified as the cocktail lounge portion of a class H licensed premises: "Persons under twenty-one years of age not permitted in this area."

WSR 86-09-075

ADOPTED RULES

LIQUOR CONTROL BOARD

[Order 183, Resolution No. 192—Filed April 22, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA, that it does adopt the annexed rules relating to Issuance fee—Restrictions, WAC 314-18-040.

This action is taken pursuant to Notice No. WSR 86-07-046 filed with the code reviser on March 17, 1986. 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 April 22, 1986.

By L. H. Pedersen
Chairman

AMENDATORY SECTION (Amending Order 153, Resolution No. 162, filed 2/27/85)

✓ WAC 314-18-040 ISSUANCE FEE—RESTRICTIONS. (1) Banquet permits may be issued by the board's stores and agencies to qualified applicants on forms provided by the board; the fee for each banquet permit will be ten dollars.

(2) Except for outdoor areas, banquet permits will only be issued for use at premises that are or can be arranged so that the general public can be excluded therefrom.

(3) Where the application is for a banquet to be held either partially or wholly out-of-doors, the following restrictions will apply:

(a) State parks: State parks are exempt from the law requiring a license or permit to consume liquor in a public place (RCW 66.04.011). Banquet permits shall not be issued for the service and consumption of liquor in state parks.

(b) City and county parks: Applicants will be issued banquet permits only upon presentation of written approval from the appropriate local authority for the banquet applied for.

(c) Commercial parks (privately owned and operated): Store and agency managers may issue banquet permits for use in such commercial parks even though the event is to be held partly or wholly out-of-doors.

(d) All other outdoor areas: Issuance is conditioned upon approval of the area liquor enforcement officer.

(4) Where the application is for a banquet permit for an event to be held on a college or university campus or upon the premises of an elementary or high school, public or private; permits will be issued provided that approval, in writing, by an appropriate official of the college, university, elementary, or high school is furnished with the application.

(5) When the application is for a banquet permit for an event to be held in or at a state armory used for military purposes, permits will be issued provided that approval, in writing, by the adjutant general or his/her designee is furnished by the applicant to the board and to the chief of police of the incorporated city or town in which the armory is located or to the county sheriff if the armory is located outside the boundaries of incorporated cities or towns.

(6) Banquet permits will not be issued((:(
(a))) for use at premises that have a license issued by the board that is or will be suspended on the date of the scheduled banquet.

((((b) For functions held in a tavern:))

(7) The event for which the banquet permit application is made cannot be open to the public through general admission ticket sales.

(8) The event for which the banquet permit application is made cannot be open to the public or advertised to the public.

(9) Approval of the area enforcement officer is required for banquet permits intended for use in the cocktail lounge facilities or tap rooms of Class A, C, D, or H licensed premises, including hotels, restaurants, and clubs, unless the entire premises under the control of the

licensee is devoted to the banquet, and then only if all licensee liquor is removed from view and securely isolated.

(10) Where the application is for a banquet permit for an event to be held on a vessel under the jurisdiction of the Washington state ferry system; permits will be issued provided that approval, in writing, by an appropriate official of the Washington state ferry system is furnished with the application.

WSR 86-09-076

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 148—Filed April 22, 1986—Eff. June 1, 1986]

Be it resolved by the Higher Education Personnel Board, acting at Skagit Valley College, Mt. Vernon, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 251-14-050 Petition for decertification of exclusive representative.
Amd WAC 251-14-060 Contents of written agreements.

This action is taken pursuant to Notice Nos. WSR 86-04-078 and 86-08-038 filed with the code reviser on February 5, 1986, and March 26, 1986. These rules shall take effect at a later date, such date being June 1, 1986.

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

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

APPROVED AND ADOPTED April 21, 1986.

By John A. Spitz
Director

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

✓ WAC 251-14-050 PETITION FOR DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE. (1) Upon petition to the director by not less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by a secret vote of the employees, providing twelve months have elapsed since the last certification and between one hundred twenty and ninety calendar days or less remain before the termination date of any existing collective bargaining agreement covering the employees of the unit. The termination date of a contract stands by itself exclusive of any automatic renewal or extension provision in the contract. Upon granting a request for an election, the director shall give written notice thereof and allow ten calendar days for other employee organizations desiring to have their names placed on the ballot to show satisfactory proof of at least ten percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the

payroll period immediately preceding the date of notice of election. The ten calendar day period shall begin three days after the director's notice is mailed, and a request by an employee organization to be placed on the ballot shall be deemed timely if postmarked within the ten calendar day period. The ballot will contain the name of the employee organization which is currently certified as the exclusive representative and any other employee organization that has shown satisfactory proof of at least ten percent representation of the employees in the bargaining unit. Such an election shall be conducted in accordance with WAC 251-14-040 ((2);) (3)(;) and (4). Another exclusive representative decertification election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous exclusive representative decertification election.

(2) When the board, pursuant to WAC 251-14-030, combines existing bargaining units into one new unit, the combination shall effect an automatic decertification of the affected exclusive representatives except in those instances where the same employee organization is certified as the exclusive representative for all of the existing bargaining units that are being combined into one new unit.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

✓ WAC 251-14-060 CONTENTS OF WRITTEN AGREEMENTS. (1) Written agreements may contain provisions covering all personnel matters over which the institution related board may lawfully exercise discretion.

(2) Written agreements shall include a grievance procedure for processing individual and group grievances within the bargaining unit and shall provide for mediation by the director or designee and for arbitration by the board. Mediation by the director or designee and arbitration by the board of a grievance dispute shall not apply in those instances where the same complaint has been filed for hearing either through the unfair labor practice or appeal procedures of the higher education personnel board rules.

(3) Written agreements may contain provisions for payroll deduction of employee organization dues and/or union shop representation fees upon written authorization from the employee. Any employee may cancel his/her payroll deduction of employee organization dues by filing a written notice with the appointing authority or designee and the employee organization thirty calendar days prior to the effective date of such cancellation.

(4) Written agreements shall be for a minimum of one year in duration and shall not exceed three years. Automatic renewal or extension provisions may extend the term of a contract for only one year at a time. An automatic renewal or extension provision in a contract cannot act as a bar to a request for an exclusive representative decertification election per WAC 251-14-050(1).

(5) Where there are collective bargaining agreements in effect in bargaining units which are combined per

WAC 251-14-030, the board shall determine the application of such bargaining agreements or terms thereof when there is an impasse between the exclusive representative and the institution.

(6) Institutions shall file signed written agreements with the director. Provisions of such agreements shall not prevail if in conflict with the higher education personnel board rules, the higher education personnel law or other applicable law.

WSR 86-09-077

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 149—Filed April 22, 1986—Eff. June 1, 1986]

Be it resolved by the Higher Education Personnel Board, acting at Skagit Valley College, Mt. Vernon, Washington, that it does adopt the annexed rules relating to Higher Education Personnel Board, amending WAC 251-04-050.

This action is taken pursuant to Notice No. WSR 86-06-052 filed with the code reviser on March 5, 1986. These rules shall take effect at a later date, such date being June 1, 1986.

This rule is promulgated under the general rule-making authority of the Higher Education Personnel Board as authorized in RCW 28B.16.100.

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

APPROVED AND ADOPTED April 18, 1986.

By John A. Spitz
Director

AMENDATORY SECTION (Amending Order 135, filed 9/25/85, effective 11/1/85)

WAC 251-04-050 HIGHER EDUCATION PERSONNEL BOARD. (1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board (~~shall be paid one hundred dollars for each day in which he/she has actually attended a~~) is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the board (~~(officially held)~~) or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of

daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six to twelve months and rejections therein depending on the job requirements of the class; transfers; sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment according to seniority; determination of appropriate bargaining units within any institution or related board: PROVIDED, That in making

such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees; certification and decertification of exclusive bargaining representatives; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position; allocation and re-allocation of positions within the classification plans; adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC; training programs including in-service, promotional, and supervisory; increment increases within the series of steps for each pay grade; and veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

WSR 86-09-078

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 147—Filed April 22, 1986]

Be it resolved by the Higher Education Personnel Board, acting at Skagit Valley College, Mt. Vernon, Washington, that it does adopt the annexed rules relating to:

- Rep WAC 251-04-020 Definitions.
- New WAC 251-01-005 Administrative assistant exemption.
- New WAC 251-01-010 Administrative employees.
- New WAC 251-01-015 Affirmative action.
- New WAC 251-01-020 Agricultural employees.
- New WAC 251-01-025 Allocation.
- New WAC 251-01-030 Annual performance evaluation.
- New WAC 251-01-035 Appointing authority.
- New WAC 251-01-040 Availability.

- New WAC 251-01-045 Board.
- New WAC 251-01-050 Certification.
- New WAC 251-01-055 Charges.
- New WAC 251-01-060 Class.
- New WAC 251-01-065 Classified service.
- New WAC 251-01-070 Collective bargaining.
- New WAC 251-01-075 Competitive service.
- New WAC 251-01-080 Counseling exemption.
- New WAC 251-01-085 Cyclic year position.
- New WAC 251-01-100 Demotion.
- New WAC 251-01-105 Development.
- New WAC 251-01-110 Director.
- New WAC 251-01-115 Dismissal.
- New WAC 251-01-120 Eligible.
- New WAC 251-01-125 Eligible list.
- New WAC 251-01-130 Employee.
- New WAC 251-01-135 Employee organization.
- New WAC 251-01-140 Employing official.
- New WAC 251-01-145 Essential job elements.
- New WAC 251-01-150 Examinations.
- New WAC 251-01-155 Executive employees.
- New WAC 251-01-160 Executive head exemption.
- New WAC 251-01-165 Exempt position.
- New WAC 251-01-170 Extension and/or continuing education exemption.
- New WAC 251-01-175 Final examination score.
- New WAC 251-01-180 Fringe benefits.
- New WAC 251-01-185 Full-time employment.
- New WAC 251-01-190 Goals.
- New WAC 251-01-195 Graphic arts or publication review.
- New WAC 251-01-200 Grievance.
- New WAC 251-01-205 Hearing examiner.
- New WAC 251-01-210 Institutional examination.
- New WAC 251-01-215 Institutions of higher education.
- New WAC 251-01-220 Job analysis.
- New WAC 251-01-225 Job categories.
- New WAC 251-01-230 Job group.
- New WAC 251-01-235 Lateral movement.
- New WAC 251-01-240 Layoff.
- New WAC 251-01-245 Layoff seniority.
- New WAC 251-01-250 Layoff unit.
- New WAC 251-01-255 Lead.
- New WAC 251-01-260 Noncompetitive service.
- New WAC 251-01-265 Organizational unit.
- New WAC 251-01-270 Part-time employment.
- New WAC 251-01-275 Periodic increment date (P.I.D.).
- New WAC 251-01-280 Permanent employee.
- New WAC 251-01-285 Person of disability.
- New WAC 251-01-290 Personnel officer.
- New WAC 251-01-295 P.I.D.
- New WAC 251-01-300 Position.
- New WAC 251-01-305 Principal assistant exemption.
- New WAC 251-01-310 Probationary period.
- New WAC 251-01-315 Probationary reappointment.
- New WAC 251-01-320 Professional employees.
- New WAC 251-01-325 Promotion.
- New WAC 251-01-330 Protected groups.
- New WAC 251-01-335 Provisional appointment.
- New WAC 251-01-340 Public records.
- New WAC 251-01-345 Rating factor.
- New WAC 251-01-350 Rating guide.
- New WAC 251-01-355 Reallocation.
- New WAC 251-01-360 Reassignment.
- New WAC 251-01-365 Related boards.
- New WAC 251-01-370 Research exemption.
- New WAC 251-01-375 Resignation.
- New WAC 251-01-380 Reversion.
- New WAC 251-01-385 Specific position elements.
- New WAC 251-01-390 Specific position requirements.
- New WAC 251-01-395 Supervisor.
- New WAC 251-01-400 Supplemental certification.
- New WAC 251-01-405 Suspension.
- New WAC 251-01-410 System examination.
- New WAC 251-01-415 Temporary appointment.
- New WAC 251-01-420 Timetables.
- New WAC 251-01-425 Training.
- New WAC 251-01-430 Transfer.

New WAC 251-01-435 Trial service.
 New WAC 251-01-440 Underutilization.
 New WAC 251-01-445 Union shop.
 New WAC 251-01-450 Union shop representative.
 New WAC 251-01-455 Union shop representation fee.
 New WAC 251-01-460 Writing.

This action is taken pursuant to Notice Nos. WSR 86-04-076 and 86-06-052 filed with the code reviser on February 5, 1986, and March 5, 1986. 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 Higher Education Personnel Board as authorized in RCW 28B.16.100.

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

APPROVED AND ADOPTED April 18, 1986.

By John A. Spitz
 Director

Chapter 251-01 WAC
 DEFINITIONS

WAC

251-01-005 Administrative assistant exemption.
 251-01-010 Administrative employees.
 251-01-015 Affirmative action.
 251-01-020 Agricultural employees.
 251-01-025 Allocation.
 251-01-030 Annual performance evaluation.
 251-01-035 Appointing authority.
 251-01-040 Availability.
 251-01-045 Board.
 251-01-050 Certification.
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 251-01-075 Competitive service.
 251-01-080 Counseling exemption.
 251-01-085 Cyclic year position.
 251-01-100 Demotion.
 251-01-105 Development.
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 251-01-170 Extension and/or continuing education exemption.
 251-01-175 Final examination score.
 251-01-180 Fringe benefits.

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 251-01-270 Part-time employment.
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 251-01-290 Personnel officer.
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 251-01-300 Position.
 251-01-305 Principal assistant exemption.
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 251-01-370 Research exemption.
 251-01-375 Resignation.
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 251-01-385 Specific position elements.
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 251-01-395 Supervisor.
 251-01-400 Supplemental certification.
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 251-01-410 System examination.
 251-01-415 Temporary appointment.
 251-01-420 Timetables.
 251-01-425 Training.
 251-01-430 Transfer.
 251-01-435 Trial service.
 251-01-440 Underutilization.
 251-01-445 Union shop.
 251-01-450 Union shop representative.
 251-01-455 Union shop representation fee.
 251-01-460 Writing.

NEW SECTION

WAC 251-01-005 ADMINISTRATIVE ASSISTANT EXEMPTION. A president or vice president may have individual(s) acting as his/her administrative

assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

NEW SECTION

✓ WAC 251-01-010 ADMINISTRATIVE EMPLOYEES. Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and

(2) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and

(3) Must regularly assist an executive or administrative employee, or perform work under, only general supervision along specialized or technical lines requiring special training, experience or knowledge; and

(4) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

NEW SECTION

✓ WAC 251-01-015 AFFIRMATIVE ACTION. A procedure by which racial/ethnic minorities, women, persons of disability, persons in the protected age category, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

NEW SECTION

✓ WAC 251-01-020 AGRICULTURAL EMPLOYEES. Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

NEW SECTION

✓ WAC 251-01-025 ALLOCATION. The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

NEW SECTION

✓ WAC 251-01-030 ANNUAL PERFORMANCE EVALUATION. The official annual performance rating of an employee recorded on a form approved by the board.

NEW SECTION

✓ WAC 251-01-035 APPOINTING AUTHORITY. A person or group of persons lawfully authorized to make appointments.

NEW SECTION

✓ WAC 251-01-040 AVAILABILITY. An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

NEW SECTION

✓ WAC 251-01-045 BOARD. The higher education personnel board established under the provisions of the higher education personnel law.

NEW SECTION

✓ WAC 251-01-050 CERTIFICATION. The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

NEW SECTION

✓ WAC 251-01-055 CHARGES. A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

NEW SECTION

✓ WAC 251-01-060 CLASS. One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

NEW SECTION

✓ WAC 251-01-065 CLASSIFIED SERVICE. All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

NEW SECTION

✓ WAC 251-01-070 COLLECTIVE BARGAINING. The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

NEW SECTION

✓ WAC 251-01-075 COMPETITIVE SERVICE. All positions in the classified service for which a competitive

examination is required as a condition precedent to appointment.

NEW SECTION

✓ WAC 251-01-080 COUNSELING EXEMPTION. Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

NEW SECTION

✓ WAC 251-01-085 CYCLIC YEAR POSITION. A position scheduled to work less than twelve full months each year, due to known, recurring periods in the annual cycle when the position is not needed.

NEW SECTION

✓ WAC 251-01-100 DEMOTION. The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

NEW SECTION

✓ WAC 251-01-105 DEVELOPMENT. The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

NEW SECTION

✓ WAC 251-01-110 DIRECTOR. The personnel director of the higher education personnel board.

NEW SECTION

✓ WAC 251-01-115 DISMISSAL. The termination of an individual's employment for just cause as specified in these rules.

NEW SECTION

✓ WAC 251-01-120 ELIGIBLE. An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the non-competitive service who has met all requirements for eligibility as stated on the bulletin board posting.

NEW SECTION

✓ WAC 251-01-125 ELIGIBLE LIST. A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

NEW SECTION

✓ WAC 251-01-130 EMPLOYEE. A person working in the classified service at an institution.

NEW SECTION

✓ WAC 251-01-135 EMPLOYEE ORGANIZATION. Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

NEW SECTION

✓ WAC 251-01-140 EMPLOYING OFFICIAL. An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

NEW SECTION

✓ WAC 251-01-145 ESSENTIAL JOB ELEMENTS. Knowledges, skills, and abilities which persons must possess in order to perform the duties of a class or a specific position in a class.

NEW SECTION

✓ WAC 251-01-150 EXAMINATIONS. Any measures or assessments used in the process of identifying names for certification to vacancies in accordance with RCW 28B.16.100(2) and WAC 251-18-240. Examinations include examination content, administration, and evaluation.

NEW SECTION

✓ WAC 251-01-155 EXECUTIVE EMPLOYEES. Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must be management of a recognized department or subdivision; and
- (2) Must customarily and regularly direct the work of two or more employees; and
- (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and
- (4) Must customarily and regularly exercise discretionary powers; and
- (5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision.

NEW SECTION

✓ WAC 251-01-160 EXECUTIVE HEAD EXEMPTION. Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

NEW SECTION

✓ WAC 251-01-165 EXEMPT POSITION. A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption.")

NEW SECTION

✓ WAC 251-01-170 EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION. Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

NEW SECTION

✓ WAC 251-01-175 FINAL EXAMINATION SCORE. An applicant's final passing score on an examination, plus any veterans preference or other applicable credits added in accordance with WAC 251-18-130 and/or 251-18-180 (10)(b).

NEW SECTION

✓ WAC 251-01-180 FRINGE BENEFITS. As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

NEW SECTION

✓ WAC 251-01-185 FULL-TIME EMPLOYMENT. Work consisting of forty hours per week.

NEW SECTION

✓ WAC 251-01-190 GOALS. (Hiring and/or promotion). The projected number of hires and/or promotions needed to correct identified areas of underutilization.

NEW SECTION

✓ WAC 251-01-195 GRAPHIC ARTS OR PUBLICATION EXEMPTION. Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

NEW SECTION

✓ WAC 251-01-200 GRIEVANCE. A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

NEW SECTION

✓ WAC 251-01-205 HEARING EXAMINER. An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

NEW SECTION

✓ WAC 251-01-210 INSTITUTIONAL EXAMINATION. An examination developed to meet unique requirements of a single institution.

NEW SECTION

✓ WAC 251-01-215 INSTITUTIONS OF HIGHER EDUCATION. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

NEW SECTION

✓ WAC 251-01-220 JOB ANALYSIS. Any systematic procedure for gathering, documenting and analyzing information about the job content and requirements for a class or position in a class.

NEW SECTION

✓ WAC 251-01-225 JOB CATEGORIES. Those groupings required in equal employment opportunity reports to federal agencies.

NEW SECTION

✓ WAC 251-01-230 JOB GROUP. For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

NEW SECTION

✓ WAC 251-01-235 LATERAL MOVEMENT. Appointment of an employee to a position in another class

which has the same salary range maximum as the employee's current class.

NEW SECTION

✓ WAC 251-01-240 LAYOFF. Any of the following management initiated actions caused by lack of funds or lack of work:

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year; and/or
- (4) Reduction in the number of work hours.

NEW SECTION

✓ WAC 251-01-245 LAYOFF SENIORITY. The total amount of service an employee earns as a result of unbroken classified employment and statutory allowance.

NEW SECTION

✓ WAC 251-01-250 LAYOFF UNIT. A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

NEW SECTION

✓ WAC 251-01-255 LEAD. An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

NEW SECTION

✓ WAC 251-01-260 NONCOMPETITIVE SERVICE. All positions in the classified service for which a competitive examination is not required.

NEW SECTION

✓ WAC 251-01-265 ORGANIZATIONAL UNIT. A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

NEW SECTION

✓ WAC 251-01-270 PART-TIME EMPLOYMENT. Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

NEW SECTION

✓ WAC 251-01-275 PERIODIC INCREMENT DATE (P.I.D.). The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class.

NEW SECTION

✓ WAC 251-01-280 PERMANENT EMPLOYEE. An employee who has successfully completed a probationary period at the institution within the current period

of employment or trial service period resulting from promotion, transfer, lateral movement, or voluntary demotion from another institution, related board or state agency.

NEW SECTION

✓ WAC 251-01-285 PERSON OF DISABILITY. Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

NEW SECTION

✓ WAC 251-01-290 PERSONNEL OFFICER. The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

NEW SECTION

✓ WAC 251-01-295 P.I.D. Commonly used abbreviation for periodic increment date.

NEW SECTION

✓ WAC 251-01-300 POSITION. A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

NEW SECTION

✓ WAC 251-01-305 PRINCIPAL ASSISTANT EXEMPTION. Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

NEW SECTION

✓ WAC 251-01-310 PROBATIONARY PERIOD. The initial six-month period of employment in a class following appointment from an eligible list of a nonpermanent employee. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

NEW SECTION

✓ WAC 251-01-315 PROBATIONARY REAPPOINTMENT. Appointment of a probationary employee from an eligible list to a position in a different class.

NEW SECTION

✓ WAC 251-01-320 PROFESSIONAL EMPLOYEES. Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(1) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

(2) Must consistently exercise discretion and judgment; and

(3) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(4) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

NEW SECTION

✓ WAC 251-01-325 PROMOTION. The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

NEW SECTION

✓ WAC 251-01-330 PROTECTED GROUPS. For affirmative action purposes means racial/ethnic minorities (Black, Asian/Pacific Islander, Hispanic, Native American Indian), women, persons in the protected age class, persons of disability, Vietnam-era and disabled veterans.

NEW SECTION

✓ WAC 251-01-335 PROVISIONAL APPOINTMENT. Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

NEW SECTION

✓ WAC 251-01-340 PUBLIC RECORDS. Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

NEW SECTION

✓ WAC 251-01-345 RATING FACTOR. An element, duty, responsibility, skill, ability, or other specific aspect of performance which is rated as part of the annual performance evaluation.

NEW SECTION

✓ WAC 251-01-350 RATING GUIDE. A written document which outlines the way in which ratings are assigned to applicants' experience, training, or other qualifications on each job element in an examination. It specifies the range of ratings to be given for each job element and gives examples of the experience, training, or other qualifications that will be used to assign ratings.

NEW SECTION

✓ WAC 251-01-355 REALLOCATION. The assignment of a position by the personnel officer to a different class.

NEW SECTION

✓ WAC 251-01-360 REASSIGNMENT. A management initiated movement of a classified employee from one position to another in the same class.

NEW SECTION

✓ WAC 251-01-365 RELATED BOARDS. The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

NEW SECTION

✓ WAC 251-01-370 RESEARCH EXEMPTION. Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

NEW SECTION

✓ WAC 251-01-375 RESIGNATION. A voluntary termination of employment.

NEW SECTION

✓ WAC 251-01-380 REVERSION. The return of a permanent employee from trial service to the most recent class in which permanent status was achieved at the institution.

NEW SECTION

✓ WAC 251-01-385 SPECIFIC POSITION ELEMENTS. Knowledges, skills, and abilities which a job analysis indicates to be significant for performing the duties of a specific position in a class but which are not significant for the class in general.

NEW SECTION

✓ WAC 251-01-390 **SPECIFIC POSITION REQUIREMENTS.** Specific position elements which are essential job elements.

NEW SECTION

✓ WAC 251-01-395 **SUPERVISOR.** Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

NEW SECTION

✓ WAC 251-01-400 **SUPPLEMENTAL CERTIFICATION.** A process by which eligible members of protected groups can be referred to employing officials for the filling of position vacancies in job classes/categories where it has been determined that under-utilization exists.

NEW SECTION

✓ WAC 251-01-405 **SUSPENSION.** An enforced absence without pay for disciplinary purposes.

NEW SECTION

✓ WAC 251-01-410 **SYSTEM EXAMINATION.** An examination developed to meet the requirements of all institutions in the HEPB system and approved by the director for use by all such institutions.

NEW SECTION

✓ WAC 251-01-415 **TEMPORARY APPOINTMENT.** (1) Work performed in the absence of an employee on leave for:

(a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

NEW SECTION

✓ WAC 251-01-420 **TIMETABLES.** Established time periods during which identified areas of under-utilization will be corrected.

NEW SECTION

✓ WAC 251-01-425 **TRAINING.** Formal and systematic learning activities intended to provide employees

with the knowledge and skills necessary to become proficient or qualified in a particular field.

NEW SECTION

✓ WAC 251-01-430 **TRANSFER.** An employee initiated change from one classified position to another in the same class without a break in service.

NEW SECTION

✓ WAC 251-01-435 **TRIAL SERVICE.** The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(6).

NEW SECTION

✓ WAC 251-01-440 **UNDERUTILIZATION.** Having fewer racial/ethnic minorities, women, persons in the protected age category, Vietnam-era and disabled veterans, or persons of disability in a particular job group than would reasonably be expected by their availability.

NEW SECTION

✓ WAC 251-01-445 **UNION SHOP.** A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

NEW SECTION

✓ WAC 251-01-450 **UNION SHOP REPRESENTATIVE.** An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

NEW SECTION

✓ WAC 251-01-455 **UNION SHOP REPRESENTATION FEE.** Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

NEW SECTION

✓ WAC 251-01-460 **WRITING.** Handwriting, type-writing, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints,

magnetic or punched cards, discs, drums and other documents.

WSR 86-09-079
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 22, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning Washington Dry Pea and Lentil Commission, amending WAC 16-536-040;

that the agency will at 1:00 p.m., Tuesday, May 27, 1986, in the Whitman County Public Services Building, North 310 Main Street, Colfax, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 30, 1986.

The authority under which these rules are proposed is chapter 15.65 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

Dated: April 21, 1986
 By: Arthur C. Scheunemann
 Assistant Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-536-040.

Description of Purpose: Deletes the present assessments on a per unit basis and establishes an assessment rate on all dry peas and lentils at one percent of the net receipts at the first point of sale.

Summary of Rule: Changes the assessment base from units to percent of net receipts.

Agency Personnel Responsible for Drafting: Roger L. Roberts, Agricultural Programs Administrator, Agricultural Development Division, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504; Implementation and Enforcement: Washington Dry Pea and Lentil Commission, P.O. Box 8566, Moscow, Idaho 83843.

Person Proposing Rule: Washington dry pea and lentil growers and the Washington Dry Pea and Lentil Commission.

Agency Comments or Recommendations: None.

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

Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1768, filed 7/13/82)

WAC 16-536-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

(a) The ~~((fixed annual))~~ assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((as follows:~~

~~(i) Austrian and all other winter varieties = six cents per affected unit cleaned;~~

~~(ii) All other dry peas, including chick peas = seven cents per affected unit cleaned, except commercial wrinkled pea seed, which shall be five cents per affected unit cleaned))~~ one percent of the net receipts at

~~the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: PROVIDED, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.~~

~~((iii) All varieties of dry lentils = eight cents per affected unit cleaned:))~~

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

~~((c) Handlers shall collect producer assessments from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board:))~~

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

WSR 86-09-080

PROPOSED RULES

DEPARTMENT OF NATURAL RESOURCES

[Filed April 22, 1986]

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 mineral prospecting leases and mining contracts, chapter 332-16 WAC;

that the agency will at 10:00 a.m., Wednesday, May 28, 1986, in the Department of Natural Resources Area Office, 919 North Township Street, Sedro Woolley, WA 98284, and at 3:00 p.m., Wednesday, May 28, 1986, in the Washington State University Tree Fruit Research Center, 1100 North Western Avenue, Wenatchee, WA 98801, and at 7:30 p.m., Wednesday, May 28, 1986, in the Spokane County Agricultural Center, Room A and B, North 222 Havana, Spokane, WA 99202, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 16, 1986.

The authority under which these rules are proposed is RCW 79.01.618.

The specific statute these rules are intended to implement is RCW 79.01.616 through 79.01.650.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 13, 1986.

Dated: April 17, 1986

By: Brian J. Boyle

Commissioner of Public Lands

STATEMENT OF PURPOSE

Title and Purpose of Amendatory Rules: WAC 332-16-270 Royalties—Computation, to clarify the calculation of royalties on the basis of net smelter returns or first point of sale.

Summary of Rules: Revise the calculation of royalty payments required under RCW 79.01.628 and 79.01.644.

Proponent of Rules: Department of Natural Resources.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kenneth E. Solt, Manager, Division of Land Leasing and Recreation, Department of Natural Resources, John A. Cherberg Building, Olympia, Washington 98504, (206) 753-2989.

Agency Comments: These amendments are necessary to continue the implementation of RCW 79.01.616 through 79.01.650, to accomplish the fiduciary responsibilities of the Department of Natural Resources in management of state public lands through a mineral lease program.

Small Business Economic Impact Statement: The Department of Natural Resources proposes to adopt amendments to chapter 332-16 WAC, Mineral prospecting leases and mining contracts. It is determined that neither 20 percent of all industries nor 10 percent of one industry are significantly impacted by the proposed regulation amendment. The changes being considered will not significantly alter the methods by which state public lands are leased for mining but will clarify the calculation of royalty payments for minerals extracted.

AMENDATORY SECTION (Amending Order 3, filed 2/6/68)

WAC 332-16-270 ROYALTIES — COMPUTATION. Royalties shall be payable to the department for all valuable minerals and specified materials removed from lands subject to the Mineral Leasing Law computed in one of the following ways:

(1) Established Royalty. The department may, from time to time, without notice, and at any time that no application for lease or contract is on file in regard to a specific tract of land, adopt a schedule of royalties for specific valuable minerals and specified materials to be collected upon production from such tract of land. All such established royalties shall be published from time to time and a current file shall be kept available in the office of the department in Olympia, Washington. Any valuable minerals or specified materials contained in a specific tract of land for which no schedule of royalties has been adopted shall be subject to a royalty established in accordance with subparagraph 2, below.

(2) Standard Royalty. In the absence of a royalty established in accordance with subparagraph 1, above, and unless a different royalty has been adopted under the provisions of WAC 332-16-270(3), royalties shall be payable to the department upon production from lands held under any lease or mining contract on the basis of (~~3% of the~~

~~"gross income from the property from mining," as hereinafter defined in WAC 332-16-280(1):~~

~~(a) In the case of valuable minerals or specified materials produced primarily for their metal content, 3% of the net smelter returns. "Net smelter returns" shall mean the amount paid by any smelter, or other purchasers, for the products extracted from the leased premises, with allowance only for the following:~~

~~(i) Custom smelting costs and penalties including, but not limited to, metal losses, penalties for impurities and charges for refining, selling and handling by the smelter, or refinery; provided, however, that in the case of leaching operations or other solution mining techniques, where the metal being treated is precipitated or otherwise directly derived from such leach or solution, all processing and recovery costs incurred beyond the point at which the metal being treated is in solution shall be considered as refining charges;~~

~~(ii) Costs of handling, transportation and insuring the products from a concentrator, or other processing facility, to a smelter or refinery.~~

~~(iii) No allowances will be permitted for mining or milling, or similar beneficiation costs or charges, or for the transportation of ore to a mill or concentrator.~~

~~(b) In the case of valuable minerals or specified materials considered to be industrial minerals of value for their physical or chemical properties rather than their metal content, including, but not limited to, sulfur, potash, barite, gypsum, fluorspar, talc, phosphate rock, limestone, and silica and clays used in manufacturing processes produced from the leased premises, 3% of the gross value of the products at the point of sale as determined by the sales value of marketable products as shown by sales receipts.~~

~~(c) In the case of valuable minerals or specified materials produced for their uranium content, 3% of the gross value of the uranium oxide contained in the ore, concentrate or precipitate, as determined at the point of sale by the sales receipts.~~

~~(d) In cases where the use of the products takes place within a company, a point of sale shall be mutually agreed upon and the value of the products for the purpose of calculating the royalty shall be based upon prices published by the Engineering and Mining Journal in the Markets section, or other prices mutually agreed upon, in writing, by the Lessee and the department.~~

~~(3) Negotiated Royalty. If either an established royalty or the standard royalty is unacceptable to a prospective lessee, he may, at the time of making application for a lease or mining contract, submit, in writing, a proposal for the basis for the payment of royalties. The department shall, within 45 days after receipt of such application and proposal, accept or reject the proposed royalty schedule. In the event the proposed royalty schedule is rejected by the department, the department shall enter into negotiations with the prospective lessee in an attempt to reach agreement upon a royalty schedule. In the event agreement is not reached within 60 days after the application is filed, the applicant for a lease or mining contract shall have the option of either (a) adopting the established royalty or the standard royalty, whichever royalty is in effect, or (b) withdrawing his application. If the application is withdrawn, the first year's payment, but not the application fee, shall be refunded forthwith. In the establishment of a negotiated royalty, a royalty schedule may be adopted which provides for (~~payment of not less than 3% of the "gross income from the property from mining," or which provides for~~) computation upon the basis of tonnage or quantity rather than of value, or which provides adjustment of royalty payments until after recoupment of agreed-upon exploration and development costs have occurred, or which provides for any other royalty arrangement which may be proposed and agreed upon.~~

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 repealed:

(1) WAC 332-16-280 ROYALTIES — GROSS INCOME

WSR 86-09-081
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2363—Filed April 22, 1986]

I, Lee D. Bomberger, acting director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Notification of suspension or termination or reduction of grant—Dispensation of advance notice, amending WAC 388-33-385.

This action is taken pursuant to Notice No. WSR 86-05-008 filed with the code reviser on February 12, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED April 21, 1986.

By Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2093, filed 4/18/84)

✓ WAC 388-33-385 NOTIFICATION OF SUSPENSION OR TERMINATION OR REDUCTION OF GRANT—DISPENSATION OF ADVANCE NOTICE. Advance notice of action to terminate, suspend, or reduce assistance is not required when:

(1) The local office has factual information of the death of the recipient or of the AFDC or refugee assistance payee when there is no other relative available to serve as payee.

(2) A recipient has been admitted or committed to an institution making the recipient ineligible.

(3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.

(4) The recipient's whereabouts are unknown and departmental mail directed to him or her has been returned by the post office indicating no known forwarding address.

(5) A recipient has been accepted for assistance in another state.

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he or she no longer wishes assistance. The local office shall immediately send adequate notice to confirm the verbal or written request for termination.

(9) The local office receives a clear statement from the recipient giving information requiring termination, suspension, or reduction of assistance. The recipient must indicate in writing that he or she understands the consequence of supplying such information. Adequate notice is required stating the adverse action.

(10) For AFDC, when the local office takes action because of information the recipient reported on the monthly report.

WSR 86-09-082

NOTICE OF PUBLIC MEETINGS
GREEN RIVER COMMUNITY COLLEGE

[Memorandum—April 18, 1986]

Green River Community College, District No. 10, pursuant to RCW 42.30.075, will change the date of its regular meeting from Thursday, June 19, 1986, to Thursday, June 26, 1986.

WSR 86-09-083

PROPOSED RULES
DEPARTMENT OF GAME

(Game Commission)

[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning amendment to 1986 Washington game fish seasons and catch limits—Definition of wild steelhead release, WAC 232-28-61511;

that the agency will at 9 a.m., Sunday/Monday, June 1 and 2, 1986, in the Sea-Tac Hyatt, 17001 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 1 and 2, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 1, 1986.

Dated: April 23, 1986

By: Sam Wright, Administrator
 Fisheries Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-61511 Amendment to 1986 Washington game fish seasons and catch limits—Definition of wild steelhead release.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Changes definition of wild steelhead release as shown in the 1986 Washington game fish seasons and catch limits.

Reasons Supporting the Proposed Rule: This definition change is needed due to the presence of unmarked hatchery-origin steelhead in Columbia and Snake river system waters. The definition change will reinstate the use of the dorsal fin restriction regulation, thereby allowing anglers to harvest hatchery-origin fish not marked by removal of adipose fin.

Agency Personnel Responsible for Drafting and Implementation: Sam Wright, Administrator, Fisheries Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5713; and Enforcement: Dave Schultz, Administrator, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-61511 AMENDMENT TO 1986 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—DEFINITION OF WILD STEELHEAD RELEASE. Notwithstanding the provisions of WAC 232-28-615, the definition of Wild Steelhead Release will read as follows:

WILD STEELHEAD RELEASE

In Puget Sound and Washington coastal tributaries designated as "WILD STEELHEAD RELEASE," only steelhead with missing adipose or ventral fins may be possessed. It is unlawful to possess a steelhead with a freshly cut or mutilated adipose or ventral fin.

In Columbia River and Snake River system waters designated as "WILD STEELHEAD RELEASE," 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. It is unlawful to possess a steelhead with a freshly cut or mutilated dorsal, ventral or adipose fin.

WSR 86-09-084
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning:

New	WAC 232-28-212	1986 Hunting seasons and game bag limits and 1986 Game management units and area legal descriptions.
Rep	WAC 232-28-210	1985 Hunting seasons and game bag limits and 1985 Game management units and area legal descriptions;

that the agency will at 9:00 a.m., Sunday/Monday, June 1 and 2, 1986, in the Sea-Tac Hyatt Inn, 17001 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 1 and 2, 1986.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 30, 1986.

Dated: April 18, 1986
By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-212 1986 Hunting seasons and game bag limits and 1986 Game management units and area legal descriptions.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Establishes 1986 Hunting seasons and game bag limits and 1986 Game management units and area legal descriptions in the manner outlined in the 1985 pamphlet.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Jack L. Smith, Chief, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and Enforcement: Dave Schultz, Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-212 1986 HUNTING SEASONS AND GAME BAG LIMITS AND 1986 GAME MANAGEMENT UNITS AND AREA LEGAL DESCRIPTIONS.

Reviser's note: The text and accompanying pamphlet comprising the 1986 Hunting seasons and game bag limits and 1986 Game management units and area legal descriptions proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six

regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

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

WAC 232-28-210 1985 HUNTING SEASONS AND GAME BAG LIMITS AND 1985 GAME MANAGEMENT UNITS AND AREA LEGAL DESCRIPTIONS

WSR 86-09-085
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Managers required—Exceptions ((change of management)), amending WAC 314-12-090;

that the agency will at 9:30 a.m., Wednesday, May 28, 1986, in the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.24.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1986.

Dated: April 23, 1986
By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-12-090 Managers required—Exceptions.

Description of Purpose: To require by rule what the board has required by policy, approved managers for licensed corporations and licensed premises operated by absentee licensees.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.24.010.

Summary of Rule: The rule as it is now requires board approval for changes in management. However, except for private clubs, there is no rule or statute that requires a manager.

Reasons Supporting Proposed Action: Would require managers for licensed corporations and for licensed premises operated by absentee sole proprietorships or partnerships. This would result in better control of, and responsibility for, the operations at licensed corporations.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Gary

Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This rule should have no negative cost impact. Corporations have to provide management for their businesses now, the rule would merely require that a person be designated as responsible manager.

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

WAC 314-12-090 (~~CHANGE OF MANAGEMENT~~) MANAGERS REQUIRED—EXCEPTIONS. (1) All businesses licensed under chapter 66.24 RCW shall appoint a manager, such manager to be approved in writing by the board. Provided, however, that this requirement does not apply to those businesses in which the licensee is a sole proprietor or partnership and the sole proprietor, partner or partners are regularly available on the premises engaged in the management of the licensed business.

(2) No change shall be made in the management of any licensed business until written consent of the board has been obtained.

WSR 86-09-086
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Class H hotels—Sales by the bottle to registered guests—Conditions, WAC 314-16-115;

that the agency will at 10:00 a.m., Wednesday, May 28, 1986, in the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 66.08.030, 66.98.070, 66.24.400 and chapter 208, Laws of 1986.

The specific statute these rules are intended to implement is chapter 208, Laws of 1986.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1986.

Dated: April 23, 1986
By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-115 Class H hotels—Sales by the bottle to registered guests—Conditions.

Description of Purpose: Chapter 208, Laws of 1986, authorized Class H licensed hotels to sell liquor by the bottle to registered guests. This law becomes effective on May 1, 1986. The board, by adoption of an emergency

rule has provided guidelines and limitations under which these sales may occur. The proposed rule, with slight changes to the format of the emergency rule, provides guidelines as to when, where, how and to whom such bottle liquor sales may be made.

Statutory Authority: RCW 66.08.030, 66.98.070 and 66.24.400.

Statutes Implemented by the Rule: Chapter 208, Laws of 1986.

Summary of Rule: Limits the sale of liquor by the bottle to registered guests in the following respects: Sales must be to registered guests twenty-one years of age and over. The registered guest must establish that he is a registered guest of the hotel by completing a form to be furnished by the licensee. The bottles so sold must be removed unopened from the lounge or other dispensing area; and must be for use in a guest, hospitality or banquet room of the hotel. Limits the sale of liquor by the bottle within individual guest rooms in the following respects: Liquor to be secured in liquor dispensing cabinet and to remain locked when the room is rented to a person under twenty-one years of age. Access must be limited to registered guests. The size of the containers (i.e., miniatures of spiritous liquor, splits of wine and bottles or cans of malt beverages) that can be dispensed is specified. Replenishment of liquor dispensing cabinets can occur only during the hours when liquor may be sold by Class H licensees, and such replenishment may be performed by persons eighteen years of age and over, if supervised by an employee at least twenty-one years of age. Provides that the registered guest may remove the unused portion of the bottle(s) purchased in the original container(s) from the hotel.

Reasons Supporting Proposed Action: Chapter 208, Laws of 1986, authorizes Class H licensed hotels to sell liquor by the bottle to registered guests. This rule will provide guidelines and limitations under which such sales may occur.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Gary Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270; Lester C. Dalrymple, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6259; and Carter Mitchell, Information Officer, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6276.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

NEW SECTION

WAC 314-16-115 CLASS H HOTELS—SALES BY THE BOTTLE TO REGISTERED GUESTS—CONDITIONS. (1) Pursuant to the provisions of chapter 208 Laws of 1986, Class H licensed hotels may sell liquor by the bottle to registered guests of said hotel who are twenty-one years of age or over provided:

(a) That before a guest may purchase such liquor it must be established that he or she is a guest of the hotel. This may be done by showing a room key bearing the room number and name of the hotel, or by presenting a registration receipt from the hotel.

In either event the guest must acknowledge his/her registration by signature upon a form to be provided by the hotel for this purpose, and said form when completed shall be kept by the hotel for the same time period it is required to retain its registration information.

(b) Where there may be a question of a registered guest's right to purchase liquor, by reason of age, the licensee may require the guest to complete a certification card as provided in RCW 66.20.190.

(c) That any bottle of liquor sold under this section must be removed unopened from the lounge area or other approved dispensing area. The contents of such bottle(s) may be consumed only in a guest, hospitality or banquet room of the hotel; however, guests may remove from the premises any unused portion of such liquor in its original container.

(d) That such sales of liquor by the bottle shall be from the lounge of the licensed premises, from an approved dispensing area or by room service provided by the licensee. If an approved dispensing area is used for this purpose, the access thereto must be limited to registered guests who intend to purchase liquor for use within a guest, hospitality or banquet room.

(2) Class H licensed hotels may sell within the individual guest room liquor by the bottle to registered guests age twenty-one years or over provided:

(a) That such liquor shall be secured in a liquor dispensing cabinet within the guest room. That liquor dispensing cabinets must remain locked whenever the room is rented to a guest under the age of twenty-one years.

(b) That access to individual guest room liquor dispensing cabinets shall be by key, magnetic card or similar device provided by the hotel to the adult registered guest.

(c) That liquor made available for sale within the guest room from a liquor dispensing cabinet shall be packaged in individual serving containers such as miniatures of distilled spirits, splits of win and bottles or cans of malt beverages.

(d) That replenishment of such liquor dispensing cabinets may be made only during those hours when liquor may be sold by the Class H licensee, and only by employees eighteen years of age or over working under the supervision of an employee at least age twenty-one.

(3) Class H licensed hotels may provide a dispensing area removed from the lounge for the purpose of sales to registered guests of legal age. Such area shall not be accessible to anyone other than registered guests and employees of the Class H licensee. Sales therefrom shall be made only by authorized employees of the licensee who are twenty-one years of age or over. The purchaser shall complete a form provided by the licensee which attests to the validity of the guest's registration at that hotel. Where there may be a question of a registered guest's right to purchase liquor, by reason of age, the licensee may require the guest to complete a certification card as provided in RCW 66.20.190.

WSR 86-09-087
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Class H restaurant operation, WAC 314-24-160;

that the agency will at 9:30 a.m., Wednesday, May 28, 1986, in the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.08.050 and 66.24.170.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1986.

Dated: April 23, 1986

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-24-160 Domestic wineries—Retail sales of wine on winery premises—Wine served without charge on premises—Class H restaurant operation.

Description of Purpose: WAC 314-24-160(3) as it now stands allows wine of a domestic winery's own production to be consumed in designated parks and picnic areas adjacent to and held by the same ownership as a domestic winery. Some wineries now hold distillers licenses in addition to the winery license. These winery-distillers who enter into a vendor agreement with the board are allowed to sell liquor of their own production on the winery premises. The proposed amendment would add language allowing the consumption of liquor products of its own production in addition to wine by customers who purchase these products at the winery in the picnic and park areas immediately surrounding the winery.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.08.050 and 66.24.170.

Summary of Rule and Reasons Supporting Proposed Action: The amended language as proposed would allow wineries who have a vendor agreement with the board to sell liquor products of their own production to permit customers to consume such products in the park and picnic areas adjacent to the winery upon receipt of written authorization from the board.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Jan Britt, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6273.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

AMENDATORY SECTION (Amending Order 61, filed 12/6/77)

WAC 314-24-160 DOMESTIC WINERIES—RETAIL SALES OF WINE ON WINERY PREMISES—WINE SERVED WITHOUT CHARGE ON PREMISES—CLASS H RESTAURANT OPERATION. (1) A domestic winery holding a proper retail license, pursuant to chapter 66.24 RCW, may sell wine of its own production at retail on the winery premises: PROVIDED, That wine so sold at retail shall be subject to the tax imposed by RCW 66.24.210, and to reporting and bonding requirements as prescribed by RCW 66.28.010 and WAC 314-24-110 (Rule 69).

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a Class H restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such Class H licenses.

(5) A domestic winery may serve wine without charge on the winery premises as authorized by RCW 66.28.040. Such wine served without charge as provided herein is not subject to the tax imposed by RCW 66.24.210.

((+)) (6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

WSR 86-09-088

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 86-1—Filed April 23, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to valuation procedures, amending WAC 458-30-145.

This action is taken pursuant to Notice No. WSR 86-06-008 filed with the code reviser on February 21, 1986. 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 84.34.141 which directs that the Department of Revenue has authority to implement the provisions of chapter 84.34 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 April 14, 1986.

By Trevor W. Thompson
Assistant Director

AMENDATORY SECTION (Amending Order PT 78-3, filed 6/16/78)

WAC 458-30-145 VALUATION PROCEDURES. In determining the current use value of farm and agricultural land and the current use value of open space land with no current use, the assessor shall value each class of soil by the capitalization of income method in the following manner:

(1) The net cash rental to be capitalized shall be determined as follows:

(a) The assessor will use leases of land which are currently leased or have been available for lease for the last

three years. If leases do not meet this requirement, they will not be used. The lease payments will be averaged as follows:

(i) Each annual lease payment (or rent) will be averaged for the typical crops within that area; and

(ii) The typical average cash rental for each year will be averaged over the immediate past five years. The typical cash rental shall include all income including subsidies. Payments in lieu of production may be included as income, in which case the acreage kept out of production because of those payments will be included in total acreage valued by capitalization of income. If payments in lieu of production are not included as income, the values computed for the land in production shall be extended to that acreage held out of production at the same value per acre. A deduction will be allowed for those production costs which are customarily (or typically) paid by the land owner.

(b) When there is an insufficient number of leases available to adequately determine net cash rental, then the net cash rental shall be determined by using the following:

(i) The cash value of the typical or usual crops grown in a typical area will be determined each year; and

(ii) The standard costs of production will be deducted; or

(iii) The landlord's share of the crops cash value will be determined. The landlord's typical production expenses will be deducted.

This amount will then be averaged over the immediate past five years.

(c) Where the land being valued is not capable of producing agricultural income or is not being used to produce agricultural income or where sufficient information is not available by which agricultural income can be determined, the assessor shall impute, on its estimated capability to the land, a reasonable amount to be capitalized as income.

(2) The capitalization rate to be used in valuing land shall be the sum of the following component parts:

(a) An interest component to be determined by the department of revenue and certified to the county assessor on or before January 1st of each year, and shall be comparable to interest rates charged on long-term loans secured by mortgages on farms or agricultural lands averaged over the last five years, plus;

(b) A component for property taxes which shall be determined by:

(i) Dividing the total assessed value of the county into the total taxes levied within the county for the year previous to the assessment; and

(ii) Multiplying the dividend by one hundred percent.

(3) The value of the agricultural land shall be the net cash rental of the land divided by the capitalization rate determined in subsection (2).

(4) The department's determination of the interest rate established in (2)(a) may be appealed to the state board of tax appeals by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(5) Land which is being used as a residential building site, which shall constitute one acre, shall be valued at

true and fair value in accordance with WAC 458-12-301. Land upon which migratory farm labor accommodations, bunkhouses, stockyards, barns, machine sheds, and similar type structures are located shall not be considered residential building sites.

WSR 86-09-089

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF COMMUNITY DEVELOPMENT (Development Loan Fund Committee)

[Memorandum—April 23, 1986]

The newly formed Washington State Development Loan Fund Committee requests notice of its organizational meeting published in the May 7 issue of the State Register. Pertinent information is as follows:

Date: May 15, 1986
Time: 10:45 a.m. – 5:30 p.m.
Location: Holiday Inn, 9 North 9th Street, Yakima
Agenda Items: Committee bylaws, administrative rules (WACs), program eligibility requirements and application procedures, legal agreements, schedule of future meetings, and setting of program objectives.

WSR 86-09-090

PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed April 23, 1986]

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 annual seed inspection charge, chapter 16-304 WAC, and seed certification and standards, chapter 16-316 WAC;

that the agency will at 1:15 p.m., Tuesday, May 27, 1986, in the Agricultural Service Center, 2015 South 1st Street, Yakima, WA 98903, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 6, 1986.

The authority under which these rules are proposed is chapter 15.49 RCW.

Dated: April 23, 1986

By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapters 16-316 and 16-304 WAC.

Description of Purpose: To extend the time period for the seed assessment; amend seed certification requirements; amend varieties eligible; and to add new sections for the certification of rapeseed.

Statutory Authority: Chapter 15.49 RCW.

Summary of Rules: These rules consist of the standards and requirements for certification of seed.

Reasons for Supporting Proposed Action: To extend the seed assessment to fund seed control activities; to include standards for rapeseed; and to update rules relating to seed standards and requirements.

Agency Personnel Responsible for Drafting, Enforcing and Implementing Rules: Max G. Long, Seed Branch Supervisor, 2015 South 1st Street, Yakima, WA 98903, phone scan 558-2750.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rule Amendments Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1832, filed 6/15/84)

WAC 16-304-110 ANNUAL SEED INSPECTION CHARGE. Each person required to obtain a seed labeling permit, pursuant to RCW 15.49.400, of the Washington State Seed Act, shall also, pursuant to RCW 15.49.310 and 15.49.370, pay a general seed inspection charge annually to the department in the amount of ten cents per one hundred dollars gross annual dollar sales in excess of ten thousand dollars of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year: PROVIDED, That no assessment shall be collected on (1) seed for which the assessment has been previously collected, except when such seed has been relabeled; (2) agricultural or vegetable seed distributed out of state; (3) seed distributed in containers of four ounces or less; (4) stock seed; and (5) seed distributed by governmental agencies, such as but not limited to the United States Department of Agriculture national foundation seed project: PROVIDED FURTHER, That erroneous and overpayments shall be refunded on request. Requests for refund (~~must~~) shall be filed by June 30 of the year following the due date. Agricultural and/or vegetable seeds distributed under bailment contract shall be valued at the producer-conditioner agreement rate in lieu of sale.

The assessment fees for the period beginning July 1, (~~1983~~) 1985 through June 30, (~~1984~~) 1986 shall be due August 1, (~~1984~~) 1986 and payable by February 1, (~~1985~~) 1987. The assessment fees for the period beginning July 1, (~~1984~~) 1986 through June 30, (~~1985~~) 1987 shall be due August 1, (~~1985~~) 1987 and payable by February 1, (~~1986~~) 1988.

The assessment may accompany the annual application for the seed labeling permit. A penalty of ten percent of the assessment fee or minimum of ten dollars, whichever is greater, shall be added to all assessments not paid by February 1. These funds shall only be used for seed control activities. The annual seed labeling permit may not be issued until all assessments and penalties have been satisfied.

AMENDATORY SECTION (Amending Order 1832, filed 6/15/84)

WAC 16-304-130 SEED INSPECTION ASSESSMENT-EFFECTIVE DATES. This rule is effective through June 30, (~~1986~~) 1988. Between January 1, (~~1986~~) 1988 and March 1, (~~1986~~) 1988, the assessment program shall be reviewed by the seed branch advisory committee, who will recommend whether to continue the seed assessment program. Such recommendations shall be considered at a public hearing under the authority of chapter 42.30 RCW, the Open Public Meetings Act, and chapter 34.04 RCW, the Administrative Procedure Act. The advisory committee shall also recommend the objectives of the seed quality control activities and shall review expenditures of assessment funds to verify such funds are being used only for seed quality control activities.

NEW SECTION

WAC 16-316-183 TOLERANCE FOR DISEASED MATERIAL. A tolerance of "none" or "zero" for contaminating for diseased material in either field or clean seed standards means that none or zero was found during the normal procedure of field inspection or seed sample testing. None or zero does not mean or constitute a guarantee that the field or seed is entirely free of the contaminant or disease.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-350 GRASS SEED CERTIFICATION FEES-SEEDLING APPLICATIONS. (1) (~~Seedling applications. Due within sixty days after planting~~) All fees for seedlings planted from January 1 through June 30 shall be due September 1, and all fees for seedlings planted July 1 through December 31 shall be due April 1 of

the following year: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late seedling penalty fee.

(a) Seedling application fee:
Per variety, per grower \$15.00

(b) Late seedling penalty fee: (per kind) \$15.00

This additional fee shall be charged for seedling applications received more than sixty days after planting.

(c) Seedling producing application fee:
Per variety, per grower \$15.00

Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees (~~are~~) shall be due July 31: PROVIDED, That such application may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due May 1: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late renewal penalty fee.

(a) Renewal application fee:
Per variety, per grower \$15.00

(b) Late renewal penalty fee: (per kind) \$15.00

This additional fee shall be charged for renewal applications received after May 1.

(3) Reinspection: Other than isolation (each field) \$20.00

If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection is corrected. Only two reinspections are permitted for each field each year.

(4) Inspection and final certification fees: Inspection and final certification fees shall be based on pounds sampled and billed upon completion of required tests (Option A). Those dealers requesting sampling and tagging privileges and/or participation in Option B shall sign a memorandum of agreement that shall expire on June 30 of each year. Memorandum may be terminated by the director if conditioner violates certification standard or requirements of memorandum.

(a) Option A: When based on pounds sampled, and billed at completion of required laboratory tests, the fees shall be:

(i) Inspection and final certification fee \$ 0.80

per one hundred pounds. (If no seed is tagged, twenty cents of the final certification fee is refundable upon request.)

(ii) Service fee for out-of-state origin \$ 0.30

per one hundred pounds.

(iii) Blend fee shall be as established by blend rule, and in addition to above fees. However, blend fee not applicable to salvage blends.

(iv) Payment of fees shall be the responsibility of the person signing the application. However, conditioner may assume this responsibility.

(b) Option B: When based on pounds tagged after required laboratory tests are completed, the fees shall be:

(i) Inspection and final certification fee \$ 1.10

per one hundred pounds. (Minimum fee per tagging) \$10.00

(ii) Service fee for out-of-state origin \$ 0.65

per one hundred pounds.

(iii) Blend fee (in addition to fee established by blend rule) shall be payable upon completion of blend on total weight of blend, and shall be as follows:

(A) Washington origin certified seed used in blend \$ 1.00

per one hundred pounds.

(B) Out-of-state origin certified seed used in blend \$ 0.60

per one hundred pounds: PROVIDED, That those fees listed in (a) and (b) above are not applicable to certified seed that is tagged and sealed, and on which final fees have been paid.

(C) A refund or credit shall be issued for the percent of the blend lot not tagged. (For example, if forty percent of the blend is not tagged, forty percent of the fees charged under Option B above is refundable.) Requests for refunds shall be made by June 30 following final disposition of the blend.

(5) Payment of fees shall be the responsibility of the conditioner. A conditioner choosing this program shall handle all certified grasses in his warehouse under this program for the entire crop year. Upon termination or nonrenewal of Option B memorandum of agreement, conditioner shall be responsible for Option A fees on all certified seed not tagged at termination date.

(6) Fees for services such as O.E.C.D. and sod quality, etc., shall be in addition to the fees listed in these standards.

(7) Purity and germination test fees shall be as established by the director of agriculture.

(8) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(9) Fees for reissue of tags shall be ten cents per tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1485, filed 9/8/76)

WAC 16-316-355 GRASS SEED—LAND REQUIREMENTS.

(1) A field to be planted with breeder seed for the production of foundation seed ((must)) shall not have grown or have been seeded to the same species, sub-species, variety, or strain of grass during the preceding five years. The field ((must)) shall be planted in spaced rows. The five year eligibility may be waived to three years with the use of fumigants and other short-term soil sterilization chemicals subject to approval of the certifying agency.

(2) A field to be planted with foundation seed for the production of registered seed ((must)) shall not have grown or have been seeded to the same species, sub-species, variety, or strain of grass during the preceding three years.

(3) A field to be planted with foundation, registered, or certified seed for the production of certified seed ((must)) shall not have grown or have been seeded to the same species, sub-species, variety or strain of grass during the preceding year unless the previous planting was of the same species, sub-species, variety, or strain and eligible to produce foundation, registered or certified seed.

(4) Reseeding of a field because of failure or partial failure of the first seeding may be done with permission of the seed branch.

(5) Grasses of the same kind growing in fence rows and other areas adjacent to the field ((must)) shall be controlled to prevent blooming.

AMENDATORY SECTION (Amending Order 1757, filed 3/31/82, effective 5/1/82)

WAC 16-316-370 GRASS SEED STANDARDS. Seed standards for grass shall be as follows:

PART ONE OF TABLE

Crop & type of Reproduction	Symbol (as defined in WAC 16-316-360)	Min. % Germ Fndt.		Min. % Pure Fndt.		Max. % Inert Fndt.	
		Reg.	Cert.	Reg.	Cert.	Reg.	Cert.
Bluegrass Sherman	(A)	70	70	90	90	10	10
Canby	(A)	70	70	90	90	10	10
Kentucky	(A)	80(e)	80(e)	97	97(d)	3	3
Merion Kentucky	(A)	80(e)	80(e)	92	92(d)	8	8
Canada	(A)	80	80	96	92(d)	4	8
Smooth Brome	(C)	80	85	95	95	5	5
Meadow Brome	(C)	80	85	95	95	5	5
Mountain Brome	(S)	85	85	95	95	5	5
Deertongue	(C)	50	50	97	95	3	5
Fescue Tall	(C)	80	85	95	97	5	3
Hard Fescue	(C)	80	85	95	95	5	5
Other Fescue	(C)	80	90	95	95	5	5
Orchardgrass	(C)	80	85	85	90	15	10
			80 for Pennlate & Latar				
Ryegrass	(C)	85(g)	90(g)	96	97	4	3
Pennfine	(C)	85(g)	85(g)	96	97	4	3
Timothy	(C)	80	85	97	97	3	3

Crop & type of Reproduction	Symbol (as defined in WAC 16-316-360)	Min. % Germ Fndt.		Min. % Pure Fndt.		Max. % Inert Fndt.	
		Reg.	Cert.	Reg.	Cert.	Reg.	Cert.
Wheatgrass Beardless	(C)	80	85	90	90	10	10
Intermediate	(C)	80	85	95	95	5	5
Pubescent	(C)	80	85	95	95	5	5
Streambank Crested, and Siberian	(C)	80	85	90	90	10	10
Slender	(S)	80	85	90	95	10	5
Tall	(C)	80	85	95	95	5	5
Indian Ricegrass	(C)	80	80	95	90	5	10
Puccinellia distans	(C)	80	80	95	95	5	5

PART TWO OF TABLE

Crop & type of Reproduction	Max. % Weeds(b) Fndt.		Max. % Other Crop Fndt.(a)		Max. No. seeds of other grass spp.	
	Reg.	Cert.	Reg.	Cert.	Fndt.	Reg.
Bluegrass Sherman	.05	.3	.1	.5	1/10 grams	1/1 gram
Canby	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Kentucky	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Merion Kentucky	.05	.3	.1	.5(d)	1/10 grams	2/1 gram
Canada	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Smooth Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
Meadow Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
Mountain Brome	.3	.5	.5	1.0	1/50 grams	10/50 grams
Deertongue	.50	.5(c)	1.0	1.0	1%	—
Fescue Tall	.03	.3(c)	.1	.5	2/50 grams	10/50 grams
Hard Fescue	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Other Fescue	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Orchardgrass	.03	.3(c)	.1	.5	3/50 grams	10/50 grams
Ryegrass	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Pennfine	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Timothy	.1	.3	.1	.5	1/50 grams	5/50 grams
Wheatgrass Beardless	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Intermediate	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Pubescent	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Streambank	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Crested, and Siberian	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Slender	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Tall	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams

Crop & type of Reproduction	Max. % Weeds(b)		Max. % Other Crop		Max. No. seeds of other grass spp.	
	Fndt. Reg.	Cert.	Fndt. Reg.	Cert.	Fndt.	Reg.
Indian Ricegrass	.3	.5	.5	1.0	1/50 grams	5/50 grams
Puccinellia distans	.3	.5	.5	1.0	1/10 grams	1/1 grams

((The following (a)-(f) are notes to the above table.)) The following (a)-(f) are notes to the above table.

(a) Not to exceed twenty-five hundredths of one percent other grass species for certified seed.

(b) Grass seed ((~~must~~)) shall not contain more than ((45)) forty-five per ((~~lb.~~)) pound for registered seed, ((90)) ninety per pound for blue tag seed, singly or collectively, of objectionable weed seeds. (See current general rules.) Grass seed ((~~must~~)) shall be free of the seed of prohibited noxious weeds.

(c) A tolerance of ((.5% ~~with~~)) five-tenths of one percent may be allowed for samples containing weedy bromus spp.((:)) PROVIDED, That the total of all other weed seeds does not exceed ((.3%)) three-tenths of one percent.

(d) A ((3%)) three percent tolerance of other Kentucky Bluegrass varieties ((~~with~~)) may be allowed in Merion. (Note: Containing minimum ((92%)) ninety-two percent Merion.) In Canada Bluegrass, ((3%)) three percent Kentucky Bluegrass ((~~with~~)) may be permitted.

(e) A standard tetrazolium ((200)) two hundred seed test may be used in lieu of germination test.

(f) A tolerance of ((.8% ~~with~~)) eight-tenths of one percent may be allowed in registered and certified wheatgrass containing small grain seed((~~,-providing~~)) PROVIDED, That the total of all other crop seed does not exceed ((.1%)) one-tenth of one percent for registered class and ((.5%)) five-tenths of one percent for certified class.

(g) Acceptable maximum fluorescence allowed:

Variety	Foundation	Registered	Certified
NK-100	3 - 12%	—	3 - 12%
Norlea	2%	—	5%
Pelo	1%	2%	5%
Pennfine	0 - 1%	—	0 - 3%
Cropper	0	—	3%
NK-200	0	—	3%
Yorktown	0	0	2%
Loretta	—	—	2%

AMENDATORY SECTION (Amending Order 1692, filed 5/30/80)

WAC 16-316-445 RED CLOVER SEED—LAND REQUIREMENTS. (1) A field to be planted with breeder seed for the production of foundation seed ((~~must~~)) shall not have been grown or seeded to red clover during the preceding six years, three years of which the land ((~~must~~)) shall have been cultivated.

(2) A field to be planted with foundation seed for the production of certified seed ((~~must~~)) shall not have been grown or seeded to red clover during the preceding ((three)) two years. The time interval may be shortened to one year if one cultivated crop or clean fallow has intervened and the new planting is of the same variety and class.

(3) A stand of red clover ((~~with~~)) shall not be eligible to produce certified seed after two seed crops. These crops may be produced either in the same or in consecutive years.

(4) Reseeding of a field, because of failure or partial failure of the first seeding, may be done with permission of the certifying agency.

(5) Ditchbanks, roadways, etc., adjacent to a certified field ((~~must~~)) shall be free of volunteer red clover and prohibited noxious weeds.

(6) Volunteer plants in the field may be cause for rejection or reclassification of the seed field.

(7) No manure or contaminating material shall be applied one year preceding, or during the establishment and productive period of the stand.

(8) A stand of red clover over three years old ((is)) shall not be eligible for certification.

AMENDATORY SECTION (Amending Order 1694, filed 5/30/80)

WAC 16-316-525 FIELD PEA—LENTIL—SOYBEAN—SORGHUM—SMALL GRAIN—ELIGIBLE VARIETY AND STOCK SEED.

Kind, type	Variety
Barley, spring	Advance Belford, ((Blazer,)) <u>Andre, Columbia, Coughbar, Gus (P), ((Karl,)) Kimberly, Klages, Kombar (P), Larker, Lindy (P), Lud (P), Menuet (P), Morex, Nova (P), Onda (P), ((Stepford (P,)) Piston (P), Poco (P), Steptoe, ((Vanguard, Woodvale,)) Westbred Gustoe (P), Westbred 501 (P), Whitford (P)</u>
Adair, Barley, winter	Boyer, <u>Casbon, Hesk, Kamiak Luther, Mal, Scio, Showin</u>
Oat, spring	Appaloosa, <u>Border, Cayuse, ((Corbit, Harmon, Otana)) Monida, Ogle, Park, ((Forat))</u>
Rye, winter	Puma, Rymin
Wheat, spring	((Borath,)) <u>Edwall, Fielder, ((Fieldwin, Kitt, Marfed, Profax (P), Prostar (P), RF-75 (P,)) McKay, NK 751 (P), Urquie, ((Walladay,)) Wampum, Wared, Waverly, West Bred 803 (P), West Bred 881 (P), West Bred 906R (P), West Bred 911 (P), WS-1 (P), W-444 (P), ((WS-25 (P), 711 (P))) Yecora Rojo</u>
Wheat, winter	((Barbce,)) <u>Batum, Crew Daws, ((Faro, Gaines,)) Dusty, Hatton, ((Hystop, Jacmar (P), Luke,)) Hill-81, John, Lewjain, McCall, ((McDermid,)) Moro, Nugaines, Paha, ((Raeder,)) Sprague, Stephens, Tres, Tyee, Wanser, ((Yamtrih))</u>
Triticale, spring	

(P) means proprietary

The eligibility of other varieties may be approved by the certifying agency.

Foundation seed is eligible to produce registered seed or certified seed.

Registered seed is eligible to produce certified seed.

Certified seed is not eligible for recertification.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-800 GRASS VARIETIES ELIGIBLE. (1) Following are the grass varieties eligible and the certifying scheme for each:

Bentgrass: (subject to poa annua quarantine)	Astoria Colonial*** Bardot Colonial** Highland Colonial** Seaside Creeping*** Emerald Creeping**
Big Bluegrass:	Sherman**
Canada Bluegrass: (subject to poa annua quarantine)	Reubens**
Canby Bluegrass:	Canbar**
Kentucky Bluegrass: (subject to poa annua quarantine)	A-20-6* A-34 (Bensun)** Adelphi** Amason* America* Argyle** Banff Barblue*ppvV Baron** Birka* Bonnieblue (Pac)** Bono (Birdie)* Bristol* Cheri (Golf)* Classic** Cougar* Cynthia* Delta*

Eclipse*
 Enmundi*pvV
 Fylking**
 Georgetown**
 Geronimo*
 Glade**
 Haga*
 Harmony*
 Holiday*
 Ikone**
 I-13**
 Julia*
 Kenbluc*
 Kyosti*

Liberty**
 Majestic**
 Merion**
 Monopoly*
 Mystic*

Nassau**
 Newport**
 Nugget*
 Nutop*
 Pacific*pvV
 Parade*
 Park**
 Pennstar*
 Plush*
 Ram I*pvV
 Rugby*

Sving*
 Sydsport*
 S-21**
 Touchdown**
 Troy**
 Victa*
 Wabash*
 Welcome*

Meadow Brome:
 Mountain Brome:
 Smooth Brome:

Regar**
 Bromar**
 Baylor*
 Beacon*
 Blair*

Manchar**
 Rebound*
 Sac**
 Saratoga*

Deertongue:
 Fescue:

Tioga*

Cascade Chewings**
 Countess Chewing**pvV
 Arid Tall*
 Jamestown Chewings*pvV
 Barcel Tall**pvV
 Barfalla Chewings**
 Durar Hard**
 Finelawn I-Tall**
 Scaldis Hard*
 Dawson Red*
 Idaho Joseph**
 Nezpus Idaho*pvV
 Novorubra Red*
 Logro Slender Creeping Red**pvV
 Manade Tall*
 Pennlawn Red*
 Rebel Tall*
 Ruby Red*
 Safe Tall*
 Wintergreen Red*
 Covar Sheep**
 Alta Tall**
 Fawn Tall*
 Beaumont meadow*
 First Meadow**
 Forager Tall*

Orchardgrass:

Hay King*
 Latar**
 Paivte**
 Pennlate*

Redtop:
 Indian Ricegrass:
 Perennial Ryegrass:
 (subject to poa annua quarantine)

Puccinellia distans:
 Timothy:

Wheatgrass:

Wild Rye:
 Basin Wild Rye:
 (2) Variety restrictions.

Potomac*
 Streaker
 Nezpar**
 All*Star**
 Belle*
 Cropper*
 Diplomat*pvV
 Elka*
 Friend**pvV
 ((Jackpot))
 LP-20*
 Manhattan*
 Norlea*
 Pennfine*pvV
 Yorktown*pvV
 Yorktown II*pvV
 Fults*
 Champlain*
 Clair*
 Climax*
 Hokuo*
 Mohawk**
 Nosappu*
 Pronto*

Whitmar Beardless**
 Secar Bluebunch**
 Fairway Crested*
 Ruff Crested*
 Nordan Crested**
 Ephraim Rhizomatous Crested**
 Amur Intermediate***
 Greнар
 Intermediate**
 Oahe Intermediate*
 Tegmar Intermediate*
 Siberian**
 Greenleaf Pubescent*
 Luna Pubescent**
 Topar Pubescent**
 Primar Slender**
 P-27 Siberian
 Sodar Streambank**
 Critana Thickspike**
 Alkar Tall**

Bozoisky Russian**
 Magnar**

NO. OF SEED HARVESTS
 FOUNDATION REGISTERED CERTIFIED

(a) Kentucky Bluegrass:

Baron	5	5
Birka	2 + 3 Cert.	5
Bonnieblue	2 + 5 Cert.	5
Bristol	4	4
Cougar	3	6
Enmundi	4	5
Georgetown	5	5
Geronimo	6	6
Kenbluc	5	7
Majestic	3 + 5 Cert.	5
Pacific	5	5
Parade	5	5
Ram-I	2	6
Rugby	3 + 2 Cert.	5
Sydsport		5
Touchdown	2 + 5 Cert.	5

(b) Deertongue:
 Tioga

6

(c) Orchardgrass:
 Pennlate

3 6

(d) Perennial Ryegrass:

Belle	4 + 2 Cert.	5
Diplomat	5 + 2 Cert.	5
Elka	4	4
Pennfine	2 + 2 Cert.	4
Yorktown II	4 + 3 Cert.	4
Manhattan	2 + 5 Cert.	5

AMENDATORY SECTION (Amending Order 1757, filed 3/31/82, effective 5/1/82)

WAC 16-316-810 RED CLOVER VARIETIES ELIGIBLE. (1) Following are the red clover varieties eligible and the certification scheme for each:

Arlington*
 Chesapeake*
 E-688*
 Flare*
 Florex*
 Florie*
 Hamidori*
 Kenland*
 Kenstar*pvvV
 Lakeland*
 Pennscott*
 Prosper I*
 Redland*pvvV
 Redland II*
 Redman*
 Reddy*
 Ruby**
 Sapporo*
 Tristan*
 W-116*

(2) Variety restrictions. Kenstar: No seed production permitted year of seeding.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-820 ALFALFA VARIETIES ELIGIBLE. (1) Following are the alfalfa varieties eligible and the certification scheme for each:

A-24**
 A-59**
 Agate*
 Anchor*
 Answer*
 Apalachee*
 Aquarius*
 Apollo*
 Apollo II*
 Arc*
 Armor*
 Atlas*
 Atra-55*
 Baker*pvvV
 Big Ten*
 Blazer*
 Challenger*
 Cimarron*
 Citation*
 Classic*
 Defender*
 Delta**
 DK-135*
 Drummor*
 Duke*
 Dupuits*
 Eagle*
 Endure*
 Epic*
 Excalibur*
 Expo*
 Gladiator*
 G-2815*
 G-7730*
 Hi-Phy*
 Honeoye*pvvV
 Iroquois*
 Julius*
 Ladak**
 Ladak 65*

Liberty**
 Maverick*
 Marathon*
 Maxim*
 Mesilla**
 Mohawk
 Multileaf*pvvV
 Narragansett**
 Nomad**
 Nugget*
 Olympic*
 Onecida*pvvV
 Peak*
 Perry*
 Phyltor*
 Polar II*
 Preserve
 Primal*
 Prowler*
 Raidor*
 Ramsey*
 Ranger**
 Riley*
 Saranac*
 Saranac AR*pvvV
 Shenandoah*
 Sparta*
 Spectrum*
 Spredor 2*
 Sverre*
 SX-10*
 SX-217*
 SX-418*
 Team*
 Tempo*
 Titan*
 Trident*
 Trumpetor*
 Turbo*
 Vernal*
 Vancor*
 Vanguard*
 Vernema*
 Vista*
 Voris A77*
 WL-220*
 Washoe*
 Weevlchek*
 ((WL-215*
 WL-219*))
 WL-221*
 ((WL-311*))
 WL-312*
 WL-313*
 WL-315*pvvV
 WL-316*pvvV
 WL-318*
 WL-320*pvvV
 Wrangler*
 88*
 120*
 123*
 130*
 521*
 520*
 526*
 530*
 531
 532*
 581*
 5444*
 624*
 629

(2) Variety restrictions.

	NO. OF SEED HARVESTS			
	Breeder	Foundation	Registered	Certified
Answer		2		5
Apollo II				3
Baker	2	3		6
Blazer		3		
Challenger	2	3		5
Defender	2	3		5
Drummor	2	3		5
Duke		3		5
Epic		4		6
Expo		3		5
G-7730		3		5
Honeoye		3		6
Iroquois		3		6
Maverick		3		5
Multileaf		3		6
Oneida		3		6
Peak		3		
Perry	2	3		6
Preserve	2	3		5
Polar II	2	3		5
Prowler	2	3		5
Raidor	2	3		5
Saranac		3		6
Saranac AR		3		6
Spredor 2	2	3		5
Trident		2		5
Trumpetor	2	3		5
Vancor	2	3		5
Vernema		4		6
Voris A-77		2		5
WL-221		3		
WL-313		3		
WL-315		3		5
WL-316		3		5
Wrangler				6
120		3		
123		2		4
130		3		5
526		3		5

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-830 BEAN VARIETIES ELIGIBLE. Following are the bean varieties eligible and the certification scheme for each:

Red Mexican:	Bigbend** NW-59** NW-63** Rufus** U of I 42*
Pinto:	Holberg* Fiesta* NW-410 NW-590 Nodak** Olathe**pvpV Pindak** U of I 114*** Wyo 166**
Pink:	Gloria** Harold** Roza** Victor** Viva**
Small White:	Chief** Bonus** Aurora**
Kidney:	Pilgrim*, Royal Red**, Carmine*
Snap Bean:	Apollo** Epoch**pvpV Yakima** Tanta**
Navy:	Bunsi**, C-20**, Duty, Hyden**, Laker**, NW 395**, (Pulsar)*
Great Northern:	Emerson*, Harris**
Black Turtle:	Black Turtle Soup** #39 Black Beauty** Ebony**pvpV Snowball*
Large, Round White	

NEW SECTION

WAC 16-316-832 RAPESEED VARIETIES ELIGIBLE FOR CERTIFICATION. Following are the rapeseed varieties eligible and certification scheme for each:

- Bridger*
- Cascade*

NEW SECTION

WAC 16-316-850 RAPESEED CERTIFICATION STANDARDS. The general seed certification standards are basic and together with the following specific standards constitute the standards for certification of rapeseed.

NEW SECTION

WAC 16-316-860 RAPESEED FIELD STANDARDS. (1) General standards for rapeseed are:

(a) Unit of certification. A portion of a field may be certified if the area to be certified is clearly defined.

(b) Isolation. A field producing foundation, registered or certified seed shall have the minimum isolation distance from fields of any other variety or fields of the same variety that do not meet the varietal purity requirements for certification, as given in the following table:

Class	Fields of Cross Pollinated Varieties	Fields of Self Pollinated Varieties
Foundation	1,320 feet	660 feet
Registered	1,320 feet	660 feet
Certified	660 feet	330 feet
Different generation of same variety	165 feet	165 feet

(c) Volunteer plants. Volunteer plants may be cause for rejection of reclassification of a seed field.

(2) Specific standards for rapeseed are:

Factor	Maximum permitted in each class:		
	Foundation	Registered	Certified
Other varieties*	None **	None **	1.00%

* Other varieties shall be considered to include off-type plants and plants that can be differentiated from the variety being inspected.

**None means none found during the normal inspection procedures. None is not a guarantee to mean the field inspected is free of the factor.

(3) Inspections shall be made when the crop is in the early flowering stage.

NEW SECTION

WAC 16-316-870 RAPESEED LAND REQUIREMENTS. Land requirements prior to planting shall be as follows:

Class Planted	Class Produced	Years Field Shall Be Free of Rapeseed
Breeder	Foundation	5
Foundation	Registered	4
Breeder, Foundation, Registered	Certified	3

(1) For all classes, no manure or other contaminating materials shall be applied during the establishment and productive period of the stand.

(2) Reseeding of a field due to failure or partial failure of the first seeding may be done with permission of the certifying agency.

(3) Ditchbanks, roadways, etc. adjacent to a certified field shall be free of volunteer rapeseed and prohibited noxious weeds.

NEW SECTION

WAC 16-316-880 RAPESEED—SEED STANDARDS. Rapeseed standards shall be as follows:

Purity	Foundation	Registered	Certified
Pure seed	(Min.) 99.00%	99.00%	99.00%
Other crop	(Max.) .05	.10	.25
Specific weeds (Brassica spp. & Raphanus)			

Purity	Foundation	Registered	Certified
Raphanistrum)	(Max.) 1/lb.	3/lb.	5/lb.
Inert matter	(Max.) 1.00	1.00	1.00
Weed seed	(Max.) 5/lb.	10/lb.	15/lb.
Prohibited noxious weeds (1)	None	None	None
Objectionable weeds (2)	(Max.) 1/lb.	3/lb.	5/lb.
Germination	(Min.) 85.00%	85.00%	85.00%

Note:

- (1) None means none found during normal inspection procedures. None is not a guarantee that the lot is free of noxious weed seeds.
- (2) Objectionable weed seeds are defined as: Wild mustard – Brassica campestris, B. nigra, B. kaber, B. napus, or B. juncea.

WSR 86-09-091
PROPOSED RULES
LIBRARY COMMISSION
 [Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Library intends to adopt, amend, or repeal rules concerning rules and regulations governing the basis on which the State Library develops its practices and its activities, chapter 27.04 RCW, chapter 304-12 WAC;

that the agency will at 10:00 a.m., Monday, June 2, 1986, in the Golden Delicious Room, Wenatchee Convention Center, 121 North Wenatchee Avenue, Wenatchee, 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 27.04.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 2, 1986.

Dated: April 23, 1986

By: Nancy Zussy
 State Librarian

STATEMENT OF PURPOSE

Title: Chapter 304-12 WAC, rules and regulations, Washington State Library.

Purpose: To meet the changes in expressed needs of the state as well as those changes expressed in the 1985 Reauthorization of the Library Services and Construction Act. The State Library needs to change the basis on which it develops its practices and its activities.

Statutory Authority: Chapter 27.04 RCW.

Summary of the Rules: These rules revise the section on the rules for construction grant programs, the formulation and terms of office of the Washington State Advisory Council on Libraries, and update the application form requesting a service grant.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Zussy, State Librarian, Washington State Library, Mailstop AJ-11, Olympia, WA 98504-0111.

Proponents of the Rule: These proposed changes were drafted by the Washington State Library staff with the concurrence of the Washington State Advisory Council on Libraries and the Washington State Library Commission.

AMENDATORY SECTION (Amending Order 84-1, filed 3/14/84)

WAC 304-12-025 WASHINGTON LIBRARY PLANNING AND DEVELOPMENT COMMITTEE—DUTIES. (1) The committee shall act as an advisory body working in conjunction with state library staff to effect a sound basis for long-range state-wide library and information service planning activities. It shall advise in designing cooperative programs to further the development of the state-wide library information services network.

(2) The committee will identify issues, seek solutions, and make recommendations to the Washington state library commission, to the state's professional associations, and to others when appropriate.

(3) The committee (~~will establish a standing subcommittee called the Washington state advisory council on libraries to advise it on expenditures of federal moneys. It~~) may (~~also~~) establish (~~other~~) subcommittees and task forces, as is deemed necessary in the course of its work to accomplish various long-term and short-term goals.

NEW SECTION

WAC 304-12-040 WASHINGTON STATE ADVISORY COUNCIL ON LIBRARIES CREATED—APPOINTMENTS—TERMS—EXPENSES. A Washington state advisory council on libraries is hereby created which shall consist of no more than fifteen persons appointed for three year terms. Up to fourteen members shall be appointed by the Washington state library commission. Appointees shall be librarians or others that represent a broad spectrum of demographic groups and a wide variety of sizes and types of libraries. The commission shall confirm the one remaining member who shall be the president-elect or a designee of the Washington library association. Initial terms shall be determined by lot, with one-third serving one year, one-third serving two years and one-third serving three years. Appointments shall be made in June of each year. Members may be reappointed, however, no member shall serve more than two terms consecutively. Vacancies shall be filled by appointment for the unexpired term. The council members shall serve without compensation, but will be reimbursed for subsistence, lodging and travel expenses for council meetings and approved business of the council in accordance with the provisions of the Washington state travel regulations.

NEW SECTION

WAC 304-12-045 WASHINGTON STATE ADVISORY COUNCIL ON LIBRARIES—DUTIES. The council shall act as an advisory body to the Washington state library commission and staff on the development and execution of the federally-funded program of library service.

NEW SECTION

WAC 304-12-145 OTHER SERVICES GRANT PROGRAMS—RULES. Five percent of the grant award will be withheld as the final payment. The final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the submission of the final reports.

AMENDATORY SECTION (Amending Order 83-3, filed 6/17/83)

WAC 304-12-290 CONSTRUCTION GRANT PROGRAM—RULES. The following final rules and regulations were adopted by the Washington state library commission in order to comply with the provisions of the Library Services and Construction Act of 1969 (formerly Public Law 88-269; Public Law 89-511 and now Public Law 91-600).

(1) Only projects to be owned by a state or local public agency are eligible for consideration.

(2) Requests for projects from any unit within a library system must be submitted ~~((through the library administrator and approved))~~ with approval by the respective district library ~~((boards))~~ administration. ~~((Only projects to be owned by a state or local public agency are eligible for consideration:))~~

~~((2))~~(3) Applicants will be required to give written evidence of official approval of any governmental unit involved in the project.

~~((3))~~(4) Agreements to observe the legal requirements of the grants will be executed between the Washington state library commission and the officials administering approved projects.

~~((4))~~(5) Applicants will be required to submit adequate evidence for evaluation of their request on the points established as criteria for evaluation by the Washington state library commission.

~~((5))~~(6) Each application will be acknowledged and each applicant notified when the project will be considered by the state library commission.

~~((6))~~(7) Each applicant will be notified concerning acceptance or rejection by the state library commission within ~~((three))~~ ten days of such official action.

~~((7))~~(8) Rejected applications will be accompanied by a statement as to why the project was not approved.

~~((8))~~(9) Rejected applications may be resubmitted with evidence the objections have been met.

~~((9))~~(10) Any applicant who feels their request has been unjustly rejected may request a hearing. Said hearing will be set to meet the convenience of both the Washington state library commission and the applicant insofar as is reasonably possible.

~~((10))~~ The state library commission will use the following standards as guides for evaluation of the project's adequacy:

(a) ALA minimum standards for public library systems, 1966:

(b) ALA small libraries project

(i) The small library building

(ii) Interim standards for public libraries:))

(11) The local share must be expended before grant funds will be paid, except for those projects covering two fiscal years, in which instance federal regulations will hold. Grant funds will be paid based upon a percentage of completion.

(12) Certification must be presented that local funds are on hand.

(13) Submission of a schedule of the planned progress of the project with estimated dates each step will be completed, is required.

(14) Upon receipt of formal approval by the state library commission, the project must be initiated within a six months' period.

(15) The building plans must meet the approval of the state library. Federal regulations ~~((as)),~~ including but not limited to, evaluation of flood hazards, provision for the physically handicapped, environmental policies and procedures, and competitive bidding must be observed.

(16) When a plaque indicating completion date and source of funds is planned as part of the completed building or when a construction site sign is planned, acknowledgment shall be given to federal participation.

~~((16))~~(17) The state library commission will establish a completion date, based upon the project architect's estimate of the time needed. A project is considered to be completed when it has been opened to the public for service.

(18) Expenses related to acquisition of an existing building or of land, architect's fees, and preliminary planning may be used as matching funds, if incurred no earlier than three years prior to the date of approval of the project by the state library commission.

~~((17))~~(19) Five percent of the federal share of the project will be withheld as the final payment. Final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the completion of a successful audit.

~~((18))~~(20) When changes in federal regulations affect the above without sufficient time for formal notice and change, federal regulations will be considered as official.

~~((19))~~(21) Projects are reviewed by the agency designated by the governor as federal coordinator.

~~((20))~~(22) The advisory council will be kept fully informed as to pending projects, and progress of the approved project.

~~((21))~~(23) Participants in federally-funded projects will cooperate with the advisory council during the period of evaluation.

AMENDATORY SECTION (Amending Order 85-01, filed 9/24/85)

WAC 304-12-350 FORMS—APPLICATION FOR A GRANT.

APPLICATION FOR A GRANT

Library Services and Construction Act

TITLE I

Name of library
Library Director Telephone
Project Director Telephone
Amount of grant requested \$

LIBRARY BOARD MEMBERS

Name	Address	Date Appointed	Number of Years Served
.....
.....
.....
.....
.....
.....
.....
.....
.....

Are all persons holding professional positions certified under Washington law?

(Notary Seal) STATE OF WASHINGTON } ss.
..... County }

I,, swear that the above information is, to the best of my knowledge, a true statement of facts and that the funds applied for with this application will not be used as a substitute for local funds.

(Signature)
Chairman, Library Board

Sworn to before me this day of, 19...

My commission expires
(Signature)
Notary Public

WSR 86-09-092
PROPOSED RULES
HORSE RACING COMMISSION
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning chapter 260-13 WAC, licensing requirements for new tracks and transfers of existing tracks:

CLASS A LICENSE

New	WAC 260-13-010	Relating to identification of application.
New	WAC 260-13-020	Relating to applicant's affidavit.
New	WAC 260-13-030	Relating to disclosure of ownership.
New	WAC 260-13-040	Relating to character information.
New	WAC 260-13-050	Relating to disclosure of improvements and equipment.
New	WAC 260-13-060	Relating to disclosure of development process.

New	WAC 260-13-070	Relating to disclosure of financial resources.
New	WAC 260-13-080	Relating to disclosure of financial plan.
New	WAC 260-13-090	Relating to disclosure of governmental actions.
New	WAC 260-13-100	Relating to disclosure of management.
New	WAC 260-13-110	Relating to disclosure of public service.
New	WAC 260-13-120	Relating to disclosure of impact of facility.
New	WAC 260-13-130	Relating to disclosure of public support and opposition.
New	WAC 260-13-140	Relating to effects on competition.
New	WAC 260-13-150	Relating to disclosure of assistance in preparation of application.
New	WAC 260-13-160	Relating to personal information and authorization for release.
New	WAC 260-13-170	Relating to Class A license criteria.

CLASS B LICENSE

New	WAC 260-13-180	Relating to identification of applicant for Class B license.
New	WAC 260-13-190	Relating to applicant's affidavit.
New	WAC 260-13-200	Relating to disclosure of ownership and control.
New	WAC 260-13-210	Relating to disclosure of character information.
New	WAC 260-13-220	Relating to disclosure of improvements and equipment.
New	WAC 260-13-230	Relating to disclosure of authorization to use horse racing facility.
New	WAC 260-13-240	Relating to disclosure of financial resources.
New	WAC 260-13-250	Relating to disclosure of financial plan.
New	WAC 260-13-260	Relating to disclosure of governmental actions.
New	WAC 260-13-270	Relating to disclosure of management.
New	WAC 260-13-280	Relating to disclosure of public service.
New	WAC 260-13-290	Relating to disclosure of economic impact.
New	WAC 260-13-300	Relating to disclosure of public support and opposition.
New	WAC 260-13-310	Relating to effects on competition.
New	WAC 260-13-320	Relating to disclosure of assistance in preparation of application.
New	WAC 260-13-330	Relating to personal information and authorization for release.
New	WAC 260-13-340	Relating to Class B license criteria.

CLASS A AND B LICENSES

New	WAC 260-13-350	Relating to Class A and B license application disclosures.
New	WAC 260-13-360	Relating to Class A and B license application submission.
New	WAC 260-13-370	Relating to investigation fee for Class A and B licenses.
New	WAC 260-13-380	Relating to clarification for Class A and B license application.
New	WAC 260-13-390	Relating to changes in Class A and B license applications.
New	WAC 260-13-400	Relating to deadlines for submission of Class A and B license applications.
New	WAC 260-13-410	Relating to oral presentation by applicant for Class A or B license.
New	WAC 260-13-420	Relating to payment of Class A and B license fees.
New	WAC 260-13-430	Relating to Class A and B license application information.
New	WAC 260-13-440	Relating to delay in completion of race-track facility.
New	WAC 260-13-450	Relating to construction, expansion, extension, alteration, or remodeling of facilities;

that the agency will at 1:00, Tuesday, June 3, 1986, in the Hyatt House, 17001 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1986.

Dated: April 18, 1986

By: Billy Aliment
Executive Secretary

STATEMENT OF PURPOSE

In the matter of amending or adopting WAC 260-13-010, 260-13-020, 260-13-030, 260-13-040, 260-13-050, 260-13-060, 260-13-070, 260-13-080, 260-13-090, 260-13-100, 260-13-110, 260-13-120, 260-13-130, 260-13-140, 260-13-150, 260-13-160, 260-13-170, 260-13-180, 260-13-190, 260-13-200, 260-13-210, 260-13-220, 260-13-230, 260-13-240, 260-13-250, 260-13-260, 260-13-270, 260-13-280, 260-13-290, 260-13-300, 260-13-310, 260-13-320, 260-13-330, 260-13-340, 260-13-350, 260-13-360, 260-13-370, 260-13-380, 260-13-390, 260-13-400, 260-13-410, 260-13-420, 260-13-430, 260-13-440 and 260-13-450 relating to the rules of horse racing.

WAC 260-13-010 through 260-13-450 are proposed for enactment as indicated in the notice of intention to adopt rules filed this date with the code reviser.

The enactment of these rules is proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission.

The rules are proposed for the following reasons: To clarify a previously ambiguous area in regard to the submission of applications to build or construct a new track or in the alternative, to transfer the ownership of an existing track; to specify specific information which must be submitted in regard to the application and lay out the manner in which that information is submitted. In this way, the applicant has full notice of what is expected in terms of its submission to the Racing Commission; to enhance uniformity and equality in the handling of applications so that the same standards are applied to all those who are interested in becoming an applicant; to provide for the strict scrutiny of all aspects of the submission of an application and thereby ensure that the Racing Commission and the public will have greater ability to determine the extent to which the proposed projects are in compliance with statutory mandates and in the overall public interest; and to impose an organizational scheme on the submission of applications which will enhance the timely review of all issues that are raised in them.

Billy Aliment, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone 753-3741, and members of the Racing Commission staff were responsible for the drafting of the amendments and enactments and are to be responsible for their implementation and enforcement.

The proponent of the amendments and enactments is the Washington Horse Racing Commission, Barbara Black, Chairperson.

The Washington Horse Racing Commission recommends the adoption of the amendments and enactments. They have been drafted with consideration for rules that have been adopted in other states in regard to the licensing of new tracks.

The rules are not in response to or the result of any particular state law, federal law or court decision.

This certifies that copies of this statement are on file with the Racing Commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: The amendments and enactments listed above are not anticipated to affect more than twenty percent of all industries, nor more than ten percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic statement has not been prepared.

Chapter 260-13 WAC
LICENSING REQUIREMENTS FOR NEW TRACKS AND
TRANSFERS OF EXISTING TRACKS

WAC

CLASS A LICENSE

- 260-13-010 Identification of applicant for Class A license.
- 260-13-020 Applicant's affidavit.
- 260-13-030 Disclosure of ownership and control.
- 260-13-040 Disclosure of character information.
- 260-13-050 Disclosure of improvements and equipment.
- 260-13-060 Disclosure of development process.
- 260-13-070 Disclosure of financial resources.
- 260-13-080 Disclosure of financial plan.
- 260-13-090 Disclosure of governmental actions.
- 260-13-100 Disclosure of management.
- 260-13-110 Disclosure of public service.
- 260-13-120 Disclosure of impact of facility.
- 260-13-130 Disclosure of public support and opposition.
- 260-13-140 Effects on competition.
- 260-13-150 Disclosure of assistance in preparation of application.
- 260-13-160 Personal information and authorization for release.
- 260-13-170 Class A license criteria.

CLASS B LICENSE

- 260-13-180 Identification of applicant for Class B license.
- 260-13-190 Applicant's affidavit.
- 260-13-200 Disclosure of ownership and control.
- 260-13-210 Disclosure of character information.
- 260-13-220 Disclosure of improvements and equipment.
- 260-13-230 Disclosure of authorization to use horse racing facility.
- 260-13-240 Disclosure of financial resources.
- 260-13-250 Disclosure of financial plan.
- 260-13-260 Disclosure of governmental actions.
- 260-13-270 Disclosure of management.
- 260-13-280 Disclosure of public service.
- 260-13-290 Disclosure of economic impact.
- 260-13-300 Disclosure of public support and opposition.
- 260-13-310 Effects on competition.
- 260-13-320 Disclosure of assistance in preparation of application.
- 260-13-330 Personal information and authorization for release.
- 260-13-340 Class B license criteria.

CLASS A AND B LICENSES

- 260-13-350 Class A and B license application disclosures.
- 260-13-360 Class A and B license application submission.
- 260-13-370 Investigation fee for Class A and B licenses.
- 260-13-380 Clarification of Class A and B license application requirements.

- 260-13-390 Changes in Class A and B license applications.
- 260-13-400 Deadlines for submission of Class A and B license applications.
- 260-13-410 Oral presentation by applicant for a Class A or B license.
- 260-13-420 Payment of Class A and B license fees.
- 260-13-430 Class A and B license application information.
- 260-13-440 Delay in completion of racetrack facility.
- 260-13-450 Construction, expansion, extension, alteration, or remodeling of facilities.
- 260-13-460 Security.
- 260-13-470 Security modifications.

CLASS A LICENSE

NEW SECTION

WAC 260-13-010 IDENTIFICATION OF APPLICANT FOR CLASS A LICENSE. An application for a Class A license must include, on a form prepared by the commission, the name, address, and telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

NEW SECTION

WAC 260-13-020 APPLICANT'S AFFIDAVIT. An application for a Class A license must include, on a form prepared by the commission, an affidavit of the chief executive officer of a major financial participant in the applicant setting forth:

- (1) That application is made for a Class A license to own and operate a horse racing facility at which parimutuel betting is conducted.
- (2) That affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached.
- (3) That the applicant seeks a grant of a privilege from the state of Washington, and the burden of proving the applicant's qualifications rests at all times with the applicant.
- (4) That the applicant consents to inquiries by the state of Washington, its employees, the commission members, staff, and agents into the financial, character, and other qualifications of the applicant by contacting individuals and organizations.
- (5) That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the state of Washington, its employees, the commission, staff, or agents.
- (6) That affiant has read the applicant's identification and disclosures and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated on information and belief; as to those matters, affiant believes them to be true.
- (7) That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information or significant deviation from representations in the application may result in denial, revocation, or suspension of a license or imposition of a fine.
- (8) That the applicant will comply with chapter 67.16 RCW and all rules of the commission.
- (9) The affiant's signature, name, organization, position, address, and telephone number.
- (10) The date.

NEW SECTION

WAC 260-13-030 DISCLOSURE OF OWNERSHIP AND CONTROL. An applicant for a Class A license must disclose:

- (1) The type of organizational structure of the applicant, whether individual business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other.
- (2) If the applicant is an individual, the applicant's full legal name, whether the applicant is a United States citizen, any aliases and business names currently used by the applicant, and copies of state and federal tax returns for the past five years.
- (3) If the applicant is a corporation:
 - (a) The applicant's full corporate name and any trade names currently used by the applicant.

- (b) The jurisdiction and date of incorporation.
- (c) The date the applicant commenced doing business in Washington and, if the applicant is incorporated outside Washington, a copy of the applicant's certificate of authority to do business in Washington.
- (d) Copies of the applicant's articles of incorporation, bylaws, and state and federal corporate tax returns for the past five years.
- (e) The general nature of the applicant's business.
- (f) Whether the applicant is publicly held as defined by the rules and regulations of the securities and exchange commission.
- (g) The classes of stock of the applicant. As to each class, the number of shares authorized, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed.
- (h) If the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted.
- (i) The names, in alphabetical order, addresses and telephone numbers of the directors and, in a separate listing, officers of the applicant. As to each director and officer, the number of shares held of record as of the application date or beneficially of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed.
- (j) The names, in alphabetical order, addresses and telephone numbers of each record holder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units must be disclosed.
- (k) Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and securities and exchange commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of most recent registration statement and annual report filed with the securities and exchange commission.
- (l) Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of most recent registration statement filed with the securities regulator in that jurisdiction.
- (m) Whether the securities registration and filing requirements of the state of Washington have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filing with the Washington department of licensing securities division during the past five years.
- (4) If the applicant is an organization other than a corporation:
- (a) The applicant's full name and any trade names currently used by the applicant.
- (b) The jurisdiction of organization of the applicant.
- (c) The date the applicant commenced doing business in Washington.
- (d) Copies of any agreements creating or governing the applicant's organization and the applicant's state and federal tax returns for the past five years.
- (e) The general nature of the applicant's business.
- (f) The names, in alphabetical order, address and telephone numbers of any partners and officers of the applicant and other persons who have or share policymaking authority. As to each, the applicant must disclose the nature and extent of any ownership interest, including options, or other voting interest, whether absolute or contingent, in the applicant.
- (g) The names, in alphabetical order, addresses and telephone numbers of any individual or other entity holding a record or beneficial ownership interest, including options, as of the date of the application or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.
- (5) If a nonindividual record or beneficial holder of an ownership or other voting interest of one percent or more in the applicant is identified pursuant to subsection (3)(i) or (j) or (4)(f) or (g), the applicant must make its best effort to disclose the information required by those clauses as to record or beneficial holders of an ownership or other voting interest of one percent or more in that nonindividual holder. The disclosure required by those clauses must be repeated, in turn, until all indirect individual record and beneficial holders of ownership or other

voting interests in applicant are so identified. The term "best effort," as used in this and subsequent sections of this chapter, means an active and serious attempt which is made in good faith, and goes beyond due diligence, to provide the information required to be disclosed. When an applicant is unable, despite its best effort, to provide the information required, it shall explain fully and document its inability to do so.

(6) Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control.

(7) Any agreements or understandings which the applicant or any individual or entity identified pursuant to this part has entered into regarding ownership or operation of applicant's horse racing facility, and copies of any written agreements.

(8) Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation by the applicant, and copies of any written agreements.

(9) Whether the applicant, any partner, director, officer, other policymaker, holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant has held or holds a license or permit issued by a governmental authority to own and operate a horse racing facility or conduct any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

NEW SECTION

WAC 260-13-040 DISCLOSURE OF CHARACTER INFORMATION. An applicant for a Class A license must make its best effort, as defined in WAC 260-13-030(5), to disclose whether the applicant or any individual or other entity identified above has:

(1) Been charged in a criminal proceeding with a felony or fraud, misrepresentation, theft, larceny, embezzlement, tax evasion, robbery, burglary, bribery, extortion, jury tampering, obstruction of justice, perjury, an antitrust violation or conspiracy to commit any of the foregoing. If so, the applicant must disclose the date charged, court, whether convicted, date convicted, crime convicted of, and sentence.

(2) Been a party in a civil proceeding and alleged to have engaged in an unfair or anticompetitive business practice, a securities violation, or false or misleading advertising. If so, the date of commencement, court, circumstances, date of decision, and result.

(3) Had a horse racing, gambling, or other business license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(4) Been accused in an administrative or judicial proceeding of violation of a statute or rule relating to unfair labor practices, discrimination, horse racing, or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(5) Commenced an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(6) Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(7) Failed to satisfy any judgment, decree, or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances.

(8) Been delinquent in filing a tax report required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

NEW SECTION

WAC 260-13-050 DISCLOSURE OF IMPROVEMENTS AND EQUIPMENT. An applicant for a Class A license must disclose with respect to the parimutuel horse racing facility it will own and operate:

(1) The address of the facility, its size, and geographical location, including reference to county and municipal boundaries.

(2) A site map which reflects current and proposed highways and streets adjacent to the facility.

(3) The types of racing for which the facility is designed, whether thoroughbred, harness, quarter horse, or other.

(4) Racetrack dimensions by circumference, width, banking, location of chutes, length of stretch, distance from judges' stand to first turn and type of surface. If the facility has more than one racetrack, the applicant must provide a description of each.

(5) A description of horse stalls at the facility, giving the dimensions of stalls, separation, location, and total number of stalls.

(6) A description of the grandstand, giving total seating capacity, total reserved seating capacity, indoor and outdoor seating capacity, configuration of grandstand seating and parimutuel and concession facilities within the grandstand; the number and location of men's and women's restrooms, drinking fountains, and medical facilities available to patrons; and a description of public pedestrian traffic patterns throughout the grandstand.

(7) A description of the detention barn, giving distance from detention barn to track and paddock, number of sampling stalls, placement of viewing ports on each stall, location of post-mortem floor, number of wash stalls with hot and cold water and drains and availability of video monitors; and a description of the walking ring.

(8) A description of the paddock, number of stalls in the paddock, height from the floor to lowest point of the stall ceiling and entrance, and paddock public address and telephone services.

(9) A description of the jockeys' and drivers' quarters, giving changing areas, a listing of equipment to be installed in each, and the location of the jockeys' quarters in relation to the paddock.

(10) A description of the parimutuel tote, giving approximate location of bettors' windows and cash security areas, and a description of the equipment, including the provider if known.

(11) A description of the parking, giving detailed attention to access to parking from surrounding streets and highways. Number of parking spaces available, distinguishing between public and other; a description of the road surface on parking areas and the distance between parking and the grandstand; and a road map of the area showing the relationship of parking to surrounding streets and highways.

(12) A description of the height, type of construction, and materials of perimeter fence; whether the perimeter fence is topped by a barbed wire apron at least two feet wide and directed outward at a forty-five degree angle; and whether there is a clear zone at least four feet wide around the outside of the entire perimeter fence.

(13) A description of improvements and equipment at the racetrack for security purposes in addition to perimeter fence, including the provider of equipment if known.

(14) A description of starting, timing, photo finish, and photo-patrol or video equipment, including the provider if known.

(15) A description of work areas for the commission members, officers, employees, and agents.

(16) A description of access of the facility to public transportation, specifics of the type of transportation and schedules, road maps of area indicating pick-up and drop-off points.

NEW SECTION

WAC 260-13-060 DISCLOSURE OF DEVELOPMENT PROCESS. An applicant for a Class A license must disclose with regard to development of its horse racing facility:

(1) The total cost of construction of the facility, distinguishing between fixed costs and projections.

(2) Separate identification of the following costs, distinguishing between fixed costs and projections:

(a) Facility design;

(b) Land acquisition;

(c) Site preparation;

(d) Improvements and equipment, separately identifying the costs of WAC 260-13-050 (4) through (15) and other categories of improvements and equipment;

(e) Interim financing;

(f) Permanent financing;

(g) Organization, administrative, accounting, and legal.

(3) Documentation of fixed costs.

(4) The schedule for construction of the facility, including estimated completion date.

(5) Schematic drawings.

(6) Copies of any contracts with and performance bonds from the:

(a) Architect or other design professional;

(b) Project engineer;

(c) Construction engineer;

(d) Contractors and subcontractors; and

(e) Equipment procurement personnel.

(7) Whether the site has been acquired or leased by applicant. If so, the applicant must provide the documentation. If not, the applicant must disclose what actions the applicant must take in order to use the site.

NEW SECTION

WAC 260-13-070 DISCLOSURE OF FINANCIAL RESOURCES. An applicant for a Class A license must disclose the following with regard to financial resources:

(1) An audited financial statement reflecting the applicant's current assets, including investments in affiliated entities, loans and advances receivable and fixed assets and current liabilities, including loans and advances payable, long-term debt and equity.

(2) Equity and debt sources of funds to develop, own, and operate the horse racing facility:

(a) With respect to each source of equity contribution, identification of the source, amount, form, method of payment, nature and amount of present commitment, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts; and

(b) With respect to each source of debt contribution, identification of the source, amount, terms of debt, collateral, identity of guarantors, nature and amount of commitments, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts.

(3) Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

NEW SECTION

WAC 260-13-080 DISCLOSURE OF FINANCIAL PLAN. An applicant for a Class A license must disclose with regard to its financial plan the financial projections for the development period and each of the first five racing years, with separate schedules based upon the number of racing days and types of parimutuel betting the applicant requires to break even and the optimum number of racing and types of betting applicant seeks each year. The commission will utilize financial projections in deciding whether to issue Class A licenses. Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and designation of types of permissible parimutuel pools. The disclosure must include:

(1) The following assumptions and support for them:

(a) The average daily attendance;

(b) Average daily per capita handle and average bet;

(c) Retainage;

(d) Admissions to track, including ticket prices and free admissions;

(e) Parking volume, fees, and revenues;

(f) Concessions, gift shop, and program sales;

(g) Cost of purses;

(h) Parimutuel expense;

(i) State taxes;

(j) Real estate taxes;

(k) Breeder fund;

(l) Payroll;

(m) Operating supplies and services;

(n) Utilities;

(o) Repairs and maintenance;

(p) Insurance;

(q) Travel expense;

(r) Membership expense;

(s) Security expense;

(t) Legal and audit expense;

(u) Debt service; and

(v) Federal taxes;

(2) The following profit and loss elements:

(a) Total revenue, including projected revenues from retainage and breakage, admissions, parking, and concessions, gift, and program operations;

(b) Total operating expenses, including anticipated expenses for:

(i) Purses;

(ii) Parimutuel;

(iii) Sales tax;

(iv) Breakage to state;

(v) Real estate tax;

(vi) Admissions tax;

- (vii) Breeder fund;
 - (viii) Special assessments;
 - (ix) Cost of concession goods, gifts, and programs;
 - (x) Advertising and promotion;
 - (xi) Payroll;
 - (xii) Operating supplies and service;
 - (xiii) Maintenance and repairs;
 - (xiv) Insurance;
 - (xv) Security;
 - (xvi) Legal and audit; and
 - (xvii) Federal and state income taxes.
- (c) Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used;
- (3) Projected cash flow, including assessment of:
- (a) Income, including equity contributions, debt contributions, interest income, operating revenue; and
 - (b) Disbursements, including land, improvements, equipment, debt service, operating expense, organizational expense; and
- (4) Projected balance sheets as of the end of the development period and each of the five racing years setting forth:
- (a) Current, fixed, and other noncurrent assets;
 - (b) Current and long-term liabilities; and
 - (c) Capital accounts.
- The applicant must also disclose an accountant's review report of the financial projections.

NEW SECTION

WAC 260-13-090 DISCLOSURE OF GOVERNMENTAL ACTIONS. An applicant for a Class A license must disclose with regard to actions of government agencies:

- (1) The street and highway improvements necessary to ensure adequate access to applicant's horse racing facility, and the cost of improvements, status, likelihood of completion, and estimated date.
- (2) The sewer, water, and other public utility improvements necessary to serve applicant's facility, and the cost of improvements, status, likelihood of completion, and estimated date.
- (3) If applicant has obtained any required government approvals for its development, ownership, and operation of its horse racing facility;
 - (a) A description of the approval, unit of government, date, and documentation.
 - (b) Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held.
 - (c) Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation.
 - (4) Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval, and estimated date.
 - (5) Whether an environmental assessment of the facility has been or will be prepared. If so, the applicant must disclose its status and the governmental unit with jurisdiction, and provide a copy of any assessment.
 - (6) Whether an environmental impact statement is required for applicant's facility. If so, the applicant must disclose its status and the governmental unit with jurisdiction, and provide a copy of any statement.
 - (7) Whether the applicant is in compliance with all statutes, charter provisions, ordinances, and regulations pertaining to the development, ownership, and operation of its horse racing facility. If the applicant is not in compliance, the applicant must disclose the reasons why the applicant is not in compliance.

NEW SECTION

WAC 260-13-100 DISCLOSURE OF MANAGEMENT. An applicant for a Class A license must disclose with regard to the development, ownership, and operation of its parimutuel horse racing facility:

- (1) A description of the applicant's management plan, with budget and identification of management personnel by function, job descriptions, and qualifications for each management position, and a copy of the organization chart;
- (2) Management personnel to the extent known with respect to each:
 - (a) Legal name, aliases, and previous names;

- (b) Current residence and business addresses and telephone numbers;
- (c) Qualifications and experience in the following areas:
 - (i) General business;
 - (ii) Real estate development;
 - (iii) Construction;
 - (iv) Marketing, promotion, and advertising;
 - (v) Finance and accounting;
 - (vi) Horse racing;
 - (vii) Parimutuel betting;
 - (viii) Security; and
 - (ix) Human and animal health and safety; and
- (d) Description of the terms and conditions of employment and a copy of the agreement;
- (3) Consultants and other contractors who have provided or will provide management-related services to applicant to extent known and with respect to each:
 - (a) Full name;
 - (b) Current address and telephone number;
 - (c) Nature of services;
 - (d) Qualifications and experience;
 - (e) Description of terms and conditions of any contractor's agreement, and a copy of the agreement;
 - (4) Memberships of the applicant, management personnel, and consultants in horse racing organizations;
 - (5) Description of the applicant's security plan, including:
 - (a) Number of deployment of security personnel used by applicant during a race meeting, security staff levels, and deployment at other times;
 - (b) Specific security plans for perimeter, stabling facilities, parimutuel betting facilities, purses and cash room;
 - (c) Specific plans to discover persons at the horse racing facility who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction or are a threat to the integrity of racing in Washington;
 - (d) Description of video monitoring equipment and its use;
 - (e) Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and
 - (f) Coordination of security with law enforcement agencies;
 - (6) Description of the applicant's plans for human and animal health and safety, including emergencies;
 - (7) Description of the applicant's marketing, promotion, and advertising plans;
 - (8) A description of the applicant's plan for concessions, including whether the licensee will operate concessions and, if not, who will, to the extent known;
 - (9) A description of training of the applicant's personnel; and
 - (10) A description of plans for compliance with all laws pertaining to discrimination, equal employment, and affirmative action; policies regarding recruitment, use, and advancement of minorities; policies with respect to minority contracting; a copy of equal employment opportunity statement and policy of the applicant dated and signed by chief executive officer; and a copy of affirmative action policy and procedures dated and signed; and identification of the affirmative action officer, including name, title, address, and telephone number.

NEW SECTION

WAC 260-13-110 DISCLOSURE OF PUBLIC SERVICE. An applicant for a Class A license must disclose its plans for promotion of the orderly growth of horse racing in Washington and education of the public with respect to horse racing and parimutuel betting.

NEW SECTION

WAC 260-13-120 DISCLOSURE OF IMPACT OF FACILITY. An applicant for a Class A license must disclose the impact of its horse racing facility, including:

- (1) Economic impact, including:
 - (a) Employment created and specifics as to number of jobs, whether permanent or temporary, type of work, compensation, employer, and how created;
 - (b) Purchases of goods and services and specifics as to money amounts and types of purchases;
 - (c) Public and private investment; and
 - (d) Tax revenues generated;
- (2) Ecological impact;

- (3) Impact on energy conservation and development of alternative energy sources; and
- (4) Social impact.

NEW SECTION

WAC 260-13-130 DISCLOSURE OF PUBLIC SUPPORT AND OPPOSITION. An applicant for a Class A license must disclose public support and opposition, whether by a governmental official or agency or private individual or group and must supply documentation.

NEW SECTION

WAC 260-13-140 EFFECTS ON COMPETITION. An applicant for a Class A license must disclose the effects of its ownership and operation of its horse racing facility on competitors within the horse racing industry. This disclosure must analyze the impact on all other existing race tracks in Washington at the time and the racing dates are projected to commence.

NEW SECTION

WAC 260-13-150 DISCLOSURE OF ASSISTANCE IN PREPARATION OF APPLICATION. An applicant for a Class A license must disclose the names, addresses, and telephone numbers of individuals who assisted applicant in preparation of its application.

NEW SECTION

WAC 260-13-160 PERSONAL INFORMATION AND AUTHORIZATION FOR RELEASE. In an application for a Class A license the applicant must make its best effort, as defined above to include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant and each individual identified pursuant to WAC 260-13-030.

- (1) Full name, business and residence addresses and telephone numbers, last five residence addresses, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and
- (2) An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he or she:
 - (a) Authorizes a review by and full disclosure to an agent of the Washington state patrol of all records concerning the individual, whether the records are public, nonpublic, private, or confidential;
 - (b) Recognizes the information reviewed or disclosed may be used by the state of Washington, its employers, the commission, members, staff and agents to determine the signer's qualifications for a Class A license; and
 - (c) Releases authorized providers and users of the information from any liability under state or federal data privacy law.

NEW SECTION

WAC 260-13-170 CLASS A LICENSE CRITERIA. The commission may refuse to issue a Class A license to conduct a race meeting when in its judgment such refusal shall appear to be for the best interest of legitimate racing and of the public. In making this determination, the commission must consider the following factors and indices:

- (1) The integrity of the applicant, its partners, directors, officers, policymakers, managers, and holders of ownership or other voting interests or control, including:
 - (a) Criminal record;
 - (b) Involvement in litigation over business practices;
 - (c) Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;
 - (d) Involvement in proceedings in which unfair labor practices, discrimination, or government regulation of horse racing or gambling was an issue;
 - (e) Involvement in bankruptcy proceedings;
 - (f) Failure to satisfy judgments, orders, or decrees;
 - (g) Delinquency in filing of tax reports or remitting taxes; and
 - (h) Any other indices related to integrity which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (2) The types and variety of parimutuel horse racing which applicant will offer;

- (3) The quality of physical improvements and equipment in applicant's facility, including:
 - (a) Racetrack or tracks;
 - (b) Stabling;
 - (c) Grandstand;
 - (d) Detention barn;
 - (e) Paddock;
 - (f) Jockeys' and drivers' quarters;
 - (g) Parimutuel tote;
 - (h) Parking;
 - (i) Access by road and public transportation;
 - (j) Perimeter fence;
 - (k) Other security improvements and equipment;
 - (l) Starting, timing, photo finish, and photo-patrol or video equipment;
 - (m) Commission work areas; and
 - (n) Any other indices related to quality which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (4) Imminence of completion of facility;
- (5) Financial ability to develop, own, and operate a parimutuel horse racing facility successfully, including:
 - (a) Ownership and control structure;
 - (b) Amounts and reliability of development costs;
 - (c) Certainty of site acquisition or lease;
 - (d) Current financial condition;
 - (e) Sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;
 - (f) Provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;
 - (g) Feasibility of financial plan; and
 - (h) Any other indices related to financial ability which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (6) Status of governmental actions required by the applicant's facility, including:
 - (a) Necessary road improvements;
 - (b) Necessary public utility improvements;
 - (c) Required governmental approvals for development, ownership, and operation of the facility;
 - (d) Acceptance of any required environmental assessment and preparation of any required environmental impact statement; and
 - (e) Any other indices related to status of governmental actions which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (7) Management ability of the applicant, including:
 - (a) Qualifications of managers, consultants, and other contractors to develop, own, and operate a parimutuel horse racing facility;
 - (b) Security plan;
 - (c) Plans for human and animal health and safety;
 - (d) Marketing, promotion, advertising plans;
 - (e) Concessions plan;
 - (f) Plan for training personnel;
 - (g) Equal employment and affirmative action plans; and
 - (h) Any other indices related to management ability which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (8) Compliance with applicable statutes, charters, ordinances, or regulations;
- (9) Efforts to promote orderly growth or horse racing in Washington and educate public with respect to horse racing and parimutuel betting;
- (10) Impact of facility, including:
 - (a) Economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;
 - (b) Ecological impact;
 - (c) Impact on energy conservation and development of alternative energy sources;
 - (d) Social impact;
 - (e) Costs of public improvements; and
 - (f) Any other indices related to impact which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (11) Extent of public support and opposition; and
- (12) Effects on competition, with existing tracks, including:
 - (a) Number, nature, and relative location of other Class A licenses;

(b) Minimum and optimum number of racing days sought by the applicant; and

(c) Any other indices of the impact of competition which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants.

The commission also must consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

CLASS B LICENSE

NEW SECTION

WAC 260-13-180 IDENTIFICATION OF APPLICANT FOR CLASS B LICENSE. An application for a Class B license must include, on a form prepared by the commission, the name, address, and telephone number of the applicant, and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

NEW SECTION

WAC 260-13-190 APPLICANT'S AFFIDAVIT. An application for a Class B license must include, on a form prepared by the commission, an affidavit of the chief executive officer of or a major financial participant in the applicant setting forth:

(1) That application is made for a Class B license to sponsor and manage horse racing on which parimutuel betting is conducted.

(2) That affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached.

(3) That the applicant seeks a grant of a privilege from the state of Washington, and the burden of proving the applicant's qualifications rests at all times with the applicant.

(4) That the applicant consents to inquiries by the state of Washington, its employees, the commission, members, staff, agents into the financial, character, and other qualifications of the applicant by contacting individuals and organizations.

(5) That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the state of Washington, its employees, the commission, staff, or agents.

(6) That affiant has read the applicant's identification and disclosures and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated on information and belief; as to those matters, affiant believes them to be true.

(7) That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or significant deviation from representations in the application may result in denial, revocation, or suspension of a license or imposition of a fine.

(8) That the applicant will comply with chapter 67.16 RCW and all rules of the commission.

(9) Affiant's signature, name, organization, position, address, and telephone number.

(10) The date.

NEW SECTION

WAC 260-13-200 DISCLOSURE OF OWNERSHIP AND CONTROL. An applicant for a Class B license must disclose:

(1) The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other entity.

(2) If the applicant is an individual, the applicant's full legal name, whether the applicant is a United States citizen, any aliases and business names currently used by the applicant, and copies of state and federal tax returns for the past five years.

(3) If the applicant is a corporation:

(a) The applicant's full corporate name and any trade names currently used by the applicant.

(b) The jurisdiction and date of incorporation.

(c) The date the applicant commenced doing business in Washington and, if the applicant is incorporated outside Washington,

a copy of the applicant's certificate of authority to do business in Washington.

(d) Copies of the applicant's articles of incorporation, bylaws, and state and federal corporate tax returns for the past five years.

(e) The general nature of the applicant's business.

(f) Whether the applicant is publicly held as defined by the rules and regulations of the securities and exchange commission.

(g) Classes of stock of the applicant. As to each class, the number of shares authorized, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed.

(h) If the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted.

(i) The names, in alphabetical order, addresses and telephone numbers of the directors and, in a separate listing, officers of the applicant. As to each director and officer, the number of shares held of record as of the application date or beneficially of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed.

(j) The names, in alphabetical order, addresses and telephone numbers of each record holder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units must be disclosed.

(k) Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and securities and exchange commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of most recent registration statement and annual report filed with the securities and exchange commission.

(l) Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of most recent registration statement filed with the securities regulator in that jurisdiction.

(m) Whether the securities registration and filing requirements of the state of Washington have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filing with the Washington department of licensing securities division during the past five years.

(4) If the applicant is an organization other than a corporation:

(a) The applicant's full name and any trade names currently used by the applicant.

(b) Jurisdiction of organization of the applicant.

(c) Date the applicant commenced doing business in Washington.

(d) Copies of any agreements creating or governing the applicant's organization and the applicant's state and federal tax returns for the past five years.

(e) The general nature of the applicant's business.

(f) Names, in alphabetical order, addresses, and telephone numbers of any partners and officers of the applicant and other persons who have or share policymaking authority. As to each, the applicant must disclose the nature and extent of any ownership interest, including options, or other voting interest, whether absolute or contingent, in the applicant.

(g) Names, in alphabetical order, addresses and telephone numbers of any individual or other entity holding a record or beneficial ownership interest, including options, as of the date of the application or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.

(5) If a nonindividual record or beneficial holder of an ownership or other voting interest of one percent or more in the applicant is identified pursuant to subsection (3)(i) or (j), or (4)(f) or (g) of this section, the applicant must make its best effort, as defined above, to disclose the information required by those clauses as to record or beneficial holders of an ownership or other voting interest of one percent or more in that nonindividual holder. The disclosure required by those clauses must be repeated, in turn, until all indirect individual record and beneficial holders of ownership or other voting interests in applicant are so identified.

(6) Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control.

(7) Any agreements or understandings which the applicant or any individual or entity identified pursuant to this part has entered into regarding applicant's sponsorship or management of horse racing, and copies of any written agreements.

(8) Any agreements or understanding which the applicant has entered into for the payment of fees, rents, salaries, or other compensation by the applicant, and copies of any written agreements.

(9) Whether the applicant, any partner, director, officer, other policymaker, holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant has held or holds a license or permit issued by a governmental authority to own and operate a horse racing facility or conduct any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

NEW SECTION

WAC 260-13-210 DISCLOSURE OF CHARACTER INFORMATION. An applicant for a Class B license must make its best effort, as defined above, to disclose whether the applicant or any individual or other entity identified in WAC 260-13-200 (2) and (3) has:

(1) Been charged in a criminal proceeding with a felony or fraud, misrepresentation, theft, larceny, embezzlement, tax evasion, robbery, burglary, bribery, extortion, jury tampering, obstruction of justice, perjury, an antitrust violation, or conspiracy to commit any of the foregoing. If so, the applicant must disclose the date charged, court, whether convicted, date convicted, crime convicted of, and sentence.

(2) Been a party in a civil proceeding and alleged to have engaged in an unfair or anticompetitive business practice, a securities violation, or false or misleading advertising. If so, the applicant must disclose the date of commencement, court, circumstances, date of decision, and result.

(3) Had a horse racing, gambling, or other business license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(4) Been accused in an administrative or judicial proceeding of violation of a statute or rule relating to unfair labor practices, discrimination, horse racing, or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(5) Commenced an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(6) Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision, and result.

(7) Failed to satisfy any judgment, decree, or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances.

(8) Been delinquent in filing a tax report required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

NEW SECTION

WAC 260-13-220 DISCLOSURE OF IMPROVEMENTS AND EQUIPMENT. An application for a Class B license must disclose with respect to the facility at which it will sponsor and manage parimutuel horse racing:

(1) The address of the facility at which the applicant will sponsor and manage horse racing, size, and geographical location, including reference to county and municipal boundaries.

(2) A site map which reflects current and proposed highways and streets adjacent to the facility.

(3) The types of racing for which the facility is designed, whether thoroughbred, harness, quarter horse, or other.

(4) Racetrack dimensions by circumference, width, banking, location of chutes, length of stretch, distance from judges' stand to first

turn and type of surface. If the facility has more than one racetrack, the applicant must provide a description of each.

(5) A description of horse stalls at the facility, giving the dimensions of stalls, separation, location, and total number of stalls.

(6) A description of the grandstand, giving total seating capacity, total reserved seating capacity, indoor and outdoor seating capacity, configuration of grandstand seating and parimutuel and concession facilities within the grandstand; the number and location of men's and women's restrooms, drinking fountains, and medical facilities available to patrons; and a description of public pedestrian traffic patterns throughout the grandstand.

(7) A description of the detention barn, giving distance from detention barn to track and paddock, number of sampling stalls, placement of viewing ports on each stall, location of post-mortem floor, number of wash stalls with hot and cold water and drains and availability of video monitors; and a description of the walking ring.

(8) A description of the paddock, number of stalls in the paddock, height from the floor to lowest point of the stall ceiling and entrance, and paddock public address and telephone services.

(9) A description of the jockeys' and drivers' quarters, giving changing areas, a listing of equipment to be installed in each, and the location of the jockeys' quarters in relation to the paddock.

(10) A description of the parimutuel tote, giving approximate location of bettors' windows and cash security areas; and a description of the equipment, including the provider if known.

(11) A description of the parking, giving detailed attention to access to parking from surrounding streets and highways, number of parking spaces available, distinguishing between public and other; a description of the road surface on parking areas and the distance between parking and the grandstand; and a road map of the area showing the relationship of parking to surrounding streets and highways.

(12) A description of the height, type of construction, and materials of perimeter fence; whether the perimeter fence is topped by a barbed wire apron at least two feet wide and directed outward at a forty-five degree angle; and whether there is a clear zone at least four feet wide around the outside of the entire perimeter fence.

(13) A description of improvements and equipment at the racetrack for security purposes in addition to perimeter fence, including the provider of equipment if known.

(14) A description of starting, timing, photo finish, and photo-patrol or video equipment, including the provider if known.

(15) A description of work areas for the commission members, officers, employees, and agents.

(16) A description of access of the facility to public transportation, specifics of types of transportation and schedules; and a road map of area indicating pick-up and drop-off points.

NEW SECTION

WAC 260-13-230 DISCLOSURE OF AUTHORIZATION TO USE HORSE RACING FACILITY. An applicant for a Class B license must disclose the terms and conditions of the lease or other agreement authorizing the applicant to sponsor and manage parimutuel horse racing at a licensed facility and provide a copy of the agreement.

NEW SECTION

WAC 260-13-240 DISCLOSURE OF FINANCIAL RESOURCES. An applicant for a Class B license must disclose the following with regard to financial resources:

(1) An audited financial statement reflecting the applicant's current assets, including investments in affiliated entities, loans and advances receivable and fixed assets and current liabilities, including loans and advances payable, long-term debt and equity;

(2) Equity and debt sources of funds to sponsor and manage horse racing:

(a) With respect to each source of equity contribution, identification of the source, amount, form, method of payment, nature and amount of present commitment, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts;

(b) With respect to each source of debt contribution, identification of the source, amount, terms of debt, collateral, identity of guarantors, nature and amount of commitments, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts; and

(3) Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

NEW SECTION

WAC 260-13-250 DISCLOSURE OF FINANCIAL PLAN. An applicant for a Class B license must disclose with regard to its financial plan the financial projections for any development period in each of the first or next three racing years, with separate schedules based upon the number of racing days and types of parimutuel betting the applicant requires to break even and the optimum number of racing and types of betting applicant seeks each year. The commission will utilize financial projections in deciding whether to issue Class B licenses. Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and designation of types of permissible parimutuel pools. The disclosure must include:

(1) The following assumptions and support for them:

- (a) The average daily attendance;
- (b) Average daily per capita handle and average bet;
- (c) Retainage;
- (d) Admissions to track, including ticket prices and free admissions;
- (e) Parking volume, fees, and revenues;
- (f) Concessions, gift shop, and program sales;
- (g) Cost of purses;
- (h) Parimutuel expense;
- (i) State taxes;
- (j) Real estate taxes;
- (k) Breeder fund;
- (l) Payroll;
- (m) Operating supplies and services;
- (n) Utilities;
- (o) Repairs and maintenance;
- (p) Insurance;
- (q) Travel expense;
- (r) Membership expense;
- (s) Security expense;
- (t) Legal and audit expense;
- (u) Debt service; and
- (v) Federal taxes;

(2) The following profit and loss elements:

(a) Total revenue, including projected revenues from retainage and breakage, admissions, parking, and concessions, gift, and program operations;

(b) Total operating expenses, including anticipated expenses for:

- (i) Purses;
- (ii) Parimutuel;
- (iii) Sales tax;
- (iv) Breakage to state;
- (v) Real estate tax;
- (vi) Admissions tax;
- (vii) Breeder fund;
- (viii) Special assessments;
- (ix) Cost of concession goods, gifts, and programs;
- (x) Advertising and promotion;
- (xi) Payroll;
- (xii) Operating supplies and service;
- (xiii) Maintenance and repairs;
- (xiv) Insurance;
- (xv) Security;
- (xvi) Legal and audit; and
- (xvii) Federal and state income taxes.

(c) Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used;

(3) Projected cash flow, including assessment of:

- (a) Income, including equity contributions, debt contributions, interest income, operating revenue; and
- (b) Disbursements, including land, improvements, equipment, debt service, operating expense, organizational expense; and

(4) Projected balance sheets as of the end of the development period and three racing years setting forth current, fixed, and other noncurrent assets; current and long-term liabilities; and capital accounts.

An applicant must also disclose an accountant's review report of the financial projections.

NEW SECTION

WAC 260-13-260 DISCLOSURE OF GOVERNMENTAL ACTIONS. An applicant for a Class B license must disclose with regard to actions of government agencies:

(1) If the applicant has obtained any required government approvals for its management and sponsorship of horse racing:

(a) A description of the approval, unit of government and date, and documentation.

(b) Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held.

(c) Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation.

(2) Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval, and estimated date.

(3) Whether the applicant is in compliance with all statutes, charter provisions, ordinances, and regulations pertaining to the sponsorship and management of horse racing. If the applicant is not in compliance, the applicant must disclose the reasons why the applicant is not in compliance.

NEW SECTION

WAC 260-13-270 DISCLOSURE OF MANAGEMENT. An applicant for a Class B license must disclose with regard to its management of parimutuel horse racing:

(1) A description of the applicant's management plan, with budget and identification of management personnel by function; job descriptions and qualifications for each management position; and a copy of the organization chart;

(2) Management personnel to the extent known with respect to each:

- (a) Legal name, aliases, and previous names;
- (b) Current residence and business addresses and telephone numbers;
- (c) Qualifications and experience in the following areas:
 - (i) General business;
 - (ii) Marketing, promotion, and advertising;
 - (iii) Finance and accounting;
 - (iv) Horse racing;
 - (v) Parimutuel betting;
 - (vi) Security;
 - (vii) Human and animal health and safety; and

(d) Description of the terms and conditions of employment, and a copy of the agreement;

(3) Consultants and other contractors to extent known who have provided or will provide management-related services to applicant and with respect to each:

- (a) Full name;
- (b) Current address and telephone number;
- (c) Nature of services;
- (d) Qualifications and experience;
- (e) Description of terms and conditions of any contractor's agreement, and a copy of the agreement;

(4) Memberships of the applicant, management personnel, and consultants in horse racing organizations;

(5) A description of the applicant's security plan, including:

- (a) Number and deployment of security personnel used by applicant during a race meeting; security staff levels; and deployment at other times;
- (b) Specific security plans for perimeter, stabling facilities, parimutuel betting facilities, purses, and cash room;
- (c) Specific plans to discover persons at the horse racing facility who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction, or are a threat to the integrity of racing in Washington;
- (d) Description of video monitoring equipment and its use;
- (e) Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and
- (f) Coordination of security with law enforcement agencies;
- (6) A description of applicant's plans for human and animal health and safety, including emergencies;
- (7) A description of the applicant's marketing, promotion, and advertising plans;

(8) A description of the applicant's plan for conduct of horse racing, including types of racing, number of days, weeks, specific dates, number of races per day, time of day, and special events;

(9) A description of applicant's plan for purses, including total purses, formula, minimum, stakes races, and purse-handling procedures;

(10) A description of the applicant's plan for parimutuel betting, including number of line divisions, windows, selling machines, and clerks; use or duties of each; and accounting procedures, including its proposed system of internal audit and supervisory controls;

(11) A description of the applicant's plan for concessions, including whether licensee will operate concessions and, if not, who will to the extent known;

(12) A description of training of the applicant's personnel; and

(13) A description of plans for compliance with all laws pertaining to discrimination, equal employment, and affirmative action; policies regarding recruitment, use, and advancement of minorities; policies with respect to minority contracting; a copy of equal employment opportunity statement and policy of the applicant dated and signed by chief executive officer; a copy of affirmative action policy and procedures dated and signed; and identification of the affirmative action officer, including name, title, address, and telephone number.

NEW SECTION

WAC 260-13-280 DISCLOSURE OF PUBLIC SERVICE. An applicant for a Class B license must disclose its plans for promotion of the orderly growth of horse racing in Washington and education of the public with respect to horse racing and parimutuel betting.

NEW SECTION

WAC 260-13-290 DISCLOSURE OF ECONOMIC IMPACT. An applicant for a Class B license must disclose the economic impact of its sponsorship and management of horse racing, including:

(1) Employment created, including specifics as to number of jobs, permanent or temporary, type of work, compensation, employer, and how created;

(2) Purchases of goods and services, including specifics as to money amounts and types of purchases; and

(3) Tax revenues generated.

NEW SECTION

WAC 260-13-300 DISCLOSURE OF PUBLIC SUPPORT AND OPPOSITION. An applicant for a Class B license must disclose public support and opposition, whether by a governmental official, agency, private individual, or group, and provide documentation.

NEW SECTION

WAC 260-13-310 EFFECTS ON COMPETITION. An applicant for a Class B license must disclose the effects of its sponsorship and management of horse racing on competitors within the horse racing industry.

NEW SECTION

WAC 260-13-320 DISCLOSURE OF ASSISTANCE IN PREPARATION OF APPLICATION. An applicant for a Class B license must disclose the names, addresses, and telephone numbers of individuals who assisted applicant in preparation of its application.

NEW SECTION

WAC 260-13-330 PERSONAL INFORMATION AND AUTHORIZATION FOR RELEASE. In an application for a Class B license the applicant must make its best effort, as defined in WAC 260-13-030(5), to include the following with respect to each individual identified pursuant to WAC 260-13-200 as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant and each individual identified in WAC 260-13-200:

(1) Full name, business and residence addresses, and telephone numbers, last five residence addresses, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

(2) An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he or she:

(a) Authorizes a review by and full disclosure to an agent of the Washington state patrol of all records concerning the individual, whether the records are public, nonpublic, private, or confidential;

(b) Recognizes the information reviewed or disclosed may be used by the state of Washington, its employers, the commission, members, staff and agents to determine the signer's qualifications for a Class B license; and

(c) Releases authorized providers and users of the information from any liability under state or federal data privacy law.

NEW SECTION

WAC 260-13-340 CLASS B LICENSE CRITERIA. The commission may refuse to issue a Class B license to conduct a race meeting when in its judgment such refusal shall appear to be for the best interest of legitimate racing and of the public. In making this determination, the commission must consider the following factors and indices:

(1) The integrity of the applicant, its partners, directors, officers, policymakers, managers, and holders of ownership or other voting interests or control, including:

(a) Criminal records;

(b) Involvement in litigation over business practices;

(c) Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;

(d) Involvement in proceedings in which unfair labor practices, discrimination, or government regulation of horse racing or gambling was an issue;

(e) Involvement in bankruptcy proceedings;

(f) Failure to satisfy judgments, orders, or decrees;

(g) Delinquency in filing of tax reports or remitting taxes;

(h) Any other indices related to integrity which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants;

(2) The types and variety of parimutuel horse racing which applicant will offer;

(3) The quality of physical improvements and equipment applicant will use, including:

(a) Racetrack or tracks;

(b) Stabling;

(c) Grandstand;

(d) Detention barn;

(e) Paddock;

(f) Jockeys' and drivers' quarters;

(g) Parimutuel tote;

(h) Parking;

(i) Access by road and public transportation;

(j) Perimeter fence;

(k) Other security improvements and equipment;

(l) Starting, timing, photo finish, and photo-patrol or video equipment;

(m) Commission work areas; and

(n) Any other indices related to quality which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants;

(4) Financial ability to sponsor and manage parimutuel horse racing facility successfully, including:

(a) Ownership and control structure;

(b) Terms and conditions of the applicant's authorization to use facility;

(c) Current financial condition;

(d) Sources of equity and debt funds, amounts, terms and conditions, and certainty of commitment;

(e) Provisions for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;

(f) Feasibility of financial plan; and

(g) Any other indices related to financial ability which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;

(5) Status of necessary government approvals and compliance with applicable statutes, charters, ordinances, and regulations;

(6) Management ability of the applicant, including:

(a) Qualifications of managers, consultants, and other contractors manage parimutuel horse racing;

(b) Security plan;

- (c) Plans for human and animal health and safety;
 - (d) Marketing, promotion, and advertising plans;
 - (e) Plan for conducting horse racing;
 - (f) Plan for purses;
 - (g) Plan for parimutuel betting;
 - (h) Concessions plan;
 - (i) Plan for training personnel;
 - (j) Equal employment and affirmative action plans; and
 - (k) Any other indices related to management which the commission deems crucial to its decision making as long as the same indices are considered with regard to all applicants;
- (7) Efforts to promote orderly growth of horse racing in Washington and educate public with respect to horse racing and parimutuel betting;
- (8) Economic impact, including employment, purchases, and taxes;
 - (9) Extent of public support and opposition; and
 - (10) Effects on competition, including:
 - (a) Number, nature, and relative location of other Class B licenses;
 - (b) Minimum and optimum number of racing days sought by the applicant; and
 - (c) Any other indices related to effects on competition which the commission deems crucial to decision making as long as the same indices are considered with regard to all applicants.
- The commission also must consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

CLASS A AND B LICENSES

NEW SECTION

WAC 260-13-350 CLASS A AND B LICENSE APPLICATION DISCLOSURES. An applicant for a Class A or B license in its disclosures must:

- (1) Provide disclosures in printed or typewritten form on 8-1/2 by 11 inch paper. Immediately preceding each response, an applicant must restate what disclosure is sought. Any attachments or exhibits must be lettered or numbered separately. An applicant must provide photographs of any three-dimensional exhibits.
- (2) Make its best effort, as defined above, to provide all information required to be disclosed.
- (3) Provide only information relevant to disclosures requested by the commission.
- (4) Upon request of the commission or its agents, provide copies of any documents used in the preparation of its application.

NEW SECTION

WAC 260-13-360 CLASS A AND B LICENSE APPLICATION SUBMISSION. An applicant for a Class A or B license must submit to the executive secretary of the racing commission:

- (1) All documents which are part of its application as a single assemblage; and
- (2) A letter of transmittal to the commission and, in sealed envelopes, an original and twenty copies of the application.

NEW SECTION

WAC 260-13-370 INVESTIGATION FEE FOR CLASS A AND B LICENSES. An applicant for a Class A or B license must submit to the commission's designee at the time of application a certified check or bank draft to the order of the state of Washington in the amount of twenty-five thousand dollars to cover the costs of the investigation mandated by these rules. Upon completion of the investigation, the commission must refund promptly to the applicant any amount by which the twenty-five thousand dollars exceeds the actual costs of investigation. If costs of the investigation exceed twenty-five thousand dollars, the applicant must remit the amount of the difference by certified check or bank draft within ten days after receipt of a bill from the commission. An individual or other entity applying for Class A and B licenses simultaneously must submit only one twenty-five thousand dollar investigation fee.

NEW SECTION

WAC 260-13-380 CLARIFICATION OF CLASS A AND B LICENSE APPLICATION REQUIREMENTS. The commission must designate an individual who will clarify Class A and B license

application requirements upon the oral or written request of a potential applicant. The designee must respond to clarification requests in writing within five days. No interpretation of application requirements by any other person will be binding upon the commission.

NEW SECTION

WAC 260-13-390 CHANGES IN CLASS A AND B LICENSE APPLICATIONS. The commission must not consider a substantive amendment to a Class A or B license application after its submission.

NEW SECTION

WAC 260-13-400 DEADLINES FOR SUBMISSION OF CLASS A AND B LICENSE APPLICATIONS. Deadlines for submission of a Class A or B license application must be specified by the commission but, as a minimum, they must provide for at least four months of review.

NEW SECTION

WAC 260-13-410 ORAL PRESENTATION BY APPLICANT FOR A CLASS A OR B LICENSE. The commission must provide an applicant for a Class A or B license an opportunity to make an oral presentation of its application to the commission before the commission decides whether to issue a license. This part does not require that the commission afford an applicant more than one opportunity to make an oral presentation before the commission makes its decision.

NEW SECTION

WAC 260-13-420 PAYMENT OF CLASS A AND B LICENSE FEES. A Class A or B license does not become effective until the commission receives a certified check or bank draft to the order of the state of Washington in the amount of the license fee as follows and is void if the license fee is not received within ten days after issuance.

- (1) Nonrefundable fee of ten thousand dollars for a Class A license;
- (2) A fee for a Class B license equal to one hundred dollars times the optimum number of racing days sought in the license application. The commission must refund promptly to the licensee any amount by which the fee paid exceeds one hundred dollars times the number of actual days of racing sponsored and managed by the licensee.

NEW SECTION

WAC 260-13-430 CLASS A AND B LICENSE APPLICATION INFORMATION. False or misleading information in a Class A or B license application, omission of required information, or substantial deviation from representations in the application is cause for denial, revocation, or suspension of a license or imposition of a fine.

NEW SECTION

WAC 260-13-440 DELAY IN COMPLETION OF RACE-TRACK FACILITY. Failure of a Class A or B licensee to complete substantially the construction of its racetrack facility and installation of equipment within thirty days after the completion date stated in its license application is cause for revocation or suspension of the license, and the commission may impose a penalty of one thousand dollars on the licensee for each day of delay. The penalty does not apply if and to the extent the licensee proves that the delay arose out of causes beyond the control and without the fault or negligence of the licensee, its contractors and subcontractors. Such causes may include, but are not restricted to, acts of God or enemies of the United States, acts of government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the delay must be beyond the control and without fault or negligence of the licensee, its contractors and subcontractors. If the cause of delay is the default of a contractor or subcontractor and if the licensee proves the default arose out of causes beyond the control of the licensee, its contractors and subcontractors, the above penalty may not be imposed for the delay unless the supplies or services to be furnished by contractor or subcontractor were obtainable from other sources in sufficient time to permit the licensee to meet the completion date.

NEW SECTION

WAC 260-13-450 CONSTRUCTION, EXPANSION, EXTENSION, ALTERATION, OR REMODELING OF FACILITIES. No

Class A or B licensee may construct, expand, extend, or alter, or remodel a racetrack facility at a cost in excess of ten thousand dollars without the approval of the commission. Failure to obtain approval is cause for revocation or suspension of a license or imposition of a fine.

NEW SECTION

WAC 260-13-460 SECURITY. Class A and B licensees must maintain security which is adequate to ensure the health, safety, and comfort of all humans and horses at the racetrack facility and protection of all property.

NEW SECTION

WAC 260-13-470 SECURITY MODIFICATIONS. The commission may order Class A and B licensees to make modifications to security facilities, equipment, systems, personnel, or their deployment which are necessary to the integrity of racing or public safety, health, or welfare. Failure to make modifications mandated by the commission promptly is cause for revocation or suspension of a license or imposition of a fine.

WSR 86-09-093
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
 [Filed April 23, 1986]

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 small business discount provision and optional fee payment schedule applicable to radioactive materials licenses, new WAC 440-44-059;

that the agency will at 2:00 p.m., Tuesday, May 27, 1986, 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 May 30, 1986.

The authority under which these rules are proposed is RCW 43.20A.055.

The specific statute these rules are intended to implement is RCW 43.20A.055.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1986.

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

Lee D. Bomberger, Acting 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 May 13, 1986. The meeting site is in a location which is barrier free.

Dated: April 23, 1986

By: Lee D. Bomberger, Acting Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
 New WAC 440-44-059.

Purpose of the Rule: To establish a small business discount for radioactive materials licensees and to allow businesses to pay their license fee in smaller, more frequent portions than currently allowed.

Reason this Rule is Necessary: To comply with chapter 19.85 RCW, the Regulatory Fairness Act, as it applies to direct fees charged to radioactive materials licensees pursuant to RCW 43.20A.055.

Statutory Authority: Chapter 43.20A RCW.

Summary of the Rule: New WAC 440-44-059 establishes a 25 percent reduction in the amount of the annual radioactive materials license fee for small businesses. To qualify for the "discount," a business must be formed for the purpose of making a profit, be independently owned and operated from all other businesses and employ 50 or fewer employees. An annual certification is required which may be used by the department to verify the licensee's status as a small business. In addition, the rule allows any business to request that their annual fee be billed and paid on either a quarterly or semi-annual basis. This reduces the economic impact of a single "lump sum" license fee.

Person Responsible for Drafting, Implementation and Enforcement of These Rules: Terry C. Frazee, Head, Radioactive Materials Section, Office of Radiation Protection, 753-3461, mailstop LE-13.

This action is proposed by Les James, Acting Director, Division of Health and recommended by staff of the Division of Health, DSHS.

This rule is not necessary as a result of federal law, federal court decision or state court decision.

Small Business Economic Impact Statement: The intent of this rule change is to reduce the economic impact of the radioactive materials license fee on as many as 115 small businesses among the 336 total licensees. The anticipated maximum \$24,000 per year reduction in program revenue will be offset by a temporary decrease in program service until general fund support can be obtained. The concept of a fee discount stems from the legislative requirement found in RCW 19.85.030 to exempt small businesses from any or all requirements of a rule (such as fees promulgated pursuant to RCW 43.20A.055). This rule change does not require an economic impact statement, since it does not have a direct detrimental financial impact on licensees.

NEW SECTION

WAC 440-44-059 SMALL BUSINESS DISCOUNT PROVISION AND OPTIONAL FEE PAYMENT SCHEDULE APPLICABLE TO RADIOACTIVE MATERIALS LICENSEES. (1) Small business may receive a twenty-five percent discount on radioactive materials license fees due on or after June 30, 1986. (See WAC 440-44-057(2) for fee amount.)

(2) To qualify for the discount, the business shall:

- (a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
- (b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company); and
- (c) Have fifty or fewer employees.

(3) To receive the discount, the license applicant at the time of initial license request, or the licensee at the time of annual billing shall:

- (a) Certify, on the business' letterhead or appropriate departmental form, the conditions in subsection (2) of this section have been met;
 - (b) Sign the certification as the chief executive officer of the business or as an official designee;
 - (c) Have the certification notarized;
 - (d) Enclose the payment with the certification; and
 - (e) Submit the certification and payment in accordance with instructions provided by the department.
- (4) The department may verify certifications and will suspend any radioactive materials license if the applicant/licensee:
- (a) Failed to pay the required fee; or
 - (b) Made an invalid or false certification.
- (5) Upon request of any radioactive materials licensee or license applicant, the department may accept semiannual or quarterly payments in lieu of the required annual license fee, provided:
- (a) A written payment schedule setting specific due dates and payment amounts is submitted; and
 - (b) The total payments per the schedule equal the fee in effect at the time such fee payment schedule is accepted by the department.

WSR 86-09-094
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning this notice proposes to amend sections in chapter 296-15 WAC, rules and regulations for self-insured employers. WAC 296-15-023 defines entities included in certification; 296-15-030 sets the minimum security level for existing self-insured employers; 296-15-070 sets the time limit in submitting claims information; 296-15-080 revises the due date of financial statements; 296-15-100 requires employers to notify the department of permanent partial disability award payments; 296-15-110 sets a ten day period for notifying the department of change of service company; 296-15-150 defines accident prevention programs for initial and continuing certification; 296-15-160 clarifies documentation requirements and department orders on compensable claims; 296-15-180 defines requirements/options on examinations for rating disability; 296-15-200 will provide easy identification of type of claim; and 296-15-21002 clarifies employer's request for denial of claim. This notice further proposes to update the language in seven sections and to add a new section (WAC 296-15-135) to require that a change in employer's contact person be made in writing;

that the agency will at 10:00 a.m., Tuesday, June 10, 1986, in Room G-150, General Administration Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 1, 1986.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is chapter 51.14 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 10, 1986.

The agency reserves the right to modify the text of these proposed rules and changes prior to the public hearing thereon or in response to written and/or oral comments thereon received prior to or during the public hearing.

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

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

Joseph A. Dear, Deputy Director
 Department of Labor and Industries
 HC-101
 General Administration Building
 Olympia, Washington 98504

Dated: April 23, 1986

By: Richard A. Davis
 Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-15 WAC, rules and regulations for self-insured employers; includes WAC 296-15-010 Preamble and authority; 296-15-020 Application; 296-15-023 Entities included in certification; 296-15-025 Joint venture; 296-15-030 Posting of security; 296-15-060 Administrative cost assessment; 296-15-070 Accident reports and claims procedures; 296-15-080 Statement of financial condition; 296-15-090 Application of supplemental moneys in payment of compensation; 296-15-100 Permanent partial disability awards; 296-15-110 Contract with a service organization; 296-15-120 Log of occupational injuries and illnesses; 296-15-135 Contact person; 296-15-150 Safety violations; 296-15-160 Order on compensable claims; 296-15-180 Examinations for rating disabilities; 296-15-200 Claims log—Evaluation; 296-15-21002 Form SIF-#4—Self-insured employer's notice of denial of claim; and 296-15-240 Procedure in cases appealed to the superior court.

Statutory Authority: RCW 51.04.020.

Specific Statute that Rule is Intended to Implement: Chapter 51.14 RCW.

Summary of the Rule(s): The purpose of these proposed and new rules is to make the following substantive and updating changes in Title 296 WAC: WAC 296-15-135 to require that a change in employer's contact person be made in writing; 296-15-023 to define entities included in certification; 296-15-030 to set the minimum security level for existing self-insured employers; 296-15-070 to set time limit in submitting claims information; 296-15-080 to revise the due date of financial statements; 296-15-100 to require employers to notify department of permanent partial disability award payments; 296-15-110 to set a ten day period for notifying the department of change of service company; 296-15-150 to define accident prevention programs for initial and continuing certification; 296-15-160 to clarify documentation requirements and department orders on compensable claims; 296-15-180 to define requirements/options on examinations for rating disability; 296-15-200 to provide easy identification of type of

claim; 296-15-21002 to clarify employer's request for denial of claim; and to amend various WAC sections to update language.

Reasons Supporting the Proposed Rule(s): To further define the initial certification requirements and continuing reporting requirements of self-insured employers and to update the language in various sections.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: Joseph A. Dear, Deputy Director, (206) 753-6308, HC-101; and Douglas Connell, Self-Insurance Administrator, (206) 753-3677, HC-221, Department of Labor and Industries, General Administration Building, Olympia, WA 98504.

Name of Person or Organization, Whether Private, Public or Governmental, that is Proposing the Rule(s): State of Washington, Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): No further comment.

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 Rule or its Purpose: No further comment.

Small Business Economic Impact Statement: This statement pertains to revisions in chapter 296-15 WAC, proposed by the Department of Labor and Industries to become effective July 1, 1986, and is prepared to conform with section 3(2) and section 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982).

The proposed rule revisions pertain to employers and groups who self-insure their workers' compensation benefit obligations. Small businesses seldom qualify as self-insurers because they lack the extensive financial resources and long term continuity of operation which are prerequisites for self-insurance. Therefore, the rules have negligible direct impact on small businesses.

AMENDATORY SECTION (Amending Order 71-15, filed 12/1/71)

WAC 296-15-010 PREAMBLE AND AUTHORITY. These rules and regulations governing (~~workmen's~~) workers' compensation self-insurance plans were adopted by the director of the department of labor and industries in accordance with sections 27, 47, and 59, chapter 289, Laws of 1971 1st ex. sess., and chapter 51.14 RCW. These rules and regulations were adopted to implement and make specific those sections of chapter 289, Laws of 1971 1st ex. sess., relating to workmen's compensation self-insurance.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-020 APPLICATION. (1) The application for certification to self-insure will be made only by those firms who have been in business for a minimum of 3 years, on a form prescribed by the (~~supervisor of industrial insurance~~) department which will elicit necessary information as to an employer's qualifications for self-insurance.

(2) The application shall be supplied by the (~~supervisor of industrial insurance~~) department to an employer upon the employer's request. It shall be completely and accurately filled out by the employer, and forwarded, with all necessary supporting documents, to the director.

(3) The director shall consider all matters relating to the applicant's qualifications to perform as a self-insurer, and shall advise the employer of the action taken on the application within a reasonable period

of time and in no instance less than 21 calendar days before the requested certification date. If deemed necessary for obtaining further information, the director may extend the time for acting on the application. If certification is denied due to lack of evidence of a safety program, the firm shall be denied reconsideration for one full quarter. The firm may then request certification during the second quarter after denial.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-023 ENTITIES INCLUDED IN CERTIFICATION. (1) The certification of a firm will include all of its subsidiaries(~~(:)~~) or divisions (~~or other operating entities~~) doing business in the state of Washington. A subsidiary is defined, for the purpose of this rule, as an entity which is more than 50% owned by another single firm.

(2) One certificate will be issued to an approved self-insurer, including all subsidiaries(~~(:)~~) or divisions (~~or operating entities~~). The entities will be considered as one employer for all purposes of Title 51 RCW.

AMENDATORY SECTION (Amending Order 82-8, filed 3/10/82)

WAC 296-15-025 JOINT VENTURE. (1) An application for certification to self-insure will be made on a form prescribed by the (~~supervisor of industrial insurance~~) department which will set forth the necessary information regarding the qualifications of the joint venture to self-insure.

(2) The application form, (SIF 1-A), will be supplied by the department upon written request. It will be completed by the applicant and submitted to the department with all supporting documents attached.

(3) Applications will be acted upon within fourteen calendar days of receipt, provided, that if deemed necessary for obtaining additional information, the director may extend the time for acting on the application. Processing the application will include an evaluation of the financial condition of all parties with interest greater than twenty percent in the assets and profits of the joint venture and an evaluation of the written safety program to be in effect at all job sites of the joint venture.

(4) Certification will be effective on the first day of a calendar month following receipt of surety and all required documentation. The director will consider the qualifications of the applicant and will advise the applicant of the action taken.

(5) Applicant joint ventures must include a sponsoring party. The word "sponsor" defines an employer presently self-insured in the state of Washington, with a majority interest in the assets and profits of the joint venture. The sponsor shall be responsible for the management of all industrial insurance claims, and shall accept full responsibility for all compensation due claimants. In the event of insolvency, bankruptcy, or dissolution of a party to the joint venture or the joint venture itself, the sponsoring party shall be held primarily responsible for all (~~workmen's~~) workers' compensation benefits due, with all parties to the joint venture being held jointly and severally responsible for payment of all compensations and assessments which may become due until all obligations are released by the department. At the discretion of the director and by written request from the sponsoring party, the department may release a minority party from its obligations one year after fulfillment of the construction contract and a final settlement of the joint venture account has been made.

(6) The agreement under which the joint venture will perform shall be attached to the application form. The joint venture agreement shall contain a description of the obligations and responsibilities of each party for the industrial insurance program of the joint venture. The sponsor shall accept full responsibility for the management and payment for all incurred claims during the life of and after dissolution of the joint venture.

(7) Surety will be required in an amount deemed by the department to insure sufficient financial ability to make certain the prompt payment of all compensation under this title and all assessments which may become due, but not less than the employer's normal expected annual claim liabilities. The surety bond escrow account will name the joint venture and all the parties thereof as principal. WAC 296-15-030 shall govern the posting of surety by the joint venture.

(8) The joint venture shall be subject to all regulations, reports, and assessments set forth in Title 51 RCW and accompanying WAC rules.

AMENDATORY SECTION (Amending Order 85-6, filed 3/1/85)

WAC 296-15-030 POSTING OF SECURITY. Subsections (1), (2), (3), and (4) of this section shall apply only to individual self-insurers who are not participating in a group self-insurance program. Group self-insurance programs are subject to reserve requirements set forth in WAC 296-15-02601(3) and 296-15-02605, in lieu of application of this section.

(1) Upon receiving a completed application for certification to self-insure, the director shall review the matter and notify the employer of the amount of security which must be deposited to secure the payment of compensation and assessments, pursuant to RCW 51.14.020 as now or hereafter amended. This amount as so established may be satisfied by the employer's supplying of money, corporate or governmental securities approved by the director, or a surety bond, written by a company admitted to transact surety business in this state, in favor of the department. All such securities of a self-insurer shall be deposited with an escrow agent appointed by the director and administered pursuant to a written agreement between the department, the self-insurer and the escrow agent. Securities shall be registered in the name of the escrow agent on behalf of the self-insurer. The original of all surety bonds submitted by self-insurers following approval by the director and the attorney general will be kept on file in the (~~Olympia office of the division of industrial insurance of the~~) department.

(2) On or after July 1, 1985, the minimum amount of security (~~deposit~~) required for initial certification as a self-insurer shall be the projected average cost of a permanent total pension claim for an injury occurring during the first year after the employer's self-insuring, including medical, time-loss and any other miscellaneous claim costs paid prior to award of the pension. This average cost shall be calculated by the department on an annual basis.

The security (~~deposit~~) required for initial certification as a self-insurer on or after July 1, 1985, may be greater than the minimum amount described above. In establishing such (~~surety deposit~~) security requirements, the department shall estimate the following amounts:

(a) The estimated amount of accident and medical aid fund premium that the self-insurer would have paid to the state fund during the first year of self-insurance, if it had remained in the state fund.

(b) The estimated amount of incurred benefits for the first year of self-insurance, based on past experience with the state fund, adjusted for intervening changes in benefit schedules and exposure.

If either or both of the above amounts exceed the minimum security deposit described in this section, the department may require the larger of (a) or (b) of this subsection as a security deposit for initial certification as a self-insurer on or after July 1, 1985.

The security deposit required in accordance with the above procedures may be adjusted by the department if there are other known conditions which may alter the self-insurer's potential claim costs and/or its ability to pay them.

(3) The amount of security required of each self-insurer shall be reviewed periodically by the director to determine if there is need for any increase or decrease thereof. To facilitate this review a self-insurer's annual report (SIF #7) shall be required in the form prescribed by the director and supplied to all self-insurers.

Security requirements in effect on, or initially established after, July 1, 1985, shall not be increased unless and until one or more of the following conditions are met:

(a) An estimate of the self-insurer's outstanding claim liabilities, made by either the self-insured employer or the department, exceeds the amount of security in force; or

(b) The projected average cost of a permanent total pension claim for an injury in the current year, including medical, time-loss and any other miscellaneous claim costs paid prior to award of the pension, exceeds the security in force for the employer by one hundred thousand dollars or more.

(4) The following procedure shall apply for purposes of updating security requirements:

(a) On July 1, 1985, the security requirement for each self-insurer shall be the larger of the following two amounts:

(i) The existing security in force for the self-insurer; or

(ii) The self-insurer's stated estimate of outstanding claim liabilities as shown on the 1984 self-insurer's annual report (SIF #7).

(b) On July 1, 1986, the security requirement for each self-insurer shall be the larger of the following (~~two~~) amounts:

(i) The existing security in force for the self-insurer; or

(ii) The average of the self-insurer's stated estimate of outstanding claim liabilities as shown on the 1985 self-insurer's annual report (SIF

#7) and the department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1985, made in accordance with provisions of (e) of this subsection; or

(iii) The minimum security requirement.

(c) On July 1, 1987, the security requirement for each self-insurer shall be the larger of the following (~~two~~) amounts:

(i) The existing security in force for the self-insurer; or

(ii) The department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1986, made in accordance with provisions of (e) of this subsection; or

(iii) The minimum security requirement.

(d) After July 1, 1987, the security requirement for each self-insurer will be subject to review and increased or decreased at such times as the director deems necessary to maintain the adequacy of those requirements. Such review and adjustment, when made, shall be performed in accordance with provisions of (e) of this subsection.

(e) In establishing or adjusting security requirements for a self-insurer, the department may perform a runoff test of the adequacy of the employer's estimates of liabilities, by tracking the subsequent cost of claims (subsequent payments plus the employer's updated estimates of remaining liabilities). If the subsequent costs do not exceed original liability estimates, the employer's most recent estimates of claim liabilities shall be considered adequate for purposes of setting current security requirements for the employer.

If the runoff test shows that subsequent costs of claims exceed the employer's original estimates of outstanding liabilities, the department may apply a loss development factor to the employer's most recent estimates of claim liabilities to compensate for anticipated repetition of inadequate estimates. The loss development factor shall be based on the self-insured employer's experience.

The following special considerations shall apply in establishing or adjusting security requirements for a self-insurer:

(i) Pension claims - Reserve amounts attributable to death or permanent total disability claims independently secured by means of a surety bond or assignment of account, and which are included in estimates of outstanding claim liabilities as shown on the self-insurer's annual report (SIF #7), shall be deducted from estimates of outstanding claim liabilities made in accordance with other provisions of this section.

(ii) Reinsurance - Anticipated recoveries under reinsurance policies held by a self-insurer must be documented by the self-insurer and reported to the department to qualify for consideration in establishing security requirements. Such anticipated recoveries shall be applied to either the self-insurer's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7) or the department's estimate of the self-insurer's outstanding liabilities made in accordance with (e) of this subsection, whichever is greater. If the resulting estimate of claim liabilities net of reinsurance recoveries is less than the security requirements imposed by this section without adjustment for reinsurance, the security requirement shall be reduced accordingly; provided, that security requirements imposed upon initial certification of a self-insurer or based upon the projected average cost of a permanent total pension claim may be retained by the department regardless of other estimates of claim liabilities for the self-insurer.

(iii) Strict application of loss development factors based upon the runoff test presumes a consistency of reserving methodology and results for the self-insurer. If the department determines that an employer has changed its reserving methodology in such a way as to invalidate loss development factors based upon past experience, then the department shall make such adjustments to the procedure as it may deem appropriate under the circumstances.

(iv) The department will give full consideration to any evaluation of the self-insured employer's outstanding claim liabilities made by an independent qualified actuary. Such independent actuarial evaluations are optional and not required by this rule.

(f) Any changes to existing bonds and/or adjustments to bond amounts made by or required of a self-insurer on or after July 1, 1985, shall provide adequate security for all self-insured workers' compensation liabilities of the employer, regardless of when the claims giving rise to those liabilities were incurred. Changes contemplated by this subsection include, but are not limited to, designation of a new surety carrier, issuance of a replacement bond by a current surety carrier, and/or revision of the face amount of any bond whether by endorsement or issuance of a replacement bond. If a new surety carrier does not assume full responsibility for all past self-insured liabilities regardless of when incurred, the department may require that such liabilities be secured by other means.

(5) A self-insurer's annual report (SIF #7) shall be required of group self-insurance plans, in the form prescribed by the director and supplied to all group self-insurance plans.

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-060 ADMINISTRATIVE COST ASSESSMENT.

(1) Assessments levied by the department against each self-insurer shall be based on the self-insured employer's proportionate share of the administrative costs determined to be attributable to self-insurers, including expenses of the safety division, the industrial insurance division, the University of Washington environmental research facility, the board of industrial insurance appeals, appeals expenses and other general administrative expenses.

(2) The director shall determine the assessment rate annually, prescribing the self-insured employer's share of the attributable costs determined pursuant to the provisions of subsection (1). For employers who have been covered under the ~~((Workmen's))~~ Workers' Compensation Act for a period of less than two full calendar years, the assessment rate shall be a percentage of the premium which would have been collected at manual rates had the self-insurer been covered by the state fund. For employers who have been subject to the provisions of the ~~((Workmen's))~~ Workers' Compensation Act in excess of two calendar years, the administrative assessment rate shall be a percentage of the payments made on all claims involving the self-insured employer: PROVIDED, That in any event a self-insured employer shall be subject to the payment of a minimum quarterly assessment of twenty-five dollars.

(3) Administrative cost assessments shall be payable for each quarter, by the thirtieth day following the receipt of a quarterly report form supplied by the department (SIF #6). This quarterly report form shall also provide for payment of the supplemental pension fund assessment.

(4) A self-insured employer who has, or shall hereafter, voluntarily, or involuntarily, surrender his certification as a self-insurer shall pay an adjusted administrative assessment. The amount of this adjusted administrative assessment will be determined annually and shall represent such self-insurer's portion of the administrative assessment which can be attributed directly to the operational costs of the office of the manager of self-insurance. This adjusted administrative assessment shall continue until such time as all liabilities and all responsibilities of such employer have been terminated. The amount of this adjusted administrative assessment shall in no case be less than \$25.00 per calendar quarter.

When such an employer has had no self-insured claim activity, excluding activity in cases of total permanent disability or death, for a period of one year, a request may be made to the department for a review to determine if there is a need to continue the adjusted administrative assessment, in which circumstances, the minimum assessment will not apply.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-070 ACCIDENT REPORTS AND CLAIMS PROCEDURES. (1) Reporting of accidents and applications for compensation based thereon shall be on a form prescribed by the department, entitled the self-insurer's accident report (SIF #2), which will be supplied to all self-insurers, and by self-insurers to their employees. Forwarding a completed copy of this form to the department for compensable claims immediately and medical only claims monthly after closing by the self-insured employer shall satisfy the initial accident reporting responsibility and statistical reporting responsibility under the law.

(2) A self-insurer, on denying any claim, shall provide to the claimant, the department, and the attending physician, within 30 days after such self-insurer has notice of the claim, a notice of denial of claim, substantially identical to the example SIF #4, incorporated herein by reference. With every such claim denial a self-insurer shall send to the department all information on which the denial was based.

(3) A self-insurer shall file a complete and accurate supplemental or final report on injury or occupational disease claims resulting in time loss payments, on a form substantially identical to the example SIF #5, incorporated herein by reference, at the following times:

(a) Within five working days following the date the first time loss compensation is paid.

(b) Within five working days following the date the time loss compensation is terminated, reinstated, or the rate thereof changed.

(c) On the date a determination is requested.

All medical reports and other pertinent information in the self-insurer's possession not previously forwarded to the department must be submitted with the request for all determinations.

(4) A self-insurer shall, upon notice of a claim ~~((shall issue a claim number from numbers to be assigned to all self-insurers by the department))~~ for benefits, generate a completed SIF-2 which bears a claim number assigned to the self-insurers by the department. A copy is to be provided to the claimant within five working days.

(a) When a worker requests an accident report (SIF #2), the self-insurer shall provide the report in a timely manner. This report outlines the workers' rights and responsibilities in nontechnical language.

(b) A self-insurer, upon closure of a medical only claim, shall issue an order on a form prescribed by the department entitled self-insurer's claim closure order and notice (LI-207-20), which will be supplied to all self-insurers, and by the self-insurers to their employees, in compliance with reporting responsibilities under the law, a copy of which shall be sent to the attending physician.

(c) The self-insurer shall submit monthly statistical information on medical only claims closed during the month by copy of the accident report (SIF #2), with a memo attached indicating that the claims are closed.

(d) ~~((When a written protest is received by the department, the department shall require a self-insurer to submit within ten working days from the date of receipt of certified mailing from the department, all information in the self-insurer's possession dealing with the claim in question))~~ When the department requests claim information by certified mail, the self-insurer shall submit all information in its possession dealing with the claim in question, within ten working days from the date of receipt of such certified mail.

(e) In any case where the department or the self-insured employer has issued an appealable order on a medical-only claim, all subsequent orders in that claim shall be issued by the department.

(f) When an application for reopening of claim for aggravation of condition is received by a self-insured employer or its authorized representative, it shall be the responsibility of the self-insured employer to forward it to the department within five working days from the date of receipt.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-080 STATEMENT OF FINANCIAL CONDITION. ~~((Each employer authorized to self-insure the liabilities imposed by the industrial insurance law (Title 51 RCW) shall, not later than the first day of July in each year commencing July 1, 1975, provide the supervisor of industrial insurance of the department of labor and industries with a current statement of:~~

The financial condition of the employer's business enterprise including all subsidiaries. Said statement shall have been completed not more than one year prior to the due date as set forth above. The statement of financial condition must be a fully audited statement prepared by accountants independent of the employer for accounts certified after January 1, 1984.)) Every self-insured employer shall, not later than six months following the end of its financial reporting period, submit a fully audited financial statement to the department. This statement shall be for the year just ended. It may be the financial statement of the self-insurer's parent, but must include the financial condition of all subsidiary operations. A self-insurer whose financial statement is not available from an accounting firm within this time must make a written request to the department for an extension of the filing time. Any self-insured employer who is a political subdivision of the state, a municipal corporation, or other public entity who is subject to audit by the state auditor may submit a state auditor's report containing the employer's audited financial statement. Public entities which are audited less than once a year by the state auditor must submit a financial statement prepared internally for the years between reports of the state auditor.

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-090 APPLICATION OF SUPPLEMENTAL MONEYS IN PAYMENT OF COMPENSATION. Each employer authorized to self-insure the liabilities imposed by the industrial insurance law (Title 51 RCW) shall provide the ~~((supervisor of industrial insurance of the department of labor and industries))~~ department with a statement of their current policy of applying sick leave, health and welfare insurance benefits or any other compensation in conjunction

with or as a substitute for the time loss compensation required in RCW 51.32.090.

(a) Where a self-insurer maintains a person on full salary during a period of temporary total disability due to an injury or illness compensable under Title 51 RCW, a report shall be filed with the department in accordance with WAC 296-15-070.

This report shall indicate the amount of compensation the injured worker is entitled to when computed in accordance with RCW 51.32.060. The amount, so computed and reported, shall be included in the self-insurers total claim costs and therefore be included on the quarterly report of self-insured employer (SIF #6) for the purpose of computing their administrative assessment.

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-100 PERMANENT PARTIAL DISABILITY AWARDS. Whenever a ((self-insuring))self-insured employer receives an order and notice establishing a permanent partial disability (PPD) award, on behalf of a worker injured in its employment, the self-insurer shall make payment of the award without delay and in accordance with RCW 51.32.080(4). In all cases, the self-insured employer will notify the department of the date the award is paid.

When the amount of the award exceeds three times the average monthly wage in the state, as established at the date of the workers injury, a schedule of payments shall be prepared. Such schedule shall include all the following information:

The total amount of the disability award.

The amount of the initial payment and the date such payment was made.

The amount of the remaining balance.

The amount of interest earned on the unpaid balance.

The date each subsequent payment will be made.

The amount of each subsequent payment until all moneys have been dispersed.

A copy of this schedule shall accompany the initial payment to the claimant and a copy shall be forwarded to the ((supervisor of industrial insurance;)) department in substantially the same form as set forth below.

SCHEDULE OF FUTURE PAYMENTS FOR THE BALANCE OF THE PERMANENT PARTIAL DISABILITY AWARD

EMPLOYER: Firm No.
NAME OF CLAIMANT:
ADDRESS:
CLAIM#:

AMOUNT OF AWARD:
INITIAL PAYMENT:
UNPAID BALANCE:

Table with 5 columns: DATE OF PAYMENT, UNPAID BALANCE, INTEREST, TIME LOSS SCHEDULE, AMT. OF PAYMENT

* * * * *
DATE PAID

AMENDATORY SECTION (Amending Order 74-38, filed 11/18/74, effective 1/1/75)

WAC 296-15-110 CONTRACT WITH A SERVICE ORGANIZATION. Every self-insuring employer utilizing a service organization independent of the self-insurers firm, to aid or participate in any manner in the administration of their responsibilities; including but not limited to: Claims-handling, payment of compensation, accumulation of data and completion of required reports, (both quarterly and annual) or any other such administrative function; shall forward to the ((supervisor of industrial insurance;)) department, a copy of the contract which exists between the two, or more, parties for such services: PROVIDED, That any clause or clauses in such contract relating to the monetary consideration between the parties may be deleted: PROVIDED FURTHER, That any provision in such contract relating to the monetary consideration which may increase or decrease such consideration on the basis of an increase or decrease of an employer's

claims must be explained in detail and the ((supervisor of industrial insurance;)) department may require the employer to supply an unaltered copy of the agreement where it appears reasonably necessary for the purpose of clarification.

Anytime a self-insurer elects to change service organizations, or ((in some manner)) change or modify the existing contract, a copy ((of such)) shall be forwarded to the ((supervisor of industrial insurance;)) department within ten working days of the effective date of the new contract or change.

AMENDATORY SECTION (Amending Order 74-38, filed 11/18/74, effective 1/1/75)

WAC 296-15-120 LOG OF OCCUPATIONAL INJURIES AND ILLNESSES. Each self-insured employer shall, upon request, provide the ((supervisor of industrial insurance, or his authorized representative;)) department any or all information contained on the log of occupational injuries and illnesses (WISHERS #100) maintained in accordance with chapter 296-27 WAC.

NEW SECTION

WAC 296-15-135 CONTACT PERSON. Each self-insurer shall provide the department with the name, title, address, and phone number of a contact person who will be the liaison with the department regarding self-insurance matters, and to whom all self-insurance correspondence will be sent. The self-insurer is to give written notice of any change in contact person within ten working days of the change.

AMENDATORY SECTION (Amending Order 74-38, filed 11/18/74, effective 1/1/75)

WAC 296-15-150 ((SAFETY VIOLATIONS)) ACCIDENT PREVENTION PROGRAM. ((Each self-insuring employer must meet the requirements of RCW 51.14.030 to the satisfaction of the director, to obtain initial certification.

RCW 51.14.030(4) requires of an applicant employer that: "He has submitted to the department a description of the safety organization to be maintained by him within his establishment that indicates a record of accident prevention." (Emphasis added.)

The maintenance of an adequate and effective safety organization, by a self-insured employer, is a continuing requirement.

The department may at any time require a self-insurer to report the accident prevention activity of the preceding twelve-month period. Such a report would include:

- (1) The qualifications of the personnel administering their safety program;
(2) The adequacy of the program in relation to its success in accident prevention.

Failure of a self-insurer to maintain a safety program which indicates a record of accident prevention could be grounds for withdrawal of its certification. Applicants for self-insurance certification are required by RCW 51.14.030(4) to demonstrate to the department the existence of a safety organization which indicates a record of accident prevention within their places of business. Chapter 296-24 WAC sets forth the requirements for an employer's accident prevention program. Accident prevention programs must comply with these rules in order for certification to be granted. Applicants whose programs do not meet these requirements will be denied certification. Employers who are denied certification due to deficient accident prevention programs may be required to wait six months before being considered for certification again. The self-insurer's maintenance of an accident prevention program is also a requirement for continued certification. (RCW 51.14.080(1).)

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-160 ORDER ON COMPENSABLE CLAIMS. In all cases the department shall issue an allowance, segregation or interlocutory order upon receipt of an SIF #5 from a self-insured employer, which reports the first payment of time loss compensation as required by WAC 296-15-070, unless a request for denial has been received on an SIF #4.

Interlocutory orders shall only be issued upon the application for such by a self-insurer. Such orders will be issued at the discretion of the department and only when substantiating documentation and an investigation plan with tentative date of completion accompanies the request from the self-insurer.

Interlocutory orders shall be effective (~~for a period of sixty days commencing on the date the self-insurer has knowledge or notice of the industrial injury or occupational disease. After which time an allowance or rejection order shall be issued~~) until an allowance or rejection order is issued by the department.

All orders shall be issued in accordance with RCW 51.52.050.

AMENDATORY SECTION (Amending Order 75-28, filed 8/29/75, effective 1/1/76)

WAC 296-15-180 EXAMINATIONS FOR RATING DISABILITY. In any case where a self-insured employer obtains information from a physician, other than the attending physician, for the purpose of rating or classifying disability, following the receipt of medical evidence that the worker's injury has become medically stabilized, such employer shall request from the attending physician whether or not he concurs in the examining physician's conclusions. If the attending physician is not in agreement with such conclusions or refuses to give an opinion on such conclusions, (~~all medical information in the records of the self-insured employer shall be forwarded to the department and~~) the self-insured employer may arrange another medical evaluation or forward all medical information to the department. The department may require additional medical examinations.

If the department determines further medical examination is needed, the self-insured employer (~~shall~~) may be notified as to the name or names of such medical examiners for the purpose of promptly arranging the required examination. At the conclusion of the examination, the self-insurer shall immediately provide the department with a copy of the medical examiner's report.

All costs for such medical examinations and all reasonable expenses incurred by the injured worker shall be paid by the self-insurer to the extent required by RCW 51.32.110.

AMENDATORY SECTION (Amending Order 83-8, filed 3/8/83)

WAC 296-15-200 CLAIMS LOG—EVALUATION. Beginning January 1, 1976, each self-insurer shall maintain a log of all claims filed by any worker injured in (~~their~~) its employ or any worker having contracted an occupational disease as a result of his/her employment with the self-insurer.

The claims log shall contain the following minimum information: The injured worker's name, the date of the injury or first knowledge of an occupational disease, the claim number assigned by the department (~~and~~), the date the claim is closed, and whether the claim is compensable or treatment only. Additional information may be recorded at the discretion of the employer.

AMENDATORY SECTION (Amending Order 71-15, filed 12/1/71)

WAC 296-15-21002 FORM—SIF #4—SELF-INSURED EMPLOYER'S NOTICE OF REQUEST FOR DENIAL OF CLAIM.

SELF-INSURED EMPLOYER'S NOTICE OF REQUEST FOR DENIAL OF CLAIM
Claim No.
Date of Notice

Dear

This will notify you that your claim for benefits filed in reference to your injury or occupational disease of has been received and investigated. The company hereby (~~denies~~) requests denial of your claim for the following reason(s) (that):

- 1.
- 2.
- 3.

The Department of Labor and Industries will review this matter and send you an official order on the claim. Either it will deny the claim as we have requested or issue an allowance order. If you are aggrieved by that order, you may request reconsideration by the Department of Labor and Industries, or you may appeal to the Board of Industrial Insurance Appeals.

THIS LETTER DOES NOT CONSTITUTE OFFICIAL NOTIFICATION OF CLAIM DENIAL.

.....
(Firm Name)

By

cc: Director, Department of Labor and Industries
Attending physician

SIF #4

AMENDATORY SECTION (Amending Order 77-19, filed 9/26/77)

WAC 296-15-240 PROCEDURE IN CASES APPEALED TO THE SUPERIOR COURT. In all cases when any party has appealed to the superior court from a decision of the board of industrial insurance appeals in a case involving a (~~self-insuring employer~~) self-insurer, or from the superior court to any appellate court, such a self-insurer shall promptly forward to the department copies of the notice of appeal, judgment, and such other information relevant to any such appeal to a superior or appellate court as the department may require.

**WSR 86-09-095
PROPOSED RULES
STATE BOARD OF EDUCATION**
[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning state support of public schools, chapter 180-16 WAC;

that the agency will at 9:00 a.m., Thursday, May 29, 1986, in the Auditorium, West Valley Junior High, Yakima, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 30, 1986.

The authority under which these rules are proposed is RCW 28A.58.754(6).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 29, 1986.

Dated: April 23, 1986
By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-16 WAC, State support of public schools.

Rule Section(s): WAC 180-16-220 Supplemental program and basic education allocation entitlement requirements; 180-16-221 Assignment of classroom teachers within districts; 180-16-222 Exceptions to classroom teacher assignment policy; 180-16-223 Temporary out-of-endorsement assignment criteria; 180-16-224 Second and third year temporary out-of-endorsement criteria; 180-16-225 Waiver—Substantial lack of classroom space—Grounds and procedure; 180-16-231 Assignment of principals and vice principals within districts; and 180-16-236 Assignment of educational staff associates.

Statutory Authority: RCW 28A.58.754(6).

Purpose of the Rule(s): To set forth substantive and procedural rules for the assignment of certificated personnel in basic programs of education in the public schools.

Summary of the New Rule(s) and/or Amendments: WAC 180-16-220(2) adds certificate endorsement requirements to existing requirements for basic education allocation entitlement; 180-16-221(1) specifies which classroom teachers may teach any subject at any grade level; 180-16-221(2) specifies which classroom teachers must be assigned to the grades and subjects specified in their certificate endorsement; 180-16-221 (3) and (4) defines "specified grades" and "specified subject areas"; 180-16-221(5) refers to permissible exceptions; 180-16-221(6) specifies how compliance will be monitored; 180-16-222 specifies exceptions for substitutes; holders of limited certificates, vocational certificates, and nonimmigrant alien permits; teachers of unendorsed subjects; and temporary out-of-endorsement assignments; 180-16-223(1) specifies circumstances in which a temporary out-of-endorsement assignment may be made; 180-16-223(2) specifies the qualifications which a teacher must meet in order to be assigned temporarily out-of-endorsement; 180-16-223(3) specifies conditions which the board of directors must agree to in order to make a temporary out-of-endorsement assignment; including a plan of assistance for the teacher, restrictions on the extent of the assignment, restrictions on the use of observation for probation and nonrenewal, and restrictions on the duration of the assignment; 180-16-223(4) requires boards of directors to report to SPI on out-of-endorsement assignments in the year after such assignments are made; 180-16-223(5) specifies conditions under which teacher qualification requirements and restrictions on the extent of assignments may be waived; 180-16-224 specifies that second and third year out-of-endorsement assignments may be made only if the board of directors agrees to reimburse teachers for tuition costs associated with their earning the required endorsements; 180-16-225 specifies that endorsement requirements cannot be waived for lack of classroom space; 180-16-231 specifies the permitted assignments for principals; and 180-16-236 specifies the permitted assignments for educational staff associates.

Reasons Which Support the Proposed Action(s): To ensure that certificated personnel are assigned to responsibilities for which they have been prepared.

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

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; **Implementation:** John Swiger, SPI, 3-6715; and **Enforcement:** Charles R. Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 2-84, filed 5/17/84)

WAC 180-16-220 SUPPLEMENTAL PROGRAM AND BASIC EDUCATION ALLOCATION ENTITLEMENT REQUIREMENTS. The following requirements, while not imposed by the "Basic Education Act of 1977," are hereby established by the state board of education as related supplemental conditions to a school district's entitlement to state basic education allocation funds.

(1) Student to certificated staff ratio requirement. The ratio of students enrolled in a school district to full-time equivalent certificated employees shall not exceed twenty-three to one: **PROVIDED**, That nonhigh school districts or school districts that have a student enrollment of two hundred fifty or less in grades nine through twelve may, as an alternative to the foregoing requirement, have a ratio of students to full-time equivalent certificated classroom teachers of twenty-six to one or less. For the purpose of this subsection, "certificated employees" shall mean those employees who are required by state statute or by rule of the state board of education, or by written policy of the school district to possess a professional education permit, certificate or credential issued by the superintendent of public instruction, as a condition to employment and "classroom teacher" shall be defined as in WAC 180-16-210 and the students to classroom teachers ratio shall be computed in accordance with WAC 180-16-210(1).

(2) Current and valid certificates. Every school district employee required by ~~(state statute and/or rule of the state board of education)~~ WAC 180-75-055 to possess a professional education permit, certificate, or credential issued by the superintendent of public instruction for his/her position of employment, shall have a current and valid permit, certificate or credential. In addition, effective July 1, 1987, classroom teachers, principals, vice principals, and educational staff associates shall be required to possess endorsements as required by WAC 180-16-221, 180-16-231, and 180-16-236, respectively.

(3) Student learning objectives. Each school district shall have implemented a program of student learning objectives in the areas of language arts, reading, mathematics, social studies, and physical education for grades kindergarten through twelve. On or before September 1, 1988, school districts shall have initiated implementation of the student learning objectives in all other course(s)/subject(s) taught in the K-12 common schools.

(a) Each school district must evidence community participation in defining the objectives of such a program.

(b) The student learning objectives of such program shall be measurable as to the actual student attainment. Student attainment shall be locally assessed annually.

(c) The student learning objectives program shall be reviewed at least every two years by the school district and give specific attention to improving the depth of course content within courses and in coordinating the sequence in which subject matter is presented.

(4) Other program requirements self evaluation. Each school district shall adopt a procedure to ensure awareness of and compliance with other program requirements, including provisions set forth in WAC 180-16-240.

NEW SECTION

WAC 180-16-221 ASSIGNMENT OF CLASSROOM TEACHERS WITHIN DISTRICTS. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education, effective July 1, 1987, shall comply with the following:

(1) Classroom teachers specified below may be assigned to any grade or subject areas for which certification is required.

(a) Classroom teachers with continuing certificates issued pursuant to WAC 180-79-060 if such teachers were eligible for such certificates prior to July 1, 1987, and such certificates were applied for prior to July 1, 1988;

(b) Classroom teachers with standard certificates issued or reinstated pursuant to WAC 180-80-215;

(c) Classroom teachers with provisional certificates issued, reissued, or reinstated pursuant to WAC 180-80-210 and who have completed a ninety school day assignment as a classroom teacher;

(d) Classroom teachers whose standard certificate has been converted pursuant to WAC 180-79-045 to a continuing certificate;

(e) Classroom teachers with initial certificates issued, reissued, or reinstated pursuant to WAC 180-80-705 and who have completed a ninety school day assignment as a classroom teacher;

(f) Classroom teachers with continuing certificates issued or reinstated pursuant to WAC 180-80-705.

(2) Classroom teachers specified below may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(a) Classroom teachers with continuing certificates issued pursuant to WAC 180-79-060 after July 1, 1987, unless such teachers were eligible for such certificates prior to July 1, 1987, and applied for such certificates prior to July 1, 1988;

(b) Classroom teachers with initial certificates issued pursuant to WAC 180-79-060 and immigrant alien and temporary permits;

(c) Classroom teachers with provisional certificates issued pursuant to WAC 180-80-210 and who have not completed a ninety school day assignment as a classroom teacher;

(d) Classroom teachers with initial certificates issued pursuant to WAC 180-80-705 and who have not completed a ninety school day assignment as a classroom teacher.

(3) For the purpose of this section, the term "specified grades" shall mean any grade preschool through twelve specified by the classroom teacher's endorsement. In the event the teacher is assigned to an ungraded classroom, the chronological age of such students shall be converted for the purpose of compliance with this section to the grade level such students would have been assigned but for the ungraded classroom assignment.

(4) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teachers endorsement and courses or classes which the board of directors of the district determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(5) Exceptions to the assignment requirements of subsection (2) of this section must comply with WAC 180-16-222.

(6) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

NEW SECTION

WAC 180-16-222 EXCEPTIONS TO CLASSROOM TEACHER ASSIGNMENT POLICY. Exceptions to the classroom teacher assignment specified in WAC 180-16-221 shall be limited to the following:

(1) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(2) Any certificated person holding a limited certificate as specified in WAC 180-79-230, 180-79-231, or 180-79-233 or a vocational education certificate as specified in chapter 180-77 WAC or any person holding a nonimmigrant alien permit issued pursuant to WAC 392-193-055, may be assigned as per the provisions of such section or chapter.

(3) Any certificated teacher may be assigned to courses offered in basic education subject areas not included within the list of endorsements specified in WAC 180-79-080.

(4) Any certificated teacher may be assigned temporarily to an out-of-endorsement grade level or subject area if such assignment complies with WAC 180-16-223.

NEW SECTION

WAC 180-16-223 TEMPORARY OUT-OF-ENDORSEMENT ASSIGNMENT CRITERIA. In order for a temporary out-of-endorsement assignment for a classroom teacher to comply with the basic education approval standards, the board of directors of the district must comply with the following:

(1) The board of directors of the district must make one or more of the following factual determinations:

(a) The district was unable to recruit a teacher with the proper endorsement.

(b) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable.

(c) The reassignment of another teacher within the district with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(d) The district has a surplus of teachers with endorsements in specified grade levels or subject areas and it is necessary to reassign

such teachers in whole or part in order to avoid adversely affecting such teachers' contract status.

(2) The teacher assigned to the out-of-endorsement grade level or subject area must meet the following requirements:

(a) The teacher so assigned must have at least two full school years of classroom teaching experience and must not have been placed on probation pursuant to RCW 28A.67.065 during the last two school years.

(b) The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in the out-of-endorsement grade level or subject area.

(3) The board of directors of the district shall agree to the following conditions:

(a) Prior to the assignment of the out-of-endorsement grade level or subject area, or as soon as reasonably practicable thereafter, but in no event beyond twenty school days after the commencement of the assignment, if the assignment was not reasonably foreseeable, a designated representative of the district and the classroom teacher so assigned shall mutually develop a written plan which provides necessary assistance to the teacher so assigned and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement classroom assignment.

(b) No classroom teacher shall be assigned in any one semester or trimester to more than one preparation in one out-of-endorsement grade level or subject area unless the school building in which such teacher is assigned has a preexisting policy of assigning classroom teachers to "block programs," which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students. However, in order to be eligible for assignment to block programs, the teacher so assigned must be endorsed in one of the subject areas within the block program and must meet the criterion in subsection (2)(b) of this section in each of the additional subject areas within the block program.

(c) Any observation conducted in the out-of-endorsement grade level or subject area will not be utilized by the district as evidence to support probation of the teacher so assigned pursuant to RCW 28A.67.065 or nonrenewal of such teacher pursuant to RCW 28A.67.070.

(d) A second or third year assignment to an out-of-endorsement grade level or subject area will be made only pursuant to WAC 180-16-224 and in no case will the teacher be so assigned for more than three school years.

(4) The board of directors shall submit to the office of superintendent of public instruction as part of its annual report required by WAC 180-16-195, a list which indicates all assignments for the previous school year in out-of-endorsement grade levels or subject areas. Such list shall include:

(a) The name and certification number of each teacher so assigned, the out-of-endorsement grade levels or subject areas taught by such teacher, and the dates upon which such assignment(s) commenced and concluded.

(b) The reason for each such assignment.

(c) The reason why the particular teacher was selected for the out-of-endorsement grade level or subject area.

(d) A dated copy of each plan of assistance required pursuant to WAC 180-16-223 (3)(a). Such copy shall not contain any personal information the disclosure of which would violate the named teacher's right to privacy pursuant to RCW 42.17.310(b).

(e) An assurance that each such assignment was made in compliance with WAC 180-16-221 through 180-16-224.

(5) PROVIDED, That the provisions of subsections (2)(a) and (b) and (3)(b) of this section shall be waived by the state board of education if:

(a) The board of directors of the school district adopts a resolution for each proposed out-of-endorsement assignment which states that the district has made a good faith effort to comply with the provision(s) for which it is requesting a waiver. Such resolution must recite the actions that the school district has taken to comply, including contacts made with institutions of higher education and professional associations seeking assistance in the recruitment of appropriate teachers.

(b) The district presents the resolution at a meeting of the state board of education and documents to the board the stated efforts of the district.

(c) The state board of education determines, based on the evidence received, that a good faith effort to comply has been made.

NEW SECTION

WAC 180-16-224 SECOND AND THIRD YEAR TEMPORARY OUT-OF-ENDORSEMENT CRITERIA. Notwithstanding the provisions of WAC 180-16-223(1), a classroom teacher who was assigned an out-of-endorsement grade level or subject area for the previous school year may be assigned to the same assignment for a second or third school year if the board of directors of the district offers to reimburse the teacher so assigned any tuition costs, equal to at least the rate of tuition at the nearest regional or state university, whichever is closer, that is necessary, up to a maximum of fifteen quarter or ten semester hours, to secure the needed endorsements for service as a classroom teacher in each of the out-of-endorsement grade level or subject areas. The board may condition such reimbursement upon an agreed level of performance or agreed timetable for completion of the needed endorsements.

AMENDATORY SECTION (Amending Order 2-84, filed 5/17/84)

WAC 180-16-225 WAIVER—SUBSTANTIAL LACK OF CLASSROOM SPACE—GROUNDS AND PROCEDURE. (1) Grounds. The state board of education may waive one or more of the basic education allocation entitlement requirements set forth in WAC 180-16-200 through 180-16-220(1) only if a school district's failure to comply with such requirement(s) is found by the state board to be caused by substantial lack of classroom space.

As a condition to a waiver based on substantial lack of classroom space the state board will consider and a school district must demonstrate at least that the facilities of the school district do not contain enough classroom space or other space that can reasonably be converted into classroom space, and that necessary classroom space may not reasonably be acquired by lease or rental, to enable the district to comply with the referenced entitlement requirements.

(2) Waiver procedure. In order to secure a waiver pursuant to subsection (1) of this section a school district must submit a petition together with a detailed explanation and documentation in support of its request not later than thirty days prior to either:

(a) The state board of education meeting immediately preceding commencement of the school year; or

(b) The March (or such other meeting as the state board shall have established) meeting of the board at which the board will consider certifications of compliance and noncompliance with these entitlement requirements.

A school district that can reasonably foresee an inability to comply with entitlement requirements by reason of substantial lack of classroom space should petition for a waiver as early as the state board meeting immediately preceding commencement of the school year in order to allow for the possibility that the request may be denied.

(3) Nonwaiverable requirements. The certification, including endorsement, and the student learning objectives requirements set forth in WAC 180-16-220 (2) and (3) may not be waived for any reason.

NEW SECTION

WAC 180-16-231 ASSIGNMENT OF PRINCIPALS AND VICE PRINCIPALS WITHIN DISTRICTS. In addition to holding principal permits or certificates as required by WAC 180-16-220(2), the assignment of principals and vice principals in the basic program of education, effective July 1, 1987, shall comply with the following:

(1) Building administrators holding initial or provisional principals' certificates may serve only as principals or vice principals for the grade levels stated in their endorsements with the following exceptions:

(a) Building administrators with grades K through 8 or preschool through 8 endorsements may serve as principals or vice principals for grade levels preschool through 9.

(b) Building administrators with grades 7 through 12 endorsements may serve as principals or vice principals for grade levels 4 through 12.

(c) Building administrators with initial or provisional certificates may be assigned to serve as substitute principals or vice principals at any grade level for a period not to exceed thirty consecutive school days in any one assignment.

(2) Building administrators holding continuing or standard principals certificates may be assigned to serve as a principal or vice principal at any grade level.

NEW SECTION

WAC 180-16-236 ASSIGNMENT OF EDUCATIONAL STAFF ASSOCIATES. No person shall be assigned within the basic

program of education to serve in a specific educational staff associate role, as defined in WAC 180-79-175 through 180-79-210, unless such person holds a certificate or permit endorsed for such specific role.

WSR 86-09-096**PROPOSED RULES****STATE BOARD OF EDUCATION**

[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning general certification provisions, chapter 180-75 WAC;

that the agency will at 9:00 a.m., Thursday, May 29, 1986, in the Auditorium, West Valley Junior High, Yakima, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 30, 1986.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 29, 1986.

Dated: April 23, 1986

By: Monica Schmidt
Secretary**STATEMENT OF PURPOSE**

Rule: Chapter 180-75 WAC, Professional certification—General provisions.

Rule Section(s): WAC 180-75-003 Authority; 180-75-017 Denial of recommendation for certification or endorsement by approved professional preparation training institutions; 180-75-020 Appeal—General; 180-75-025 Appeal procedure—Informal SPI review; 180-75-027 Waiver of requirement for timely appeal; 180-75-030 Appeal procedure—Formal SPI review process; 180-75-033 Appeal procedure to SBE; 180-75-035 Certificate revocation; 180-75-040 Notification of revocation of certificates; 180-75-045 Certificate validity; 180-75-055 Types of certificates; 180-75-087 Reinstatement of certificates; and 180-75-090 Temporary permits.

Statutory Authority: RCW 28A.70.005.

Purpose of the Rule(s): To set forth substantive and procedural rules that apply to all candidates for educational certification.

Summary of the New Rule(s) and/or Amendments: WAC 180-75-003 cites State Board of Education authority for rules contained in this chapter; 180-75-017 permits individuals who are denied recommendation for a certificate or endorsement to apply directly to SPI after exhausting available institutional appeals; 180-75-020 specifies a uniform procedure for appeals of denial of application for certification, lapsing of certificates, and proposed revocation of certificates; 180-75-025 establishes requirements for initial informal SPI review of appeal including timely filing and contents of the appeal

notice, appointment of the review officer, procedures for the informal review, and the nature and timing of the review decision; 180-75-027 permits waiver of requirements for timely notice of appeal for specified reasons; 180-75-030 establishes requirements for the subsequent formal SPI review of appeal including timely filing of the appeal notice and procedures for conducting a formal administrative hearing; 180-75-033 establishes requirements for appealing the decision rendered in the formal SPI review of appeal to the State Board of Education including timely filing of the appeal notice, procedures for scheduling and conducting the review by the State Board of Education, and the nature and timing of the review decision; 180-75-035(2) modifies current procedures for notifying a certificate holder of proposed certificate revocation and of the certificate holder's right to appeal that proposed revocation; 180-75-040 delays notification of other states that a certificate has been revoked for 45 days and during a court ordered stay of revocation; 180-75-045 specifies that a certificate holder is entitled to serve in the role encompassed by the type of certificate held; 180-75-055(1) includes appropriate alien permits as authorizing service as a classroom teacher; 180-75-055(2) deletes reference to administrator certificate endorsements redundant with other rules in this chapter; 180-75-055(3) authorizes holders of educational staff associate certificates to serve in endorsed roles but does not authorize practice prohibited by other statutes and regulations of the state; 180-75-087 specifies character evidence to be submitted by applicants for reinstatement of lapsed or expired certificates; and 180-75-090 deletes out-of-date references to alien permits and specifies requirements for temporary permits.

Reasons Which Support the Proposed Action(s): To establish a uniform appeals procedure for certification and to clarify and update State Board of Education policy applicable to all types of certificates.

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

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Don Hair, SPI, 3-2751; and Enforcement: Charles R. Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 180-75 WAC
PROFESSIONAL CERTIFICATION—GENERAL ((CERTIFICATION)) PROVISIONS

NEW SECTION

WAC 180-75-003 AUTHORITY. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

NEW SECTION

WAC 180-75-017 DENIAL OF RECOMMENDATION FOR CERTIFICATION OR ENDORSEMENT BY APPROVED PROFESSIONAL PREPARATION TRAINING INSTITUTIONS. Any person whose application for certification or for an endorsement is denied for recommendation to the superintendent of public instruction by an institution of higher education within the state with an approved professional preparation program, after exhausting any appeal procedures established pursuant to WAC 180-78-050 (4)(b)(vi) by such institution, may apply directly to the superintendent of public instruction for such certificate or endorsement.

AMENDATORY SECTION (Amending Order 10-78, filed 9/1/78)

WAC 180-75-020 APPEAL—GENERAL. Any person who applies directly to the superintendent of public instruction for a certificate, particular ~~((certificate level or))~~ endorsement, certificate renewal, or certificate reinstatement whose application is denied ~~((may))~~ or any person who is notified that his or her certificate has lapsed or that his or her certificate will be revoked in thirty calendar days unless the decision is appealed shall be advised that he or she is entitled to appeal that decision to the superintendent of public instruction if he or she follows the procedures established in WAC 180-75-025 through 180-75-030: PROVIDED, That the appeal procedure may not be used to seek reinstatement of a certificate if that certificate has been revoked in the preceding twelve months by the superintendent of public instruction.

The appeal procedure to the superintendent of public instruction consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level. In addition, the provisions of WAC 180-75-033 provide an additional appeal to the state board of education.

AMENDATORY SECTION (Amending Order 10-78, filed 9/1/78)

WAC 180-75-025 APPEAL PROCEDURE—INFORMAL SPI REVIEW. Any person who ~~((desires to))~~ appeals the decision to deny his or her application, the lapsing of his or her certificate pursuant to chapter 180-85 WAC or the proposed order to revoke his or her certificate must file a written notice with the superintendent of public instruction within ~~((twenty))~~ thirty calendar days following the date of mailing from the section of the superintendent of public instruction's office responsible for certification of the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke his or her certificate. Such decision shall state the reasons for the denial, lapsing, or revocation.

The written notice must set forth the reasons why the appellant believes his or her application should have been granted or why his or her certificate should not be lapsed or revoked, whichever is applicable.

Following timely notice of appeal, the superintendent of public instruction ~~((or his or her designee))~~ shall appoint a review officer who ~~((will))~~ shall be someone other than the person or persons who ~~((reviewed))~~ denied the application, approved the lapsing, or the proposed revocation initially and who is not a subordinate of such person.

The review officer shall ~~((then))~~:

(1) Review the application, notice of lapsing, or proposed revocation, whichever is applicable, and appeal notice and may request further written information including but not limited to an explanation from the person or persons who initially reviewed the application or decided to lapse the certificate or to issue the proposed order to revoke the certificate, whichever is applicable, of the reason(s) why the application was denied or the certificate was lapsed or should be revoked.

(2) If he or she deems it advisable, schedule an informal meeting of the appellant, the person or persons who denied the application, lapsed the certificate, or proposed to revoke the certificate initially, and any other interested parties designated by the reviewing officer(;) to receive oral information concerning the application, lapsing, or revocation. Any such meeting must be held within thirty days of the date of receipt by the superintendent of public instruction of the timely-filed appeal notice.

(3) ~~((Place in the))~~ Send by certified mail a written decision—i.e., findings of fact and conclusions of law—on the appeal within forty-five days from the date of receipt of the timely-filed appeal notice by the superintendent of public instruction. The reviewing officer may uphold, reverse, or modify the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke the certificate.

(4) The timelines stated herein may be extended by the review officer for cause.

NEW SECTION

WAC 180-75-027 WAIVER OF REQUIREMENT FOR TIMELY APPEAL. The requirements in this chapter for timely notice of appeal shall be waived if justifiable cause is established by the appellant, including failure to receive such notice without fault of the appellant or a plausible reason by the appellant for failure to understand the nature of or the timelines within the received notice.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-030 APPEAL PROCEDURE—FORMAL SPI REVIEW PROCESS. (1) Any person who has filed an appeal in accordance with WAC 180-75-020 and desires to have the denial of his or her application, ~~the lapsing of his or her certificate, or the proposed order to revoke his or her certificate~~ reviewed further may do so ~~((if the reviewing officer has not reversed the decision to deny the application))~~. To instigate review under this section, a person must file a written notice with the ~~((state board of education))~~ superintendent of public instruction within ~~((twenty))~~ thirty calendar days following the date of ~~((mailing))~~ receipt of the review officer's written decision.

(2) For purposes of hearing an appeal under this section, ~~((the state board of education shall designate hearing examiners;))~~ the superintendent of public instruction~~((, acting on behalf of the state board of education;))~~ shall ~~((select a hearing examiner))~~ conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter 34.04 RCW. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings pursuant to RCW 28A.03.500 to hear a particular appeal. Decisions in cases formally appealed ~~((by applicants))~~ pursuant to this section ~~((are to))~~ may be made by the ~~((hearing examiner))~~ administrative law judge selected by the chief administrative law judge if the superintendent of public instruction~~((, in conformance with the provisions of the code reviser's rules of procedure (chapter 1-08 WAC) and the Administrative Procedure Act (chapter 34.04 RCW))~~.

The appeal shall be conducted pursuant to chapter 180-08 WAC and chapter 34.04 RCW) delegates this authority pursuant to RCW 28A.03.500.

(3) The decision of the superintendent of public instruction or the administrative law judge, whichever is applicable, shall be sent by certified mail to the appellant's last known address only if the decision is to revoke, the appellant shall be notified that such order took effect upon signing of the final order and that no stay of revocation shall exist pursuant to RCW 28A.70.170 until the filing of an appeal in a timely manner pursuant to WAC 180-75-033.

NEW SECTION

WAC 180-75-033 APPEAL PROCEDURE TO SBE. Any person whose application has been denied for any reason or whose certificate has been lapsed or revoked by the superintendent of public instruction in accordance with the procedures of WAC 180-75-030 may appeal that decision to the state board of education by filing a notice of appeal with the superintendent of public instruction or the secretary of the state board of education within thirty calendar days of the date of mailing the final order by the superintendent of public instruction. Review by the state board of education shall be conducted as follows:

(1) Review shall be conducted by the state board of education at its next scheduled meeting following notice of appeal unless either the appellant or the superintendent of public instruction requests an extension of the review to the following next scheduled meeting.

(2) Review conducted by the state board of education shall be confined to the record, except that in cases of alleged irregularities in procedures before the superintendent of public instruction, not shown in the record, testimony thereon shall be taken before the state board of education.

(3) The record shall include written briefs submitted.

(4) Oral argument will be permitted if fifteen days advance notice is given to the secretary of the state board of education.

(5) The state board of education will be assisted in its deliberations and final order by an assistant attorney general who has not been involved in any prior proceeding related to the previous administrative order by the superintendent of public instruction.

(6) The state board of education may affirm the decision of the superintendent of public instruction, remand the matter for further proceedings, or reverse the decision.

(7) If the decision of the state board of education is to reverse the decision of the superintendent of public instruction or to remand the matter for further proceedings, the state board of education shall state its reasons in a written order.

(8) The final order of the state board of education shall be by written order, attested by the secretary of the state board of education, and sent to the appellant by certified mail within ten calendar days of the final decision by the state board of education.

AMENDATORY SECTION (Amending Order 5-79, filed 5/22/79)

WAC 180-75-035 CERTIFICATE REVOCATION. The state board of education considers it to be the professional obligation of each school district superintendent or nonpublic school administrator and each educational service district superintendent to file a written complaint with the superintendent of public instruction pursuant to RCW 28A.70.160 against any certificated employee who:

(1) Has committed or is guilty of (a) immorality, (b) a violation of written contract, (c) intemperance, (d) a crime against the law of the state, or (e) an act of unprofessional conduct that is of a nature which may justify the revocation of the individual's certificate to be employed in the schools; or

(2) Has been convicted of any crime involving the physical neglect of children, injury of children (excepting possible motor vehicle violations) or the sexual abuse of children.

Upon receipt of any such written complaint, that section within the office of the superintendent of public instruction having responsibility for certification shall investigate the complaint. If sufficient cause for revocation of the individual's certificate(s) is ~~((believed))~~ determined to exist, the section shall ~~((present the case before the superintendent of public instruction. The superintendent of public instruction may appoint a hearing examiner and/or legal counsel to assist the superintendent in hearing the case. The hearing shall be conducted pursuant to chapter 180-08 WAC and chapter 34.04 RCW.~~

The superintendent of public instruction or his or her designee shall withhold or withdraw certification of an individual from another state whose certificate has been revoked in such state) notify the holder by certified mail of its finding of sufficient cause in the form of a proposed order—i.e., findings of fact and conclusions of law—and shall further advise the holder of the appeal procedures specified in WAC 180-75-020, 180-75-030 and 180-75-033. The notice shall further specify that the superintendent of public instruction will sign the order after thirty calendar days from the date of mailing if the proposed order is not appealed.

In accordance with RCW 28A.70.180 an individual may become eligible to receive a certificate after a period of one calendar year from the date of revocation. The superintendent of public instruction or his or her designee shall consider the application of an individual whose certificate has been revoked and, based upon application and such other information as deemed appropriate, determine whether a certificate shall be issued.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-040 NOTIFICATION OF REVOCATION OF CERTIFICATES. The office of the superintendent of public instruction shall notify all other states that a certificate has been revoked and shall provide the full name and certificate number to the agency responsible for certification in each state. A notice of revocation of a certificate may be made to educational agencies within the state of Washington: PROVIDED, That such notification shall not be made prior to forty-five days after the final administrative order and shall not be made if a court order staying the revocation is in effect.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-045 CERTIFICATE VALIDITY. Any certificate issued pursuant to chapters 180-77 ~~((or)), 180-79, 180-80, or 180-84 WAC shall entitle the holder thereof to be employed by a public or nonpublic school for the performance of duties encompassed by the type of certificate as specified in WAC 180-75-055, if such certification is required by statute or rules of the state board of education, until such certificate expires, lapses, or is revoked. ~~((A certificate which is issued to an individual who does not meet all requirements set forth in this chapter and chapter 180-79 or 180-80 WAC is null and void.))~~~~

AMENDATORY SECTION (Amending Order 10-78, filed 9/1/78)

WAC 180-75-055 TYPES OF CERTIFICATES. Four types of certificates shall be issued:

(1) Teacher. The teacher certificate, including alien permits as provided in chapter 392-193 WAC, authorizes service ((in the primary role of) as a classroom ((teaching)) teacher.

(2) Administrator.

(a) The administrator certificate endorsed "principal" authorizes services as a building administrator or vice principal.

(b) The administrator certificates endorsed "superintendent" or "program administrator" will be issued to persons who have completed state board of education approved preparation programs for service in the roles of district administrator, administrative staff, and program administrator.

~~((c) The superintendent and program administrator certificates are not required.))~~

(3) Educational staff associate. The educational staff associate certificate authorizes service in endorsed roles of ((specialized assistance to the learner, the teacher, the administration and the educational program. Included as educational staff associates shall be)) communication disorders specialists, counselors, school nurses, occupational therapists, physical therapists, psychologists, social workers, and reading resource specialists as those roles are defined in WAC 180-79-175 through 180-79-210: PROVIDED, That nothing within chapter 180-79 WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

(4) Vocational. The vocational certificate authorizes service in vocational instruction in accordance with the provisions of chapter 180-77 WAC.

NEW SECTION

WAC 180-75-087 REINSTATEMENT OF CERTIFICATES. Holders of expired or lapsed professional certificates at the time of application for reinstatement of such certificates must submit the following:

(1) Character evidence as required by WAC 180-75-085 for candidates for certification.

(2) An affidavit that they have not intentionally and knowingly practiced with an expired or lapsed certificate in a professional position for which certification is required under the rules of the state board of education or the submission of a statement why such practice, if conducted, should not reflect on such applicant's good moral character or personal fitness at the time of application.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-090 TEMPORARY PERMITS. ~~((+))~~ Alien permits:

~~((a))~~ Alien permits may be issued under this section to aliens who have declared their intent to become citizens of the United States of America, have filed an application for a permit, and who have completed all requirements for a certificate: PROVIDED, That the issuance of a permit does not in and of itself entitle the individual to be otherwise certificated:

~~((b))~~ An alien permit is valid for a term equivalent to the period of validity of the certificate for which it is issued. Aliens seeking renewal or reinstatement of alien permits must comply with requirements specified in WAC 180-79-065: PROVIDED, That for vocational permits, aliens seeking renewal or reinstatement must comply with the requirements of chapter 180-77 WAC:

~~((2))~~ Temporary alien permits. A temporary alien permit to serve as an exchange teacher and valid for one academic year may be issued to nonimmigrant aliens who have filed an application for a permit, have complied with conditions prescribed in RCW 28A.67.020, and have training and experience which at a minimum are equivalent to standards for the initial teaching certificate as set forth in this chapter:

~~((3))~~ General)) Temporary permits((-)) may be issued by the superintendent of public instruction under the following conditions:

~~((a))~~ (1) Temporary permits may be issued under this section to those persons who have filed an application for a certificate; who, based on available documentation, including affidavits or other evidence that appears reliable which substantiates the existence of missing documentation, appear to have completed all requirements for provisional, initial, standard, or continuing certification; and who

~~((have accepted or are being considered for employment requiring a permit or certificate pursuant to RCW 28A.67.010:~~

~~((b) The issuance of a permit does not in and of itself entitle the individual to be otherwise certificated)) do not disclose any information which indicates that such applicant fails to meet the character requirement of WAC 180-75-085(2).~~

~~((c))~~ (2) An individual may apply for a permit directly to the superintendent of public instruction: PROVIDED, That in the case of an individual completing requirements for certification in a Washington state institution of higher education the request may also be made to that institution.

~~((d))~~ (3) A permit entitles the holder to serve as a teacher, educational staff associate or administrator consistent with the ((qualifications)) endorsement(s) on his/her permit.

~~((e))~~ (4) A permit is valid for ninety consecutive calendar days commencing with the date following the date of issuance and is not renewable.

~~((f))~~ (5) Issuing authority. The superintendent of public instruction either directly or through a designated agent shall issue all permits and provide institutions of higher education with forms and instructions relevant to application for a permit.

WSR 86-09-097

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning professional preparation certification requirements, chapter 180-79 WAC;

that the agency will at 9:00 a.m., Thursday, May 29, 1986, in the Auditorium, West Valley Junior High, Yakima, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 30, 1986.

The authority under which these rules are proposed is RCW 28A.04.120(3) and 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 29, 1986.

Dated: April 23, 1986

By: Monica Schmidt

Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-79 WAC, Professional preparation certification requirements.

Rule Section(s): WAC 180-79-013 Notice to prospective candidates for certification; 180-79-065 Certificate lapse, renewal and reinstatement; 180-79-075 Certificate endorsement; 180-79-080 Authorized endorsements for teachers; 180-79-086 Minimum preparation for endorsements for teachers; 180-79-100 Personnel assignment; 180-79-115 Academic and experience requirements for certification—Teachers; 180-79-125 Academic and experience requirements for certification—Educational staff associate (ESA); 180-79-230 Consultant special teaching certificates; 180-79-231 Substitute certificates; and 180-79-233 Emergency certificates.

Statutory Authority: RCW 28A.04.120(3) and 28A.70.005.

Purpose of the Rule(s): To set forth substantive and procedural rules for the issuance and retention of certificates and permits for employment in the Washington school system.

Summary of the New Rule(s) and/or Amendments: WAC 180-79-013 amends the notice to prospective candidates for certification to reflect State Board of Education policy; 180-79-065 (1)(6) [(1)(b)] deletes current SPI discretion to reinstate initial certificates after they have been reinstated twice; 180-79-065 (2)(a) limits the continuing certificates to which the current service requirement applies to those issued prior to July 1, 1987, and permits holders with certificates covered by this requirement to exchange such certificates for those covered by the continuing education requirement; 180-79-065 (2)(b) establishes a continuing education requirement for the validity of continuing certificates issued after July 1, 1987; 180-79-075(1) requires all teaching certificates to be endorsed at a grade level and in a subject area with specified exceptions; 180-79-075(3) modifies grade level endorsements for principals; 180-79-075(4) permits the adding of endorsements by means in addition to the completion of approved preparation programs; 180-79-080 specifies grade levels and subject areas in which teacher certificates may be endorsed; 180-79-086 (1) and (2) establishes a minimum of 24 quarter hours of college study as the basis for granting endorsements to teacher certificates and permits reasonable flexibility in determining what course work meets this requirement; 180-79-086(3) directs SPI to develop program of study and examination requirements for adding endorsements to teacher certificates; 180-79-100 establishes July 1, 1987, as the expiration date of this section; 180-79-115(1) modifies academic requirements for initial teacher certificates; 180-79-115 (2)(a) reduces the amount of study required for the continuing teacher certificate that must be taken after the first year of teaching, exempts holders of master's and higher degree from this requirement, and deletes SPI approval of lower division course work in the continuing certificate program; 180-79-115 (2)(c) requires two endorsements for the continuing certificate after July 1, 1988; 180-79-125 (3)(a)(iv) requires candidates for the initial occupational therapist endorsement to hold a state license consistent with recently passed statutes; 180-79-230 revises requirements for the consultant special certificate and repeals current provisions for substitute and emergency certificates; 180-79-231 revises requirements for the substitute certificate; and 180-79-233 revises requirements for the emergency certificate.

Reasons Which Support the Proposed Action(s): To clarify State Board of Education policy concerning qualifications for and endorsements of educational certificates and permits.

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

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Don Hair, SPI, 3-2751; and Enforcement: Charles R. Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 4-86, filed 4/7/86)

WAC 180-79-013 NOTICE TO PROSPECTIVE CANDIDATES FOR CERTIFICATION. Notice is hereby given to prospective candidates for certification that the state board of education has adopted as public policy certain fundamental changes to its current rules and regulations for professional certification and basic education program approval standards. Each Washington state college and university which has a training program of preparation for professional certification shall provide each student within such program at the commencement of the 1986-87 academic year a copy of this section of chapter 180-79 WAC. The following public policy shall affect professional certification and basic education program approval standards:

(1) Each person issued a continuing certificate—i.e., teacher, administrator, and education staff associate—shall be required as a condition to the validity of such certification to complete during a five-year period one hundred fifty clock hours of continuing education which shall be in the form of inservice and/or college or university credit. Each college or university quarter credit shall be the equivalent of ten clock hours and each semester credit shall be the equivalent of fifteen clock hours. This requirement shall be effective for most continuing certificates issued on or after July 1, 1987.

(2) Each ~~((person receiving a continuing education certificate))~~ school district, in order to receive basic education program approval, shall ~~((be restricted to))~~ restrict the professional practice of teachers only ~~((in))~~ to areas in which an endorsement has been received. The current requirements for obtaining an endorsement, the number of endorsements required for the continuing certificate, and the areas of endorsement shall be modified. Exceptions to the restrictive practice shall be limited to emergency circumstances and unusual situations. ~~((This))~~ These requirements shall be effective only to the professional practice of teachers, with some exceptions, who receive initial or continuing certificates issued on or after July 1, 1987.

AMENDATORY SECTION (Amending Order 7-81, filed 6/1/81)

WAC 180-79-065 CERTIFICATE LAPSE, RENEWAL, AND REINSTATEMENT. (1) Initial certificate.

(a) The initial certificate may be renewed once for a three-year period on application and verification that the individual is formally enrolled in a planned continuing level preparation program and has completed some ~~((coursework))~~ course work relevant thereto. A statement from a college or university where the applicant is officially enrolled in a continuing level program shall be filed with the superintendent of public instruction verifying his or her status: PROVIDED, That no more than ten years has elapsed since completion of an approved preparation program for initial certification.

(b) The initial certificate may be reinstated for two three-year periods if the individual completes at least fifteen quarter hours (ten semester hours) of course work in an approved preparation program applicable to the continuing certificate ~~((-PROVIDED, That the superintendent of public instruction may, in specific instances, elect to reinstate the initial certificate for an additional three year period))~~.

(2) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to July 1, 1987 and who applied for such certificates prior to July 1, 1988 will lapse if the holder does not serve at least thirty school days in an educational setting during one of seven consecutive school years. ~~((b))~~ To reinstate such a lapsed continuing certificate the individual must complete fifteen quarter hours (ten semester hours) of course work in a state approved preparation program offered by a regionally accredited college or university and provide evidence of knowledge and skill in the minimum generic standards required for continuing certification: PROVIDED, That ~~((coursework))~~ course work taken more than three years prior to the date of application for reinstatement shall not satisfy this requirement and that no more than five quarter (three semester) hours of correspondence credit shall be acceptable toward renewal or reinstatement requirements set

forth above. Holders of valid continuing certificates affected by this subsection, shall be entitled to have such certificate reissued and subject to the terms and conditions of the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC.

(3) Recency of training and experience. If an applicant has not served in an educational setting or has not completed a preparation program within the seven-year period preceding application for a certificate or has not completed fifteen quarter (ten semester) hours of ~~((coursework))~~ course work applicable to his or her subject matter field, specialization, or pedagogy in an accredited four-year college or university within the seven years immediately preceding application for a certificate, he/she will be required to complete refresher study consisting of fifteen quarter (ten semester) hours of ~~((coursework))~~ course work applicable to his or her field of study, specialization, or pedagogy in order to be eligible for certification: PROVIDED, That ESA applicants may be granted experience credit for service in their specialization in other than educational settings if so determined by the superintendent of public instruction or his or her designee.

AMENDATORY SECTION (Amending Order 6-78, filed 5/26/78)

WAC 180-79-075 CERTIFICATE ENDORSEMENT. Professional education certificates shall be endorsed as follows:

(1) Teacher certificates(:

~~((a) Initial certificates))~~ shall specify the recommended assignment ((area(s))) in ((a)) subject ((matter field(s))) area(s) and grade level(s): PROVIDED, That notwithstanding provisions of this chapter to the contrary, applicants who have completed all requirements for continuing teaching certificates pursuant to WAC 180-79-060 prior to July 1, 1987, and whose certificates are applied for prior to July 1, 1988, and applicants who complete the requirements for standard certificates or continuing certificates pursuant to WAC 180-80-705 shall receive only an endorsement for grades K-12.

~~((b) Continuing certificates shall authorize service in grades K-12 and may be endorsed for recommended subject matter and teaching specializations if the candidate requests such endorsement and files an application in accordance with this section:))~~

(2) Educational staff associate certificates(:

~~((a) Initial and continuing certificates))~~ shall identify the field of specialization by endorsement.

(3) Administrator certificates(:

~~((a) Initial and continuing administrator certificates))~~ shall identify the field of specialization (principal, program administrator, superintendent) by endorsement.

~~((b) Superintendents' and program administrators' initial and continuing certificates shall be endorsed for grades K-12:~~

~~((c)) Principals' initial certificates shall be endorsed for grades ((K=8)) preschool-9, ((7)) 4-12, or ((K-12; continuing certificates shall be endorsed K-12)) preschool-12.~~

(4) In order to change or add an endorsement to ~~((an initial and continuing))~~ any certificate, the candidate must complete an application, pay the certification fee, and submit verification ~~((from an approved program))~~ of completion of the ((professional preparation program for which endorsement is sought)) necessary requirements.

NEW SECTION

WAC 180-79-080 AUTHORIZED ENDORSEMENTS FOR TEACHERS. Endorsements for grade levels and subject areas within such grade levels for certificated teachers receiving endorsements on or after July 1, 1987, shall be limited to the following:

(1) Preschool through grade three endorsements shall be granted in the subject area of:

- (a) Early childhood special education.
- (b) Early childhood education.

(2) Grade kindergarten through grade eight endorsements shall be granted in the subject area of elementary education which shall include all subject areas taught in such grades.

(3) Grade kindergarten through grade twelve endorsements shall be granted in:

- (a) Art
- (b) Music

- (c) Physical education
- (d) Reading
- (e) Designated foreign language
- (f) Special education
- (g) Learning resources
- (h) English as a second language
- (i) Bilingual education.
- (4) Grade four through grade twelve endorsements shall be granted in:

(a) English/language arts and the specialized English/language arts subject areas of:

- (i) Drama
- (ii) English
- (iii) Journalism
- (iv) Speech.
- (b) Science and the specialized science subject areas of:

- (i) Biology
- (ii) Chemistry
- (iii) Earth science
- (iv) Physics.
- (c) Social studies and the specialized social studies subject areas of:

- (i) Anthropology
- (ii) Economics
- (iii) Geography
- (iv) History

- (v) Political science
- (vi) Psychology
- (vii) Sociology.

(d) The specialized subject areas of:

- (i) Agriculture
- (ii) Business and office education
- (iii) Computer science
- (iv) Distributive education
- (v) Health
- (vi) Home economics
- (vii) Industrial arts
- (viii) Mathematics.

(5) Traffic safety endorsements may be noted on certificates issued under this chapter if the candidate meets the requirements of the regulations promulgated by the superintendent of public instruction pursuant to RCW 28A.08.010(3).

NEW SECTION

WAC 180-79-086 MINIMUM PREPARATION FOR ENDORSEMENTS FOR TEACHERS. Effective July 1, 1987, endorsements granted teachers shall comply with the following:

(1) Endorsements shall require the satisfactory completion of twenty-four quarter hours (sixteen semester hours) of course work—not including any practice teaching, internship, or other clinical or field laboratory experience courses—in the subject area in a regionally accredited institution of higher education or in a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-79 WAC.

(2) Reasonable flexibility shall be permitted in establishing equivalencies for specified course work. The test for substitution of an equivalent course for a stated course is a factual determination that the subject matter content of the equivalent course, or combination of courses, substantially complies with the generally recognized course content of the required course.

(3) The superintendent of public instruction shall present to the state board of education prior to January 1, 1987, recommendations for rule adoption which will:

(a) Establish standards for programs of study for which endorsements may be granted in grade levels and subject areas.

(b) Authorize specific examinations and qualifying scores which will authorize the granting of endorsements in grade levels and subject areas in lieu of the course work prescribed in subsection (1) of this section.

AMENDATORY SECTION (Amending Order 9-80, filed 6/2/80)

WAC 180-79-100 PERSONNEL ASSIGNMENT—EXPIRES JULY 1, 1987. (1) Teachers. Local districts shall assign secondary teachers holding initial level certificates to endorsed areas and levels only. Teachers holding initial level elementary endorsement shall be assigned to elementary grades only. Teachers holding continuing level certificates should be assigned to recommended areas and levels or to

areas and levels in which they have demonstrated competency during professional service: PROVIDED, That teachers holding certificates endorsed for grades K-8 or 7-12 may be assigned to junior high schools and middle schools: PROVIDED FURTHER, That when it is considered justifiable the superintendent of public instruction may, if requested by the school district superintendent who will provide evidence of the need for such assignment, authorize initially certificated teachers to serve at different grade levels or in different subject matter fields from those recommended.

(2) Educational staff associates. Assignments to serve in educational staff associate roles shall be limited to persons holding valid educational staff associate certificates with appropriate endorsements.

(3) Administrators. Assignment of persons to serve as principals or vice principals shall be limited to persons holding valid administrator certificates with the appropriate endorsement(s): PROVIDED, That principals holding certificates endorsed for grades K-8 or 7-12 may be assigned to junior high schools and middle schools.

(4) School districts shall assign beginning teachers who hold provisional certificates issued under rules set forth in chapter 180-80 WAC to the elementary, junior high or senior high school levels and to subject fields in accordance with the beginning teacher's preparation as recommended by the college or university where the individual completed preparation for certification. Such assignment shall obtain during the beginning teacher's first year of teaching: PROVIDED, That when it is considered justifiable the superintendent of public instruction may, if requested by the school district superintendent who will provide evidence of the need for such assignment, authorize beginning teachers to teach at different grade levels or in different subject matter fields from those recommended.

(5) The provisions of this section shall expire July 1, 1987.

AMENDATORY SECTION (Amending Order 9-80, filed 6/2/80)

WAC 180-79-115 ACADEMIC AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION—TEACHERS. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-75-080 and 180-75-085.

(1) Initial.

(a) Candidates for the initial certificate shall hold a baccalaureate degree from a regionally accredited college or university. Candidates for secondary, grades K through 12, or grades 4 through 12 endorsements certificates shall have completed the degree major in an academic field((:)) or the teaching specialization of reading or special education. Candidates for elementary, grades preschool through 3, or grades K through 8 certificates shall have completed the degree major in an academic field or teaching specialization. If the degree major is early childhood or elementary education, the candidate must have at least one area of emphasis in an academic field.

(b) Candidates shall give evidence that they have completed in-school, clinical, and laboratory experiences which include observations and at least eight weeks of practice teaching under supervision in a state board of education approved or accredited public or nonpublic K-12 classroom(s).

(2) Continuing.

(a) Candidates shall have completed at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work subsequent to the baccalaureate degree of which ((thirty)) twenty-one quarter hours (((twenty)) fourteen semester hours) must be taken after the first year of teaching unless such candidate holds a master's or higher degree: PROVIDED, That if the individual is pursuing study in a new subject matter field or specialization, the preparing college or university may accept study in lower division courses toward continuing certification ((if the superintendent of public instruction or his or her designee so authorizes)).

(b) Candidates shall have completed at least three years of service in an educational setting, at least two years of which shall be as a classroom teacher in grades ((K-12)) preschool through 12.

(c) Effective July 1, 1988, candidates shall have been granted at least two subject area endorsements.

AMENDATORY SECTION (Amending Order 7-21 [7-81], filed 6/1/81)

WAC 180-79-125 ACADEMIC AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION—EDUCATIONAL STAFF ASSOCIATE (ESA). Candidates for ESA certification shall

complete the following requirements in addition to those set forth in WAC 180-75-085: PROVIDED, That it shall not be necessary for any candidate who holds a master's degree to obtain a second master's degree; however, the candidate shall complete all course work and experience requirements relevant to the specialization set forth in an approved preparation program for the appropriate ESA speciality. Candidates for continuing level certification shall have completed at least three years of certificated service in an educational setting in the respective ESA role for which he or she is seeking certification.

(1) Communication disorders specialist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major in speech pathology and/or audiology.

(ii) The candidate shall have completed practicum experiences in communication disorders which include observation as well as practice under supervision in K-12, clinical, and field/laboratory settings.

(b) Continuing. The candidate shall hold a master's degree with a major in speech pathology and/or audiology.

(2) Counselor.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major in counseling.

(ii) The candidate shall have completed a supervised practicum or internship in counseling in a K-12 school setting.

(b) Continuing. The candidate shall hold a master's degree with a major in counseling.

(3) Occupational therapist.

(a) Initial.

(i) The candidate shall have completed an approved or accredited baccalaureate degree program in occupational therapy and have status as an occupational therapist registered with the American occupational therapy association.

(ii) The candidate shall have completed a practicum experience with students of ages typically served in the common schools which includes observation as well as practice under supervision in a field or clinical setting which has an educational component.

(iii) The candidate shall have successfully completed the American occupational therapy association certification examination.

(iv) The candidate shall hold a valid license as an occupational therapist in Washington state.

(b) Continuing. The candidate shall have completed at least fifteen quarter hours (ten semester hours) of graduate work or continuing education in occupational therapy or education.

(4) Physical therapist.

(a) The candidate shall hold a baccalaureate degree in physical therapy from a college or university having an approved or accredited school of physical therapy or the candidate shall hold a baccalaureate degree and a certificate in physical therapy from an accredited school of physical therapy.

(i) The candidate shall hold a current Washington state license or a provisional certificate to practice as a physical therapist.

(ii) The candidate shall have completed a practicum experience with students of ages typically served in the common schools which includes observation as well as practice under supervision in a field or clinical setting which has an educational component.

(b) Continuing. The candidate shall have completed at least fifteen quarter hours (ten semester hours) of graduate work or continuing education in physical therapy or education.

(5) School psychologist.

(a) Initial.

(i) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major or specialization in school psychology.

(ii) The candidate shall have completed a practicum or internship under supervision in an educational setting, K-12.

(b) Continuing. The candidate shall hold a master's degree with a major or specialization in school psychology.

(6) Reading resource specialist.

(a) Initial.

(i) The candidate shall hold a valid initial or continuing level teacher's certificate at the time he or she applies for the reading resource specialist's initial certificate.

(ii) The candidate shall have completed all requirements for the master's degree (except special examinations, projects or thesis) with a major or specialization in reading.

(iii) The candidate shall have completed field experiences in an educational setting which includes observation as well as practice under supervision.

(b) Continuing. The candidate shall hold a master's degree with a major or specialization in reading.

(7) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree in nursing with an emphasis in school nursing or community health.

(iii) The candidate shall have completed field experiences in an educational setting, K-12, which includes observation as well as practice under supervision.

(b) Continuing. The candidate shall have completed at least forty-five quarter hours (thirty semester hours) of upper division or graduate work in education, community health, nursing or school nursing; thirty quarter hours (twenty semester hours) of which have been taken subsequent to the first year of service as a school nurse.

(8) Social worker.

(a) Initial.

(i) The candidate shall have completed all requirements for a master's degree in social work except special examinations, projects or thesis.

(ii) The candidate shall have completed a field experience or practicum in an educational setting under the supervision of a certificated master of social work. The field experience or practicum shall be with students of ages typically served in the common schools.

(b) Continuing. The candidate shall hold a master's degree in social work or an initial level certificate as a school social worker.

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

AMENDATORY SECTION (Amending Order 7-81, filed 6/1/81)

WAC 180-79-230 (~~(LIMITED)~~) CONSULTANT SPECIAL TEACHING CERTIFICATES. The (~~(following)~~) consultant special teaching certificate(s are) is issued under specific circumstances for limited periods of service as outlined:

(1) (~~(Consultant special certificate:~~)

(a)) The issuance of consultant special teaching certificates is limited to:

((~~(i)~~)) (a) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;

((~~(ii)~~)) (b) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3);

((~~(iii)~~)) (c) Persons who qualify to teach specific subjects in the adult education program;

((~~(iv)~~)) (d) Persons who under previous standards hold the band and orchestra certificate; and

((~~(v)~~)) (e) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district's (~~(approved)~~) basic program of education.

((~~(b)~~) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special certificate:

(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities and will not be serving in a paraprofessional role which would not require certification;

(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;

(iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and

(v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-79-105 through 180-79-110 have been met.)

(2) As a condition to the issuance of a consulting special teaching certificate, the applicant must present to the superintendent of public

instruction a sworn affidavit from a public school district superintendent or designated chief executive officer of a private school attesting each of the following:

(a) The district or private school was not able to recruit a person for the position with a valid Washington state certificate;

(b) The person qualifies for a consultant special teaching certificate as provided for in this section, indicating the facts upon which such determination was made;

(c) The person will not teach in any area outside the scope of the qualifications specified for the particular consultant special teaching certificate;

(d) The district or private school will provide such person the following:

(i) An orientation at least equal to the orientation provided other teachers in the district;

(ii) A consultation with an appropriate school or district official concerning the scope and conduct of the teaching assignment and such person's other duties and responsibilities, including legal obligation to students, within the school or district.

((~~(c)~~)) (3) The certificate is valid for ((one)) the school year for which the certificate is applicable and only for the activity specified. The certificate may be reissued on application and evidence—a new sworn affidavit as required by subsection (2) of this section—that requirements continue to be met (~~(-PROVIDED, That the superintendent of public instruction may extend the validity of the certificate for more than one year but no more than four years:~~

(2) Substitute certificate:

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Elementary or secondary school teachers, educational staff associates or administrators whose state of Washington certificates have expired, or

(ii) Persons who have completed state approved preparation programs at regionally accredited colleges and universities for certificates within the past ten years, or

(iii) Any district unable to secure substitutes who meet these requirements may contact the office of the superintendent of public instruction to request a waiver of these requirements. Reasons for the request and qualifications of the proposed substitute shall be set forth in writing:

(b) The substitute certificate is valid for three years and may be reissued subsequently for three-year periods. ~~PROVIDED, That the superintendent of public instruction may determine in emergency situations to issue the substitute certificate to persons not fully qualified under this subsection for a period not to exceed one year.~~

(3) Emergency certification:

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: ~~PROVIDED, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate. The superintendent of public instruction shall determine that the issuance of such certificate is in the best interest of the state.~~

(b) The emergency certificate is valid for one year).

(4) PROVIDED, That no person shall be issued a consultant special teaching certificate who does not meet the requirements of WAC 180-75-085 (1) and (2).

NEW SECTION

WAC 180-79-231 SUBSTITUTE CERTIFICATES. A substitute certificate authorizes the holder to serve as a substitute in a position requiring certification under state law or rules of the state board of education for a period not to exceed thirty consecutive school days during the school year in any one assignment. Such certificate shall be issued with one or more of the following endorsements: Teacher, specified educational staff associate, or principal. The substitute certificate shall not expire or lapse and shall be issued to the following:

(1) Persons with expired or lapsed state of Washington certificates for the area of endorsement.

(2) Persons who have completed a state approved preparation program for the area of endorsement at a regionally accredited college or university.

(3) Persons who hold a baccalaureate degree from a regionally accredited institution and who submit a sworn affidavit from a public school superintendent or a designated chief executive officer of a private school that such school district or private school was not able to recruit a certified person, including a person holding a substitute certificate under subsections (1) and (2) of this section, for the position.

(4) PROVIDED, That no person shall be issued a substitute certificate who does not meet the requirements of WAC 180-75-085 (1) and (2) or who, as a condition to serve as an educational staff associate in nursing, physical therapy, or occupational therapy, does not hold an appropriate state license to serve as such.

NEW SECTION

WAC 180-79-233 EMERGENCY CERTIFICATES. An emergency certificate authorizes the holder to serve in a position requiring certification under state law or rules of the state board of education for a period not exceeding the school year for which the certificate is applicable. Such certificate shall be issued with one of the following endorsements: Teacher, specified educational staff associate, or principal. The emergency certificate shall be issued to a person who meets each of the following qualifications:

(1) Holds a baccalaureate degree from a regionally accredited institution of higher education.

(2) Holds a substitute certificate issued pursuant to WAC 180-79-231 for the area of endorsement or has substantially completed—i.e., all but twenty-one quarter hours—a program of preparation in the area of endorsement in accordance with state of Washington requirements for such certificate.

(3) Has a sworn affidavit from a public district superintendent or designated chief executive officer of a private school attesting that the district or private school was not able to recruit a person for the position with a valid Washington state certificate.

(4) PROVIDED, That no person shall be issued an emergency certificate who does not meet the requirements of WAC 180-75-085 (1) and (2) or who, as a condition to serve as an educational staff associate in nursing, physical therapy, or occupational therapy, does not hold an appropriate state license to serve as such.

WSR 86-09-098

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Professional certification—Continuing education requirement, chapter 180-85 WAC;

that the agency will at 9:00 a.m., Thursday, May 29, 1986, in the Auditorium, West Valley Junior High, Yakima, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, May 30, 1986.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, May 29, 1986.

Dated: April 23, 1986

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-85 WAC, Professional certification—Continuing education requirement.

Rule Section(s): WAC 180-85-005 Authority; 180-85-010 Purpose; 180-85-015 Public policy goal; 180-85-020 Effective date and applicable certificates; 180-85-025 Continuing education—Definition; 180-85-030 Continuing education credit hour—Definition; 180-85-035 Lapse date—Definition; 180-85-040 Lapsed—Definition; 180-85-045 Approved in-service education agency—Definition; 180-85-075 Continuing education requirement; 180-85-080 College and university transcripts; 180-85-100 Calculation of lapse dates; 180-85-105 SPI initial notice to certificate holders of continuing education requirement; 180-85-110 SPI subsequent notice to certificate holders of continuing education requirement; 180-85-115 SPI notice of lapsed certificate; 180-85-120 Appeal from determination of lapsed status; 180-85-130 Reinstatement of lapsed certificate; 180-85-135 Practicing with lapsed certificate; 180-85-200 In-service education approval standards; 180-85-205 Required recordkeeping by approved in-service education agencies; 180-85-210 Assurances of compliance with program and recordkeeping standards; 180-85-215 Selective audit of records of in-service education agencies; 180-85-220 Noncompliance—Substantial compliance rule; and 180-85-225 Appeal to State Board of Education.

Statutory Authority: RCW 28A.70.005.

Purpose of the Rule(s): To set forth policies and procedures for a program of continuing education as a condition to the validity of certain professional certificates.

Summary of the New Rule(s) and/or Amendments: WAC 180-85-005 cites State Board of Education authority for this chapter; 180-85-010 states the purpose of the chapter; 180-85-015 states the public policy goal of the chapter; 180-85-020 makes this chapter applicable to continuing and standard certificates issued after July 1, 1987, with a specified exception; 180-85-025 defines "continuing education"; 180-85-030 defines "continuing education credit hour"; 180-85-035 defines "lapse date"; 180-85-040 defines "lapsed"; 180-85-045 defines "approved in-service education agency" to include only a college or university, a professional association, a school district, an educational service district, SPI, or an approved private school; requires such agencies to have a committee or board for prior approval of in-service education; 180-85-075 requires completion of 150 credit hours of continuing education prior to each lapse date; 180-85-080 directs certificate holders to submit transcripts for college course work taken to meet the continuing education requirement; 180-85-100 establishes lapse dates every five years; 180-85-105 requires SPI to notify affected certificate holders of the continuing education requirement at the time that the certificate is issued; 180-85-110 requires SPI to notify affected certificate holders who have not met the continuing education requirements that their certificate will lapse on July 1 of the following year if they do not meet that requirement; 180-85-115 requires SPI to notify affected certificate holders whose certificate have lapsed by

August 1 after the lapsing; 180-85-120 establishes a right to appeal lapsing under this chapter; 180-85-130 establishes requirements to reinstate a certificate which has lapsed under this chapter; 180-85-135 requires SPI to notify individuals to whom an affected certificate is issued that a lapsed certificate is no longer valid and that applicants for reinstatement must furnish evidence of good character and fitness including a statement concerning their practice with a lapsed certificate; 180-85-200 establishes program standards for in-service education offered by approved in-service education agencies including standards for program need, program objectives, program content, instructor qualifications, program materials, program facilities, program evaluation and review, and recordkeeping; 180-85-205 establishes recordkeeping and records maintenance requirements for approved in-service education agencies including records of prior board or committee approval, program standards documentation, program attendance and reporting to SPI and to registrants; 180-85-210 requires annual assurances from approved in-service education agencies that program standards and recordkeeping requirements will be met; 180-85-215 permits SPI to conduct periodic audits of approved in-service education agencies to determine compliance with program standards and recordkeeping requirements; 180-85-220 permits SPI to determine that an approved in-service agency is not in substantial compliance with the requirements of this chapter and, under specified conditions, to withdraw approval for such agency; and 180-85-225 specifies procedures whereby an SPI decision to withdraw approval from an in-service education agency can be appealed to the State Board of Education.

Reasons Which Support the Proposed Action(s): To promote, recognize, and require the continuing professional development of educators who are certified to practice their professions in the elementary and secondary schools of the state.

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

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; **Implementation:** Don Hair, SPI, 3-2751; and **Enforcement:** Charles R. Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 180-85 WAC
PROFESSIONAL CERTIFICATION—CONTINUING EDUCATION REQUIREMENT

WAC

180-85-005	Authority.
180-85-010	Purpose.
180-85-015	Public policy goal.
180-85-020	Effective date and applicable certificates.
180-85-025	Continuing education—Definition.
180-85-030	Continuing education credit hour—Definition.
180-85-035	Lapse date—Definition.
180-85-040	Lapsed—Definition.

180-85-045	Approved in-service education agency—Definition.
180-85-075	Continuing education requirement.
180-85-080	College and university transcripts.
180-85-100	Calculation of lapse dates.
180-85-105	SPI initial notice to certificate holders of continuing education requirement.
180-85-110	SPI subsequent notice to certificate holders of continuing education requirement.
180-85-115	SPI notice of lapsed certificate.
180-85-120	Appeal from determination of lapsed status.
180-85-130	Reinstatement of lapsed certificate.
180-85-135	Practicing with lapsed certificate.
180-85-200	In-service education approval standards.
180-85-205	Required recordkeeping by approved in-service education agencies.
180-85-210	Assurances of compliance with program and recordkeeping standards.
180-85-215	Selective audit of records of in-service education agencies.
180-85-220	Noncompliance—substantial compliance rule.
180-85-225	Appeal to state board of education.

NEW SECTION

WAC 180-85-005 AUTHORITY. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions).

NEW SECTION

WAC 180-85-010 PURPOSE. The purpose of this chapter is to set forth policies and procedures for a program of continuing education as a condition to the validity of certain professional certificates issued by the superintendent of public instruction pursuant to rules and regulations of the state board of education.

NEW SECTION

WAC 180-85-015 PUBLIC POLICY GOAL. The public policy goal of this chapter is to promote, recognize, and require the continuing professional and educational development of educators who are certified to practice their professions in the elementary and secondary schools of this state.

NEW SECTION

WAC 180-85-020 EFFECTIVE DATE AND APPLICABLE CERTIFICATES. The provisions of this chapter shall apply to the following certificates issued on or after July 1, 1987:

- (1) Continuing certificates as provided in chapter 180-79 WAC.
- (2) Standard certificates as provided in chapters 180-80 and 180-84 WAC.
- (3) PROVIDED, That applicants who have completed all requirements for a continuing or standard certificates prior to July 1, 1987, and who apply for such certificate prior to July 1, 1988, shall be exempt from the continuing education requirements of this chapter.

NEW SECTION

WAC 180-85-025 CONTINUING EDUCATION—DEFINITION. As used in this chapter, the term "continuing education" shall mean:

- (1) All college and/or university credit awarded by a regionally accredited institution of higher education or by a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-78 WAC.
- (2) All continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

NEW SECTION

WAC 180-85-030 CONTINUING EDUCATION CREDIT HOUR—DEFINITION. As used in this chapter, the term "continuing education credit hour" shall mean:

(1) For each college or university semester hour credit, fifteen hours of continuing education credit hours shall be granted.

(2) For each college or university quarter hour credit, ten hours of continuing education credit hours shall be granted.

(3) For each sixty minutes of approved in-service education including reasonable time for breaks, and passing time and organized meals if such meals are included within the planned in-service education program, one continuing education credit hour shall be granted. In the application of this subsection, the in-service education provider shall determine what is reasonable and what is within the planned in-service education program.

NEW SECTION

WAC 180-85-035 LAPSE DATE—DEFINITION. As used in this chapter, the term "lapse date" shall mean the date upon which the professional certificate affected by this chapter will lapse if the holder fails to complete the continuing education requirement of this chapter.

NEW SECTION

WAC 180-85-040 LAPSED—DEFINITION. As used in this chapter, the term "lapsed" shall mean that the certificate has expired and such certificate is no longer valid under the laws of the state of Washington.

NEW SECTION

WAC 180-85-045 APPROVED IN-SERVICE EDUCATION AGENCY—DEFINITION. As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the superintendent of public instruction to provide in-service education programs and to grant continuing education credit hours to all or a selective group of educators. Such agency must demonstrate the following characteristics:

- (1) The agency is one of the following entities:
 - (a) A college or university referenced in WAC 180-85-025(1);
 - (b) A professional organization which for the purpose of this chapter shall mean any local, state, regional, or national organization composed primarily of teachers, administrators, and/or educational staff associates;
 - (c) A school district, an educational service district, and the superintendent of public instruction; or
 - (d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112.
- (2) The agency has either a committee or board of directors which provides prior approval to proposed in-service education programs that are designed to meet the program standards set forth in WAC 180-85-200.

NEW SECTION

WAC 180-85-075 CONTINUING EDUCATION REQUIREMENT. Each holder of a professional education certificate affected by this chapter shall be required to complete one hundred fifty credit hours of continuing education prior to his or her initial lapse date and during each period between subsequent lapse dates.

NEW SECTION

WAC 180-85-080 COLLEGE AND UNIVERSITY TRANSCRIPTS. Holders of certificates affected by this chapter, from time to time, shall cause the transmission to the superintendent of public instruction of official college or university transcripts which substantiate the completion of course work that the holder desires to have applied to his or her continuing education requirement. Such transcript shall be recorded by the superintendent of public instruction in the holder's certification file. However, the holder must notify the superintendent of public instruction that the transcript has been submitted to the superintendent of public instruction for application to his or her continuing education credit hours as a condition to receiving such credit hours.

NEW SECTION

WAC 180-85-100 CALCULATION OF LAPSE DATES. The lapse dates of certificates affected by this chapter shall be calculated as follows:

(1) Certificates issued prior to July 1 of a given year shall have a lapse date of June 30 of the subsequent fifth calendar year and of each fifth calendar year thereafter.

(2) Certificates issued on or after July 1 of a given year shall have a lapse date of June 30 of the subsequent sixth calendar year and of each fifth calendar year thereafter.

(3) If a holder of an affected professional certificate qualifies for a different affected professional certificate—e.g., a holder of a continuing teaching certificate who subsequently qualifies for a continuing administrative certificate—the lapse dates of the new affected professional certificate shall be the same as provided on the first affected professional certificate.

NEW SECTION

WAC 180-85-105 SPI INITIAL NOTICE TO CERTIFICATE HOLDERS OF CONTINUING EDUCATION REQUIREMENT. Upon issuance or reinstatement of an affected professional certificate, the superintendent of public instruction shall provide such holder with a written explanation of the continuing education requirements of this chapter and the holder's responsibility to keep accurate records demonstrating attendance at approved in-service education programs in order to challenge discrepancies in reports by approved in-service education agencies and to transmit college and university transcripts in a timely manner in order to demonstrate completion of such courses prior to lapse dates.

NEW SECTION

WAC 180-85-110 SPI SUBSEQUENT NOTICE TO CERTIFICATE HOLDERS OF CONTINUING EDUCATION REQUIREMENT. On or before February 1 of the year prior to the lapse date for affected certificate holders, the superintendent of public instruction shall notify by mail each affected certificate holder who has not completed the one hundred fifty continuing credit hours since the commencement of his or her current lapse period, that his or her certificate will lapse as of June 30 of the following calendar year unless the continuing education requirement is met. Included with such notice shall be a statement indicating the number of continuing credit hours remaining to be completed by such holder prior to the lapse date and a written explanation of the continuing education requirements of this chapter. In the event such notice is returned to the superintendent of public instruction for any reason, the name and certification number of each such person shall be placed upon a list which shall be circulated in the form of a bulletin by the superintendent of public instruction to each school district, approved private school, and educational service district with a request to notify such employees, if employed by such agency, of the forthcoming lapse date and to notify the superintendent of public instruction of any change in name or address.

NEW SECTION

WAC 180-85-115 SPI NOTICE OF LAPSED CERTIFICATE. On or before August 1 of each year, the superintendent of public instruction shall notify by certified mail each affected certificate holder whose certificate has lapsed the preceding June 30th of such status. The notice shall include procedures for reinstatement and procedures for disputing the lapsed status. In addition, on or before August 15 of each year, the superintendent of public instruction shall notify by bulletin each school district, approved private school, and educational service district of the name and certificate number of each holder of an affected certificate whose certificate has lapsed the preceding June 30th.

NEW SECTION

WAC 180-85-120 APPEAL FROM DETERMINATION OF LAPSED STATUS. Any certificate holder who contests the determination by the superintendent of public instruction that his or her certificate has lapsed shall be entitled to appeal such determination in accordance with the procedures specified in WAC 180-75-020 through 180-75-033. Any such appeal shall operate as a stay of lapsing until a final administrative level decision has been rendered.

NEW SECTION

WAC 180-85-130 REINSTATEMENT OF LAPSED CERTIFICATE. A holder of a lapsed certificate may reinstate such lapsed certificate by presenting evidence to the superintendent of public

instruction of completing the continuing education credit hour requirement within the previous five years from the date of reinstatement application. The next lapse dates on a reinstated professional certificate shall be recalculated and shall be the same as if a new certificate under the provisions of WAC 180-85-100.

NEW SECTION

WAC 180-85-135 PRACTICING WITH LAPSED CERTIFICATE. The written explanation of the continuing education requirements required by WAC 180-85-105 shall include the following:

- (1) A lapsed certificate is no longer valid under the laws of the state of Washington.
- (2) Applicants who request reinstatement of their professional certificates must give evidence of good moral character and personal fitness.
- (3) Applicants for reinstatement of professional certificates shall be required to attest that they have not intentionally and knowingly practiced in a professional position for which certification is required under the rules of the state board of education after the date on which their certificates lapsed or submit a statement as to why such practice, if conducted, should not reflect on such applicant's good moral character or personal fitness at the time of application.

NEW SECTION

WAC 180-85-200 IN-SERVICE EDUCATION APPROVAL STANDARDS. In-service education programs provided by approved in-service education agencies shall meet the following program standards:

- (1) The basis for determination of need for a particular in-service education program shall be documented.
- (2) The objectives of the in-service program—i.e., intended outcomes—shall be written for each in-service education program.
- (3) The content of the in-service education program shall include applicable current research and/or application of established professional practices.
- (4) All in-service education instructors shall have academic and/or professional experience which specifically qualifies them to conduct the in-service education program—e.g., a person with expertise in a particular subject, field, or occupation.
- (5) Program materials, including the program agenda, prepared, designed, or selected for the in-service education program shall be available to all attendees.
- (6) The physical facility, including necessary equipment, for the in-service education program shall be chosen to meet the needs of all participants.
- (7) The in-service education program shall be evaluated by the participants to determine the success of the program, including the following:
 - (a) The extent to which the written objectives—i.e., subsection (2) of this section—have been met;
 - (b) The quality of the physical facilities in which the program was offered;
 - (c) The quality of the presentation by each instructor;
 - (d) The quality of the program materials provided; and
 - (e) Suggestions for improving the program if repeated.
- (8) The in-service education agency shall compile the evaluations required in subsection (7) of this section in summary form.
- (9) The designated administrator of each in-service education program shall assess the value and success of such program and periodically report his or her findings to the governing or advisory board which authorized the in-service program.
- (10) The standards for recordkeeping as provided in WAC 180-85-205 shall apply.

NEW SECTION

WAC 180-85-205 REQUIRED RECORDKEEPING BY APPROVED IN-SERVICE EDUCATION AGENCIES. Each approved in-service education agency shall provide the following record service:

- (1) Documentation that the in-service education program received the prior approval by the board or committee provided in WAC 180-85-045(2).
- (2) Documentation that each program standard required in WAC 180-85-200 has been met for each in-service education program including the following:

- (a) A copy of the needs statement required by WAC 180-85-200(1);
 - (b) A copy of the written objectives required by WAC 180-85-200(2);
 - (c) A copy of the program agenda which shall reflect the content required by WAC 180-85-200(3) and shall demonstrate compliance with the calculation of continuing education credit hours in accordance with the definition prescribed in WAC 180-85-030(3);
 - (d) A summary of the academic and/or professional experience of each in-service education instructor in sufficient detail to demonstrate compliance with WAC 180-85-100(4);
 - (e) A copy of all program materials available to attendees as required by WAC 180-85-200(5);
 - (f) A statement of the type of physical facilities, including necessary equipment, and why such facilities and equipment were anticipated to meet the needs of all participants as required by WAC 180-85-200(6);
 - (g) A copy of the form used to conduct the evaluations required by WAC 180-85-200(7);
 - (h) A copy of the summary of evaluations required by WAC 180-85-200(8); and
 - (i) A copy of the minutes of the board or advisory committee which demonstrates that such board or advisory committee reviewed the assessment required by WAC 180-85-200(9).
- (3) A list, for each in-service education program, of all participants who have requested continuing education credit hours by signing a registration form made available at the in-service education program. Such registration form shall provide space for the registrant to indicate he or she is requesting fewer hours than the amount calculated for the entire in-service education program due to partial attendance.
- (4) The name, certification number, the number of continuing education credits granted for each registrant of an in-service education program, and the date, title, and sponsor of each in-service program shall be transmitted to the superintendent of public instruction or his or her designated recordkeeping agency within forty-five days of the completion of all or a portion of each in-service education program.
- (5) The registrant claiming continuing education credit hours shall be provided evidence of attendance at the in-service education program within forty-five days of completion of the in-service education program and upon request if such request is made within seven calendar years of such in-service education program, including the number of continuing education credit hours granted and reported pursuant to subsection (4) of this section. In addition, the registrant shall be given specific instructions regarding the need to preserve the record and how to correct the record if attendance or credit hours has been reported by the approved in-service education agency inaccurately.
- (6) The above records shall be available for inspection by the superintendent of public instruction for a period of seven calendar years from the date of each in-service education program.

NEW SECTION

WAC 180-85-210 ASSURANCES OF COMPLIANCE WITH PROGRAM AND RECORDKEEPING STANDARDS. Annual assurances by approved in-service education agencies shall be completed as follows:

- (1) School districts shall be requested, when submitting the annual basic education compliance report, to provide an assurance that any in-service education program to be provided by such district and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.
- (2) Approved private schools shall be requested, when applying for annual approval, to provide an assurance that any in-service education program to be provided by such private school and for which continuing education credit hours will be granted shall comply with the applicable program and recordkeeping standards within this chapter.
- (3) Other in-service education agencies seeking approval status shall provide on forms provided by the superintendent of public instruction, an annual assurance that any in-service education program to be provided by such agency and for which continuing education credit hours will be granted shall comply with the applicable program standards and recordkeeping within this chapter. Such forms shall contain such other information related to the continuing education program provided by the approved in-service agency as requested by the superintendent of public instruction.

NEW SECTION

WAC 180-85-215 SELECTIVE AUDIT OF RECORDS OF IN-SERVICE EDUCATION AGENCIES. The superintendent of public instruction shall audit school district compliance with the provisions of this chapter as a part of the state staff review provided by WAC 180-16-195(2). All other approved in-service education agencies shall be audited by the superintendent of public instruction on a selective basis, which may include responses to complaints or other evidence of possible noncompliance, with the number of actual audits per year left to the discretion of the superintendent of public instruction.

NEW SECTION

WAC 180-85-220 NONCOMPLIANCE—SUBSTANTIAL COMPLIANCE RULE. If an audit by the superintendent of public instruction finds that an approved in-service education agency is not in substantial compliance with the provisions of this chapter, the superintendent of public instruction shall document violations of the regulations—i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such agency fails to provide an assurance within twenty calendar days that such corrective action will be implemented, the superintendent of public instruction shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action will be implemented which will satisfy the substantial compliance standard.

NEW SECTION

WAC 180-85-225 APPEAL TO STATE BOARD OF EDUCATION. Any finding of noncompliance by the superintendent of public instruction pursuant to WAC 180-85-120 may be appealed to the state board of education for review. The filing of a notice of appeal shall cause a stay of any order by the superintendent of public instruction until the state board of education makes an independent determination on the issue of substantial compliance. If the state board of education concurs that the approved in-service education agency has failed to substantially comply with the applicable provisions of this chapter, the state board of education shall prescribe the corrective action necessary to achieve substantial compliance. Such agency, upon receipt of notice of action by the state board of education, shall be denied the authority to grant any continuing education credit hours for any subsequent in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action prescribed by the state board of education will be implemented.

WSR 86-09-099
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
 [Memorandum—April 23, 1986]

The Washington Department of Ecology hereby gives notice of a public hearing on the draft study, "A Study of Hazardous Waste Management Priorities for Categories of Wastes in Washington State." The Department of Ecology will provide a brief presentation of the study and its recommendations.

Public hearings to receive comments on this study will be held as follows:

June 4, 1986: Spokane County Health District
 Auditorium
 West 1101 College
 Spokane, WA
 7:00 p.m.

June 5, 1986: Department of Ecology
 Auditorium
 825 Jadwin
 Richland, WA
 7:00 p.m.

June 10, 1986: Port of Seattle
 Commissioners Chambers
 2201 Alaskan Way South
 Pier 66
 Seattle, WA
 7:00 p.m.

June 11, 1986: PUD
 1200 Fort Vancouver Way
 Vancouver, WA
 7:00 p.m.

Copies of the study are available at any of the Department of Ecology offices:

Southwest Regional Office
 7272 Cleanwater Lane
 Olympia, WA 98504

Northwest Regional Office
 4350 150th Avenue N.E.
 Redmond, WA 98052

Central Regional Office
 3601 West Washington
 Yakima, WA 98903

Eastern Regional Office
 East 103 Indiana
 Spokane, WA 99207

Department of Ecology
 Headquarters
 Attn: Karen Zawlocki
 M/S PV-11
 Olympia, WA 98504
 Phone: (206) 459-6299

Anyone who wishes to submit a written statement for inclusion in the hearing record may forward the same to the Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, Attn: Karen Zawlocki on or before June 20, 1986.

The study shall be completed and final modifications made by Tuesday, July 1, 1986, at the Department of Ecology in Olympia, Washington.

WSR 86-09-100
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed April 23, 1986]

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 Washington public assistance programs criteria (for purposes of RCW 46.16.028), adding new section WAC 308-99-021 and amending WAC 308-99-020, definitions;

that the agency will at 10:00 a.m., Wednesday, May 28, 1986, in the 6th Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 46.85.060 and 46.01.110.

The specific statute these rules are intended to implement is RCW 46.85.060 and 46.16.028.

Dated: April 23, 1986

By: Margaret A. Gaffney
Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: WAC 308-99-021 is to define Washington public assistance programs for purposes of vehicle license registration requirements; and 308-99-020 is amended to conform with RCW 46.16.028.

Statutory Authority: RCW 46.85.060 and 46.01.110.

Summary of the Rules: Washington public assistance programs include only public assistance programs which are primarily funded by state funds. WAC 308-99-020 Definitions, amended so that it will not conflict with RCW 46.16.028.

Reason Proposed: WAC 308-99-021, to facilitate law enforcement regarding vehicle license registration requirements; to clarify that certain types of federally funded programs are not considered Washington public assistance programs for purposes of vehicle license registration; and to make a declaration which is, in the judgment of the department, in the best interests of this state and its citizens, and is fair and equitable to this state and its citizens. This determination is on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce; and WAC 308-99-020 is necessary so that the regulation will not conflict with RCW 46.16.028.

Responsible Departmental Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing and enforcing this rule: Donna M. Stringer, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, Olympia, Washington, phone (206) 753-6914 comm or 234-6914 scan; and H. George Ides, Administrator, Prorate and Fuel Tax Control, Second Floor, Highways-Licenses Building, Olympia, Washington, phone (206) 753-4565 comm or 234-4565 scan.

Proponents: Washington State Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of any federal or state court action.

Small Business Economic Impact Statement: Not required for this statement.

AMENDATORY SECTION (Amending Order TL/RG 17, filed 9/30/85)

WAC 308-99-020 DEFINITIONS. (1) For the purposes of vehicle license registration, a resident is a person who:

(a) Owns a vehicle that is licensable under the provisions of chapter 46.16 RCW and that is physically present in the state of Washington more than six months in any continuous twelve-month period; or

(b) Resides in this state more than six months in any continuous twelve-month period; or

(c) Becomes a registered voter in this state; or

(d) Receives benefits under one of the Washington public assistance programs; or

(e) Declares himself or herself to be a resident for the purpose of obtaining a state license or tuition fees at resident rates; or

~~((ff) is permanently employed in this state;))~~

(2) "Military personnel" means active members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned officers of the Public Health Service, and members of foreign military organizations assigned to this state on official duty.

(3) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state or province of a country.

NEW SECTION

WAC 308-99-021 WASHINGTON PUBLIC ASSISTANCE PROGRAMS CRITERIA. For purposes of vehicle license registration requirements of RCW 46.16.028 and WAC 308-99-020, the term "Washington public assistance programs" includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. Programs which are not included within the term "Washington public assistance programs" pursuant to the above criteria include, but are not limited to, the food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966 [42 U.S.C. §§ 1771-1788]; and aid to families with dependent children [42 U.S.C. §§ 601-606].

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.

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
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- 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

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296-88-070	REP	296-127-020	AMD	296-132-265	REP
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296-92-080	REP	296-132-060	REP	296-155-005	AMD
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296-92-110	REP	296-132-100	REP-P	296-155-010	AMD-C
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296-93-050	AMD	296-132-105	REP-P	296-155-012	AMD-C
296-93-060	REP	296-132-105	REP	296-155-012	AMD
296-93-070	AMD	296-132-110	REP-P	296-155-020	AMD-C
296-93-110	REP	296-132-110	REP	296-155-020	AMD
296-93-120	AMD	296-132-115	REP-P	296-155-035	AMD-C
296-93-130	REP	296-132-115	REP	296-155-035	AMD
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