

JULY 16, 1986

OLYMPIA, WASHINGTON

ISSUE 86-14



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CITATION

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

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of July 1986 pursuant to RCW 19.52.020 is twelve percent (12%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

The maximum allowable retail installment contract service charge applicable for calendar year 1986 pursuant to RCW 63.14.130(1)(a) is fourteen percent (14%).

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504, pursuant to RCW 34.08.020. Subscription rate is \$150.92 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

Changes of address notices, subscription orders, and undelivered copies should be sent to:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
Olympia, WA 98504

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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

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
85-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
85-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
85-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
85-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
85-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
85-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
85-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1986
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86-01	Nov 21	Dec 5	Dec 19, 1985	Jan 2, 1986	Jan 22
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86-03	Dec 26, 1985	Jan 8, 1986	Jan 22	Feb 5	Feb 25
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86-24	Nov 5	Nov 19	Dec 3	Dec 17	Jan 6, 1987

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

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

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

WSR 86-14-000

ERRATA

(Inserted by the Code Reviser)

DEPARTMENT OF LICENSING

[Order PM 600—Filed June 18, 1986]

Reviser's note: The following amendatory section was adopted by the Department of Licensing in Order PM 600 and was filed in the code reviser's office on June 18, 1986. Through a clerical error, the underscored material in subsection (3) was not shown as such in the Register at WSR 86-13-070 even though it had been underscored by the department in its filing. The section as it appears below is exactly as filed by the department. Pursuant to RCW 34.04.040(2), the effective date of the amendatory section is July 18, 1986.

AMENDATORY SECTION (Amending Order PL-236, filed 2/18/76)

WAC 308-153-020 GENERAL REQUIREMENTS FOR ALL VETERINARY MEDICAL FACILITIES. (1) ~~((Records: Any veterinarian who treats in any manner an animal at any location must systematically maintain an adequate individual record of the animal or herd. These records must be kept for a period of three years from the date of last treatment [treatment] and are to include, but not be limited to, the following:~~

- ~~(a) Name, address and phone number of the owner~~
- ~~(b) Patient or herd identification~~
- ~~(c) Vaccination record~~
- ~~(d) History~~
- ~~(e) Physical examination findings~~
- ~~(f) Provisional diagnosis~~
- ~~(g) Treatment and drugs prescribed or dispensed))~~

Construction and maintenance: All facilities must be so constructed and maintained as to provide comfort and safety for patients and clients. All areas of the premises shall be maintained in a clean and orderly condition, free of objectionable odors. All facilities must comply with applicable state, county and municipal laws, ordinances and regulations.

~~(2) ((Basic sanitation: Any equipment, instruments or facilities used in the treatment of animals must be clean and sanitary at all times to protect against the spread of diseases, parasites and infection.~~

~~All facilities must have ventilation adequate to assure proper patient comfort and air exchange and to be free of objectionable odors.~~

~~All working surfaces are to be constructed to permit sanitation:~~

~~Potable water, sewage facilities and electric power adequate for the practice of veterinary medicine shall be available at all times))~~ Ventilation: Adequate heating and cooling must be provided for the comfort of the animals, and the facility must have sufficient ventilation in all areas.

~~(3) ((Storage: All supplies, including food and bedding, shall be stored in facilities which adequately protect such supplies against infestation, contamination or deterioration. Refrigeration shall be provided for all supplies that are of a perishable nature, including foods, drugs and biologicals))~~ Lighting: Proper lighting must be provided in all rooms utilized for the practice of veterinary medicine. Outside lighting should be adequate to identify the building and to assist the clients.

(4) Water: Potable water must be provided.

(5) Basic sanitation: Any equipment, instruments or facilities used in the treatment of animals must be clean and sanitary at all times to protect against the spread of diseases, parasites and infection.

(6) Waste disposal: Covered waste containers, impermeable by water, must be used for the removal and disposal of animal and food wastes, bedding, animal tissues, debris and other waste.

Disposal facilities shall be so operated as to minimize insect or other vermin infestation, and to prevent odor and disease hazards or other nuisance conditions.

The facility shall employ a procedure for the prompt, sanitary and esthetic disposal of dead animals which complies with all applicable state, county and municipal laws, ordinances and regulations.

(7) Records: Every veterinarian shall keep daily written reports of the animals he or she treats. Records for companion animals shall be kept for each animal, but records for economic animals may be maintained on a group or client basis. These records must be readily retrievable and must be kept for a period of three years following the last treatment or examination. They shall include, but not be limited to, the following:

(a) Name, address and telephone number of the owner.

(b) Name, number or other identification of the animal or group.

(c) Species, breed, age, sex and color of the animal.

(d) Immunization record.

(e) Beginning and ending dates of custody of the animal.

(f) A short history of the animal's condition as it pertains to its medical status.

(g) Physical examination findings and any laboratory data.

(h) Provisional or final diagnosis.

(i) Treatment and medication administered, prescribed or dispensed.

(j) Surgery and anesthesia.

(k) Progress of the case.

(8) Storage: All supplies, including food and bedding, shall be stored in facilities which adequately protect such supplies against infestation, contamination or deterioration. Refrigeration shall be provided for all supplies that are of a perishable nature, including foods, drugs and biologicals.

(9) Biologicals ((=)) and drugs: Biologicals and other drugs shall be stored in such a manner as to prevent contamination and deterioration in accordance with the packaging and storage requirements of the current editions of the U.S. Pharmacopeia, 12601 Twinbrook Parkway, Rockville, Maryland 20852, and the National Formulary, Mack Publishing Company, 20th and Northampton Streets, Easton, Pennsylvania 18042 and/or manufacturers' recommendations.

((Drug records shall be maintained in accordance with federal and Washington state laws:))

All controlled substances shall be maintained in a locked cabinet or other suitable secure container in accordance with federal and Washington state laws.

Controlled substance records shall be readily retrievable, in accordance with federal and Washington state laws.

~~((5) Waste disposal, Covered vermin-proof waste containers, impermeable by water, shall be used for the removal and disposal of animal and food wastes, bedding, dead animals, debris and other waste.~~

~~Disposal facilities shall be so operated to prevent a nuisance condition, to minimize insect and other vermin infestation, odor, and disease hazards:))~~

WSR 86-14-001
RULES OF COURT
STATE SUPREME COURT
[June 11, 1986]

In the Matter of the ADOPTION of CrR 7.8 and AMENDMENTS to: RAP 5.3(j), CrR 2.1, 2.2, 2.3, 3.1, 3.2, 3.3(d), 3.3(h), 4.2(f), 4.2(g), 4.3, 4.7, 6.15(b), 6.15(c), 7.1(b), and 7.2(b)

NO. 25700-A-382

ORDER

The Board of Governors of the Washington State Bar Association having recommended the adoption of CrR 7.8 and amendments to RAP 5.3(j), CrR 2.1, 2.2, 2.3, 3.1, 3.2, 3.3(d), 3.3(h), 4.2(f), 4.2(g), 4.3, 4.7, 6.15(b), 6.15(c), 7.1(b), and 7.2(b), and the proposed Rules and Amendments having been published for comment in 104 Wn.2d Advance Sheet No. 13, and the Court having considered the proposed Rules, Amendments and comments submitted thereto, and having determined that the proposed Rule and Amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the Rule and Amendments as attached hereto are adopted.

(b) That the Rule and Amendments will be published in the special Rules edition of the Washington Reports in July, 1986, and will become effective September 1, 1986.

DATED at Olympia, Washington, this 11th day of June, 1986.

	James M. Dolliver
Robert F. Brachtenbach	James A. Andersen
	Keith M. Callow
Fred H. Dore	
Vernon R. Pearson	B. Durham

I concur in the adoption of all the rules herein except Cr.R 3.2. That rule, as amended does not address the conflict created by the explicit language of Article 1, § 20 Washington Constitution.

Utter, J.
Wm. C. Goodloe

RAP 5.3(j)

Purpose

The amendment is intended to clarify an ambiguity in the rule about the precise function of the superior court clerk when a defendant wishes to exercise the right to appeal. As now drafted, RAP 5.3(j) appears to require the clerk to complete the forms for a defendant. The correct procedure is that the clerk supplies the necessary forms, and files them after completion by the defendant.

The committee recognized that the amendment affects a set of rules that are not part of this year's cyclical review. However, since the Rules of Appellate Procedure are among the rules sets for which the committee is responsible, an untimely amendment seemed unobjectionable.

(j) Assistance to Defendant in Criminal Case. The trial court clerk shall, if requested by a defendant in a criminal case in open court or in writing, file supply a notice of appeal form or a notice for discretionary review on the defendant's behalf: form and file it upon completion by the defendant.

CrR 2.1

Purpose

The bill of particulars is presently governed by CrR 2.1(e). Under that rule's provision, the bill of particulars "may be amended at any time subject to such conditions as justice requires."

The drafting subcommittee decided a definite time limit for amendments to the bill of particulars would provide additional protection for a defendant relying upon the information in the bill in preparing a defense. Additionally, the subcommittee members concluded the more explicit standard for amending an information should apply to a bill of particulars. Thus, instead of allowing an amendment "as justice requires", it is proposed that the court should be able to permit the amendment "if substantial rights of the defendant are not prejudiced."

To accomplish these changes, the subcommittee added a reference to the bill of particulars to present section (d). The subcommittee then reversed present sections (d) and (e) to maintain a more logical order in the rule.

The proposed revisions to section (b) implement the court rules and procedures committee's decision to revise gender-specific language in any rules that were substantively amended.

THE INDICTMENT AND THE INFORMATION

(a) Use of Indictment or Information. The initial pleading by the State shall be an indictment or an information in all criminal proceedings filed by the prosecuting attorney.

(b) Nature and Contents. The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney. Allegations made in one count may be incorporated by reference in another count. It may be alleged that the means by which the defendant committed the offense are unknown or that he the defendant committed it by one

or more specified means. The indictment or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to ~~his~~ the defendant's prejudice.

(c) Surplusage. The court on motion of the defendant may strike surplusage from the indictment or information.

(d) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within 10 days after arraignment or at such later time as the court may permit.

~~(d)(e) Amendment of Information.~~ The court may permit any information or bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

~~(e) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within 10 days after arraignment or at such later time as the court may permit. A bill of particulars may be amended at any time subject to such conditions as justice requires.~~

(f) Defendant's Criminal History. Upon the filing of an indictment or information charging a felony, the prosecuting attorney shall request a copy of the defendant's criminal history, as defined in RCW 9.94A.030, from the Washington State Patrol Identification and Criminal History Section.

CrR 2.2

Purpose

The first proposed change to section (a) incorporates into the superior court rule the last sentence of JCrR 2.02(a). The committee decided that although a superior court judge has the implicit power to require complainant's personal appearance, an explicit statement of that authority will facilitate the ability to make a finding of probable cause. Two stylistic changes were made to the justice court rule before it was included: "judge" was broadened to "court", and the masculine pronoun was eliminated.

The next two revisions in section (a) are grammatical.

The final proposed change to CrR 2.2(a) adds cautionary language about the use of hearsay evidence. The rule codifies the authorization to refer to hearsay evidence, but does not discuss restrictions on its use. Therefore, the last phrase was inserted as a reminder there is decisional law that should also be consulted. A similar caution and reminder is presently contained in CrR 4.7(b)(2), and is being proposed for CrR 2.3(c).

The substantive amendment to subsection (b)(2) alters the level of anticipated harm necessary to support the issuance of a warrant of arrest in circumstances in which a summons is preferred. The rule presently requires "serious bodily harm". Committee members decided bodily harm is inherently serious, and any level of

possible bodily harm should be enough to support an arrest warrant, even if the crime charged is a misdemeanor or gross misdemeanor.

The committee made several stylistic decisions, which are reflected in the remaining proposed amendments to the rule. First, the committee decided to revise any gender-specific language in rules for which substantive changes had been proposed. Second, the committee decided to broaden "judge" to "court". Third, the committee decided to omit archaic language such as "thereof." These decisions are the basis for the amendments to subsection (b)(3), section (c), subsection (d)(2), section (e), and subsection (f)(2).

WARRANT OF ARREST AND SUMMONS

(a) Warrant of Arrest. If an indictment is found or an information is filed, the court may direct the clerk to issue a warrant for the arrest of the defendant. Before ruling on a request for a warrant the court may require the complainant to appear personally and may examine under oath the complainant and any witnesses the complainant may produce. A warrant of arrest must be supported by an affidavit or affidavits or sworn testimony establishing the grounds for issuing the warrant, which Sworn testimony shall be recorded electronically or stenographically. The court must determine that there is probable cause ~~for the issuance of~~ before issuing the warrant. The finding of probable cause may be based on evidence which is hearsay in whole or in part, subject to constitutional limitations.

(b) Issuance of Summons in Lieu of Warrant.

(1) Generally. If an indictment is found or an information is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) When Summons Must Issue. If the indictment or information charges only the commission of a misdemeanor or a gross misdemeanor, the court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent ~~serious~~ serious bodily harm to the accused or another, in which case it may issue a warrant.

(3) Summons. A summons shall be in writing and in the name of the State of Washington, shall be signed by the clerk with the title of ~~his~~ the office, and shall state the date when issued and the county where issued. It shall state the name of the defendant and shall summon the defendant to appear before the court at a stated time and place.

(4) Failure To Appear on Summons. If a person fails to appear in response to a summons, or if service is not effected within a reasonable time, a warrant for arrest may issue.

(c) Requisites of a Warrant. The warrant shall be in writing and in the name of the State of Washington, shall be signed by the clerk with the title of ~~his~~ the office, and shall state the date when issued and the county where issued. It shall specify the name of the defendant, or if ~~his~~ the defendant's name is unknown, any name or description by which ~~he~~ the defendant can be identified with reasonable certainty. The warrant shall specify the

offense charged against the defendant and that the court has found that probable cause exists to believe the defendant has committed the offense charged and shall command that the defendant be arrested and brought forthwith before the court issuing the warrant. If the offense is bailable, the judge shall set forth in the order for the warrant, bail, or other conditions of release.

(d) Execution; Service.

(1) Execution of Warrant. The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) Service of Summons. The summons may be served any place within the state. It shall be served by a peace officer who shall deliver a copy of the same to the defendant personally, or it may be served by mailing the same, postage prepaid, to the defendant at his the defendant's address.

(e) Return. The officer executing a warrant shall make return ~~thereof~~ to the court before whom the defendant is brought pursuant to these rules. At the request of the prosecuting attorney any unexecuted warrant shall be returned to the judge by whom issued and shall issuing court to be canceled ~~by him~~. The person to whom a summons has been delivered for service shall, on or before the return date, file a return ~~thereof~~ with the judge court before whom which the summons is returnable. For reasonable cause, the judge court may order that the warrant be returned to him it.

(f) Defective Warrant or Summons.

(1) Amendment. No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any irregularity in the warrant or summons, but the warrant or summons may be amended so as to remedy any such irregularity.

(2) Issuance of New Warrant or Summons. If during the preliminary examination of any person arrested under a warrant or appearing in response to a summons, it appears that the warrant or summons does not properly name or describe the defendant or the offense with which he the defendant is charged, or that although not guilty of the offense specified in the warrant or summons, there is reasonable ground to believe that he the defendant is guilty of some other offense, the judge shall not discharge or dismiss the defendant but may allow a new indictment or information to be filed and shall thereupon issue a new warrant or summons.

CrR 2.3

Purpose

The addition of cautionary language regarding the use of hearsay evidence in making a finding of probable cause is identical to the amendment proposed for CrR 2.2(a). A similar warning is presently found in CrR 4.7(b)(2). The committee was concerned that a rule user might be misled into believing that CrR 2.3(c) codified all the decisional law governing the use of hearsay evidence. The proposed change will provide a warning to consult case law or otherwise make an examination beyond the rule.

The remaining amendments to sections (c), (d), and (e) reflect the committee's decisions on style. The committee decided to substitute "court" for "judge", and to change gender-specific pronouns in rules which were otherwise being amended.

SEARCH AND SEIZURE

(a) Authority To Issue Warrant. A search warrant authorized by this rule may be issued by the court upon request of a peace officer or a prosecuting attorney.

(b) Property or Persons Which May Be Seized With a Warrant. A warrant may be issued under this rule to search for and seize any (1) evidence of a crime; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or (4) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Issuance and Contents. A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit or affidavits or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephonic statement. The recording or a duplication of the recording shall be a part of the court record and shall be transcribed if requested by a party if there is a challenge to the validity of the warrant or if ordered by the court. The finding of probable cause may be based on evidence which is hearsay in whole or in part, subject to constitutional limitations. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purpose to affix the court's signature to a warrant identifying the property or person and naming or describing the person, place or thing to be searched. The judge court shall record a summary of any additional evidence on which he it relies. The warrant shall be directed to any peace officer. It shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. It shall designate to whom it shall be returned. The warrant may be served at any time.

(d) Execution and Return With Inventory. The peace officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, the officer may post a copy of the search warrant and receipt. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property is taken, or in the presence of at least one person other than the officer. The judge court shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property. A person aggrieved by an unlawful search and seizure may move the court for the return of the property on the ground that

the property was illegally seized and ~~he is they are~~ the person is lawfully entitled to possession thereof. If the motion is granted the property shall be returned. If a motion for return of property is made or comes on for hearing after an indictment or information is filed in the court in which the motion is pending, it shall be treated as a motion to suppress.

(f) Searches of Media.

(1) Scope. If an application for a search warrant is governed by RCW 10.79.015(3) or 42 U.S.C. §§ 2000aa et seq., this section controls the procedure for obtaining the evidence.

(2) Subpoena Duces Tecum. Except as provided in subsection (3), if the court determines that the application satisfies the requirements for issuance of a warrant, as provided in section (c) of this rule, the court shall issue a subpoena duces tecum in accordance with CR 45(b).

(3) Warrant. If the court determines that the application satisfies the requirements for issuance of a warrant and that RCW 10.79.015(3) and 42 U.S.C. §§ 2000aa et seq. permit issuance of a search warrant rather than a subpoena duces tecum, the court may issue a warrant.

CrR 3.1

Purpose

The proposed revisions to subsections (b)(1), (c)(1), (c)(2), and (d)(1) implement the committee's decision to convert gender-specific pronouns in any rules that were being substantively amended.

The division of section (f) into three subsections is a structural change to differentiate the topics governed by that portion of CrR 3.1

New subsection (d)(3) is intended to protect the privilege against self-incrimination for a person who is requesting the appointment of counsel. It was also felt that a person who is able to retain counsel does not have to reveal information which might in some way assist the prosecution. Conversely, an indigent defendant, seeking to exercise the constitutional right to a lawyer, must reveal all facts about his or her financial situation. The drafting subcommittee, however, also recognized that a defendant should not be allowed to state untrue or inaccurate information with impunity. The proposed rule provision, therefore, strikes a balance intended to safeguard the right to counsel and the privilege against self-incrimination, while preserving the ability to prosecute for perjury or false statements. Thus, the financial information is available to the prosecution after the defendant has testified, if the defendant does so.

The committee also wished to avoid preventing access to the information for research, statistical or budgeting purposes. The rule provision, therefore, explicitly prohibits use by the prosecution.

The general terminology "information" was used to accommodate variations among counties as to the method by which counsel is appointed. For example, some counties have a separate agency evaluating financial information; some counties follow a procedure of oral inquiry in open court by the judge.

The proposed revision to subsection (f)(1) is a related concept. Again, the purpose is to provide similar protection to an indigent defendant since a person who can pay for defense services need not reveal financial information to the prosecution. However, the procedure provided is more explicitly stated and more detailed. First, the proposal states clearly that such a motion may be made ex parte, which codifies current practice. The rationale for an ex parte proceeding has been explained as:

Since a showing of need requires disclosure of defense theory or, at least, of defense tactics, there could be no justification for such disclosure becoming an automatic discovery device for the prosecution solely because of the defendant's indigency. Where rich defendants need disclose nothing to the prosecution except possibly that a motion to inspect has been filed, the indigent is required to particularize what his inspection is expected to show. The implications of equal protection are so strong in this situation that . . . state courts should grant an in camera hearing upon request.

Margolin & Wagner, The Indigent Criminal Defendant and Defense Services: A Search for Constitutional Standards, 24 Hastings L.J. 647, 662 (1973). See also United States v. Harris, 707 F.2d 653, 662 (2d Cir. 1983) (ex parte proceedings for services other than counsel are designed to ensure that a defense would not be prematurely or ill-advisedly disclosed).

Second, as proposed, the rule does not impose a complete prohibition on revealing the financial information submitted to support a request for services. The rule explicitly defers to the discovery rules in the area of disclosure. In addition, as with the proposed change to CrR 3.1(d)(3), the rule has a clear time limit keyed to the defendant's testimony or to the conclusion of the case. The committee used the concept of ". . . final disposition of the case in the trial court, subject to further action, if any, . . ." to recognize possible intervening appellate activity, short of an appeal at the conclusion of the case.

The amendments to CrR 3.1(f)(2) and (f)(3) were developed after a suggestion by Judge Mattson. Under the amendments, the superior court would make the decision about which services were "necessary", but each county could devise its own procedure for ascertaining a reasonable level of compensation and for directing payments.

RIGHT TO AND ASSIGNMENT OF COUNSEL

(a) Types of Proceedings. The right to counsel shall extend to all criminal proceedings for offenses punishable by loss of liberty regardless of their denomination as felonies, misdemeanors, or otherwise.

(b) Stage of Proceedings.

(1) The right to counsel shall accrue as soon as feasible after the defendant is taken into custody, ~~when he~~ appears before a committing magistrate, or ~~when he~~ is formally charged, whichever occurs earliest.

(2) Counsel shall be provided at every stage of the proceedings, including sentencing, appeal, and post-

conviction review. Counsel initially appointed shall continue to represent the defendant through all stages of the proceedings unless a new appointment is made by the court following withdrawal of original counsel pursuant to section (e) because geographical considerations or other factors make it necessary.

(c) Explaining the Availability of a Lawyer.

(1) When a person is taken into custody ~~he~~ that person shall immediately be advised of ~~his~~ the right to counsel. Such advice shall be made in words easily understood, and it shall be stated expressly that a person who is unable to pay a lawyer is entitled to have one provided without charge.

(2) At the earliest opportunity a person in custody who desires counsel shall be provided access to a telephone, the telephone number of the public defender or official responsible for assigning counsel, and any other means necessary to place ~~him~~ the person in communication with a lawyer.

(d) Assignment of Counsel.

(1) Unless waived, counsel shall be provided to any person who is financially unable to obtain one without causing substantial hardship to ~~himself~~ the person or ~~his~~ the person's family. Counsel shall not be denied to any person merely because ~~his~~ the person's friends or relatives have resources adequate to retain counsel or because ~~he~~ the person has posted or is capable of posting bond.

(2) The ability to pay part of the cost of counsel shall not preclude assignment. The assignment of counsel may be conditioned upon part payment pursuant to an established method of collection.

(3) Information given by a person to assist in the determination of whether the person is financially able to obtain counsel shall be under oath and shall not be available for use by the prosecution in the pending case in chief and shall not be disclosed to the prosecution until after testimony by the defendant, if any.

(e) Withdrawal of Attorneys. Whenever a criminal cause has been set for trial, no attorney shall be allowed to withdraw from said cause, except upon written consent of the court, for good and sufficient reason shown.

(f) Services Other Than Counsel.

(1) Counsel for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in ~~his~~ the case may request them by a motion to the court. The motion may be ex parte and the fact of application for services and the information which is in support of the application shall not be available for use to the prosecution in the pending case in chief and shall not be disclosed to the prosecution until after final disposition of the case in the trial court, subject to further action, if any, except as otherwise required by the rules governing discovery.

(2) Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the court, or a person or agency to whom the administration of the program may have been delegated by local court rule, shall authorize counsel to obtain the services on behalf of the defendant. The courts, in the interest of

justice and on a finding that timely procurement of necessary services could not await prior authorization, shall ratify such services after they have been obtained.

(3) ~~The court shall determine r~~Reasonable compensation for the services shall be determined and ~~direct~~ payment directed to the organization or person who rendered them upon the filing of a claim for compensation supported by affidavit specifying the time expended and the services; and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.

CrR 3.2

RELEASE OF ACCUSED

(a) Release in Noncapital Cases. Any person, other than a person charged with a capital offense, shall at ~~his~~ the preliminary appearance or reappearance pursuant to rule 3.2A or JCrR 2.03 be ordered released on ~~his~~ the accused's personal recognizance pending trial unless the court determines that such recognizance will not reasonably assure ~~his~~ the accused's appearance, when required, or if there is shown a likely danger that the accused will commit a violent crime, or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for trial, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider an affidavit or affidavits filed or sworn testimony and further may examine under oath the affiant and any witnesses ~~he~~ the affiant may produce. The court shall impose the least restrictive of the following conditions that will reasonably assure that the accused's appearance accused will be present for later hearings, will not significantly interfere with the administration of justice and not pose a substantial danger to others or the community or, if no single condition gives that assurance, any combination of the following conditions:

(1) Place the accused in the custody of a designated person or organization agreeing to supervise ~~him~~ the accused;

(2) Place restrictions on the travel, association, or place of abode of the accused during the period of release;

(3) Require the execution of an unsecured appearance bond in a specified amount;

(4) Require the execution of an appearance a bond in a specified amount and the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release or forfeited for violation of any condition of release;

(5) Require the execution of an appearance a bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;

(6) Require the accused to return to custody during specified hours; or

(7) Impose any condition other than detention deemed reasonably necessary to assure appearance as required, assure noninterference with the trial and reduce danger to others or the community.

(b) Relevant Factors. In determining which conditions of release will reasonably assure the accused's appearance; and noninterference with the administration of justice, and reduce danger to others or the community, the court shall, on the available information, consider the relevant facts including: the length and character of the accused's residence in the community; his the accused's employment status and history and financial condition; his the accused's family ties and relationships; his the accused's reputation, character and mental condition; his the accused's history of response to legal process; his prior the accused's criminal record; the willingness of responsible members of the community to vouch for the accused's reliability and assist him the accused in appearing in court complying with conditions of release; the nature of the charge; and any other factors indicating the accused's ties to the community; the accused's past record of threats to victims or witnesses or interference with witnesses or the administration of justice; whether or not there is evidence of present threats or intimidation directed to witnesses; the accused's past record of committing offenses while on pretrial release, probation or parole; the accused's past record of use of or threatened use of deadly weapons or firearms, especially to victims or witnesses.

(c) Conditions of Release. Upon a showing that there exists a substantial danger that the accused will commit a serious crime or that he the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice, the court, upon the accused's release; may impose one or more of the following conditions:

(1) Prohibit him the accused from approaching or communicating in any manner with particular persons or classes of persons;

(2) Prohibit him the accused from going to certain geographical areas or premises;

(3) Prohibit him the accused from possessing any dangerous weapons or firearms, or engaging in certain described activities or indulging in possessing or consuming any intoxicating liquors or in certain drugs not prescribed to the accused;

(4) Require him the accused to report regularly to and remain under the supervision of an officer of the court or other person or agency;

(5) Prohibit the accused from committing any law violations;

(6) Require the accused to post a secured or unsecured bond, conditioned on compliance with all conditions of release. This condition may be imposed only if no less restrictive condition or combination of conditions would reasonably assure the safety of the community or the appearance of the defendant.

(d) Delay of Release. The court may delay release of a person in the following circumstances:

(1) If the person is intoxicated and his release will jeopardize his the person's safety or that of others, the court may delay release of the person or have the person

transferred to the custody and care of a treatment center.

(2) If the person's mental condition is such that the court believes he the person should be interviewed by a mental health professional for possible commitment to a mental treatment facility pursuant to RCW 71.05, the court may delay release of the person.

(3) Unless other grounds exist for continued detention, a person detained pursuant to this section must be released from detention not later than 24 hours after the preliminary appearance.

(e) Release in Capital Cases. Any person charged with a capital offense shall not be released in accordance with sections (a) through (c) this rule unless the court has reason to believe that no one or more conditions of release finds that release on conditions will reasonably assure that the accused will not flee the state or appear for later hearings, will not significantly interfere with the administration of justice and will not pose a substantial danger to another or the community. If a risk of flight, interference or danger is believed to exist, the person may be ordered detained without bail.

(f) Release After Finding or Plea of Guilty. After a person has been found or pleaded guilty, the court may revoke, modify, or suspend the terms of release and/or bail previously ordered.

(g) Order for Release. A court authorizing the release of the accused under this rule shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform him the accused of the penalties applicable to violations of the conditions imposed, if any, shall inform him the accused of the penalties applicable to violations of the conditions of his the accused's release and shall advise him the accused that a warrant for his the accused's arrest may be issued upon any such violation.

(h) Review of Conditions. Upon determining the conditions of release, the court, upon request, after 24 hours from the time of release or earlier if provided with new information, may review the conditions previously imposed.

(i) Amendment or Revocation of Order.

(1) The court ordering the release of an accused on any condition specified in this rule may at any time on change of circumstances, new information or showing of good cause amend its order to impose additional or different conditions for release.

(2) Upon a showing that the accused has willfully violated a condition of release, the court may revoke release and may order forfeiture of any bond.

(j) Arrest for Violation of Conditions.

(1) Arrest With Warrant. Upon the court's own motion or a verified application by the prosecuting attorney alleging with specificity that an accused has willfully violated a condition of his the accused's release, a court shall order the accused to appear for immediate hearing or issue a warrant directing the arrest of the accused for immediate hearing for reconsideration of conditions of release pursuant to section (i).

(2) Arrest Without Warrant. A law enforcement officer having probable cause to believe that an accused released pending trial for a felony is about to leave the

state or has violated a condition of such release under circumstances rendering the securing of a warrant impracticable may arrest the accused and take him forthwith before the court for reconsideration of conditions of release pursuant to section (i).

(k) Evidence. Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(l) Forfeiture. Nothing contained in this rule shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

(m) Accused Discharged on Recognizance or Bail—Absence—Forfeiture. If the accused has been discharged on his the accused's own recognizance, on bail, or has deposited money instead thereof, and does not appear when his the accused's personal appearance is necessary or violated conditions of release, the court, in addition to the forfeiture of the recognizance, or of the money deposited, may direct the clerk to issue a bench warrant for his the accused's arrest.

CrR 3.3(d), 3.3(h)

Purpose

The amendment to CrR 3.3(d)(4) was requested by Mr. Seth Dawson, Snohomish County Prosecuting Attorney and Chair of the Washington Association of Prosecuting Attorneys Judicial Rules Committee. In support of the suggestion, Mr. Dawson stated that present CrR 3.3(d)(4) explicitly addresses only the situation in which an appellate court orders a new trial. In this circumstance, CrR 3.3(d)(4) provides that the 60-day or 90-day time for trial periods begin again, measured from the defendant's next appearance in superior court after the clerk's receipt of the appellate court mandate. Mr. Dawson stated that the time during which an appeal is pending is an excluded period under CrR 3.3(g)(5), but that the time for trial period arguably does not restart if the appellate court does anything other than order a new trial. Therefore, if an appealable order is entered late in the time for trial period, the State may have very little time to reschedule the new trial after the appellate court action.

Mr. Dawson's suggested revision is intended explicitly to state that the 60-day or 90-day time for trial periods begin again in other situations in which trial will be necessary after an appeal. As examples of such situations, Mr. Dawson listed: (1) successful state appeals of orders of dismissal or of orders suppressing evidence; (2) unsuccessful state appeals of orders granting new trials; and (3) trials following discretionary review on motion of either party.

In examining the rule, the committee became concerned about the imprecision or ambiguity of the idea of "appearance", which is the triggering event for the commencement of the time for trial periods. Rather than permitting the State to control the timing and content of the "appearance", the committee added "by or on behalf of the defendant" to enable the defendant to prevent delays.

CrR 3.3(d)

(d) Extensions of Time for Trial. The following extensions of time limits apply notwithstanding the provisions of section (c):

(1) Revocation of Release. A defendant who has been released from jail pending trial, pursuant to an order imposing conditions of release, but whose release is then revoked by order of the court, shall be brought to trial within such a time period that the defendant spends no more than a total of 60 days in jail following the date of arraignment, and in any event within such a time period that the defendant is tried not later than a total of 90 days after the date of arraignment unless the time period is otherwise extended by this rule.

(2) Failure To Appear. When a defendant who has already been arraigned fails to appear for any trial or pretrial proceeding at which the defendant's presence is required pursuant to rule 3.4, the defendant shall be brought to trial not later than 60 days after the date upon which the defendant is present in the county where the criminal charge is pending and the defendant's presence has been made known to the court on the record, if the defendant is thereafter detained in jail or not later than 90 days after such date if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(3) Mistrial and New Trial. If before verdict the superior court orders a mistrial, the defendant shall be brought to trial not later than 60 days after the oral order of the court if the defendant is thereafter detained in jail or not later than 90 days after the oral order if the defendant is not detained in jail and whether or not the defendant is subjected to conditions of release. If after verdict the superior court orders a new trial, the defendant shall be brought to trial not later than 60 days after entry of the written order of the court if the defendant is thereafter detained in jail, or not later than 90 days after entry of such written order if the defendant is not detained in jail and whether or not the defendant is thereafter subjected to conditions of release.

(4) Retrial After ~~Appellate Reversal~~ Appeal. If a cause is remanded for trial after an appellate court ~~orders a new trial~~ accepts review, the defendant shall be brought to trial not later than 60 days after that appearance by or on behalf of the defendant in superior court, with notice to both parties of any such appearance, which next follows receipt by the clerk of the superior court of the mandate or other written order, if after such appearance the defendant is detained in jail, or not later than 90 days after such appearance if the defendant is thereafter released whether or not subject to conditions of release.

(5) Change of Venue. If a change of venue has been granted pursuant to rule 5.2, the case shall be transferred to the receiving court as soon as practicable but within 7 days and the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the date upon which the court to which the case is being transferred for trial receives the filing of the case, whichever is later. If, however, after a change of

venue is attempted, the criminal calendar of the receiving county will prevent compliance with the time limits within this section, the trial shall commence on the earliest available date permitted by the criminal calendar of the receiving county.

(6) Disqualification. If the prosecuting attorney or judge becomes disqualified from participating in the case, the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the disqualification, whichever is later.

(7) Withdrawal of Guilty Plea. If a defendant has been permitted to withdraw a plea of guilty, the defendant shall be brought to trial not later than 60 days after the date of the written order allowing withdrawal of the guilty plea if the defendant is thereafter detained in jail or not later than 90 days if the defendant is thereafter released from jail, whether or not subjected to conditions of release.

(8) Five-Day Extensions. When a trial is not begun on the date set because of unavoidable or unforeseen circumstances beyond the control of the court or the parties, the court, even if the time for trial has expired, may extend the time within which trial must be held for no more than 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension. If the nature of the unforeseen or unavoidable circumstance continues, the court may extend the time for trial in increments of not to exceed 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension.

CrR 3.3(h)

(h) Continuances. Continuances or other delays may be granted as follows:

(1) Upon written agreement of the parties which must be signed by the defendant or all defendants. The agreement shall be effective when approved by the court on the record or in writing.

(2) On motion of the State, the court or a party, the court may continue the case when required in the administration of justice and the defendant will not be substantially prejudiced in the presentation of his or her defense. The motion must be filed on or before the date set for trial or the last day of any continuance or extension granted pursuant to this rule. The court must state on the record or in writing the reasons for the continuance.

CrR 4.2(f), 4.2(g)

Purpose

The proposed new sentence in subsection (g)(5) adds an additional advertisement to the "Statement of Defendant on Plea of Guilty". The committee concluded a defendant who pleads guilty should be cautioned about possible monetary consequences other than a fine. Examples of other monetary effects of the conviction may be found in RCW 9.94A.120(9), which states that the court may require repayments for: restitution, court

costs, costs of extradition, recoupment of fees for court appointed counsel, and contributions to a drug fund.

The drafting subcommittee attempted to use simplified terminology, then concluded it was best to be accurate, and basically followed the statutory language. The defendant will be alerted to make inquiry.

The proposed amendment to CrR 4.2(f) reflects the committee's decision to revise gender-specific terminology in rules being altered substantively.

CrR 4.2(f)

(f) Withdrawal of Plea. The court shall allow a defendant to withdraw his the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court later determines under RCW 9.94A.090 that the agreement is not binding, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered.

CrR 4.2(g)

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

SUPERIOR COURT OF WASHINGTON
FOR [] COUNTY

THE STATE OF
WASHINGTON,
Plaintiff,
v.
Defendant.

No. _____

STATEMENT OF
DEFENDANT ON
PLEA OF GUILTY

1. My true name is _____.

2. My age is _____.

3. I went through the _____ grade in school.

4. I have been informed and fully understand that I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is _____.

5. I have been informed and fully understand that I am charged with the crime of _____, that the elements of the crime are _____.

_____ ,
the maximum sentence(s) for which is (are) _____ years
and \$ _____ fine. The standard sentence range for the
crime is at least _____ and not more
than _____, based upon my criminal history which
I understand the Prosecuting Attorney says to be: _____.

In addition, I may have to pay restitution, costs, assessments, and recoupment of expenses for defense services provided by the court. I have been given a copy of the information.

6. I have been informed and fully understand that:

(a) I have the right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.

(b) I have the right to remain silent before and during trial, and I need not testify against myself.

(c) I have the right at trial to hear and question witnesses who testify against me.

(d) I have the right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me.

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.

(f) I have the right to appeal a determination of guilt after a trial.

(g) If I plead guilty I give up the rights in statements 6(a)-(f).

7. I plead _____ to the crime of _____ as charged in the _____ information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. I have been informed and fully understand the Prosecuting Attorney will make the following recommendation to the court: _____

12. I have been informed and fully understand that the standard sentencing range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions or guilty pleas at juvenile court that are felonies and which were committed when I was 15 years of age or older. Juvenile convictions count only if I was less than 23 years of age at the time I committed this present offense. I fully understand that if criminal history in addition to that listed in paragraph 5 is discovered, both the standard sentence range and the Prosecuting Attorney's recommendation may increase. Even so, I fully understand that my plea of guilty to this charge is binding upon me if accepted by the court, and I cannot change my mind if additional criminal history is discovered and the standard sentence range and Prosecuting Attorney's recommendation increases.

13. I have been informed and fully understand that the court does not have to follow anyone's recommendation as to sentence. I have been fully informed and fully understand that the court must impose a sentence within the standard sentence range unless the court finds substantial and compelling reasons not to do so. If the court goes outside the standard sentence range, either I or the State can appeal that sentence. If the sentence is within the standard sentence range, no one can appeal the sentence.

14. I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

15. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement: _____

16. I have read or have had read to me and fully understand all of the numbered paragraphs above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the court.

Defendant

Prosecuting Attorney

Defendant's Lawyer

The foregoing statement was read by or to the defendant and signed by the defendant in the presence of his or her the defendant's attorney, and the undersigned Judge, in open court. The court finds the defendant's plea of guilty to be knowingly, intelligently and voluntarily made, that the court has informed the defendant of the nature of the charge and the consequences of the plea, that there is a factual basis for the plea, and that the defendant is guilty as charged.

Dated this _____ day of _____, 19__.

Judge

I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19__.

Interpreter

CrR 4.3

Purpose

During its review of the rules governing joinder of offenses, the drafting subcommittee concluded CrR 4.3(a)(3) was a substantive provision unrelated to the bases for joinder. Because section (a) enumerates the reasons supporting joinder, the subcommittee moved all of subsection (a)(3) into a separate section, but made no other revisions.

CrR 4.3(c)(3) was revised because as pointed out by Kern Cleven, waiver is discussed in CrR 4.3(c)(2), not in section (b). Therefore, the cross reference was incorrect.

JOINDER OF OFFENSES AND DEFENDANTS

(a) Joinder of Offenses. Two or more offenses may be joined in one charge, with each offense stated in a separate count, when the offenses, whether felonies or misdemeanors or both:

(1) Are of the same or similar character, even if not part of a single scheme or plan; or

(2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan;

~~(3) Improper joinder of offenses or defendants shall not preclude subsequent prosecution on the same charge for the charge or defendant improperly joined.~~

(b) Joinder of Defendants. Two or more defendants may be joined in the same charge:

(1) When each of the defendants is charged with accountability for each offense included;

(2) When each of the defendants is charged with conspiracy and one or more of the defendants is also charged with one or more offenses alleged to be in furtherance of the conspiracy; or

(3) When, even if conspiracy is not charged and all of the defendants are not charged in each count, it is alleged that the several offenses charged:

(i) were part of a common scheme or plan; or

(ii) were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others.

(c) Failure To Join Related Offenses.

(1) Two or more offenses are related offenses, for purposes of this rule, if they are within the jurisdiction and venue of the same court and are based on the same conduct.

(2) When a defendant has been charged with two or more related offenses, ~~his~~ the timely motion to join them for trial should be granted unless the court determines that because the prosecuting attorney does not have sufficient evidence to warrant trying some of the offenses at that time, or for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to so move constitutes a waiver of any right of joinder as to related offenses with which the defendant knew he was charged.

(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for a related offense, unless a motion for joinder of these offenses was previously denied or the right of joinder was waived as provided in ~~section (b)~~ this rule. The motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting attorney was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.

(4) Entry of a plea of guilty to one offense does not bar the subsequent prosecution of a related offense unless the plea of guilty was entered on the basis of a plea agreement in which the prosecuting attorney agreed to seek or not to oppose dismissal of other related charges or not to prosecute other potential related charges.

(d) Authority of Court To Act on Own Motion. The court may order consolidation for trial of two or more indictments or informations if the offenses or defendants could have been joined in a single charge.

(e) Improper Joinder. Improper joinder of offenses or defendants shall not preclude subsequent prosecution on the same charge for the charge or defendant improperly joined.

CrR 4.7

Purpose

CrR 4.7(h)(3) presently requires an attorney to retain exclusive custody of any materials received pursuant to the rule. As a result, a defense lawyer cannot send copies

of reports to the client, but must arrange for the client to read the materials in the lawyer's office. If the client is in custody, the defense attorney must arrange for someone to read to the client, or wait while the client reads the reports.

The drafting subcommittee agreed that the rule was cumbersome and, probably, ineffectual. The defense is burdened with controlling access to the information, yet the defendant is able to read all the reports. In addition, the subcommittee believed there were other avenues within the rule for protecting information much more effectively than imposing an exclusive custody requirement on the defense lawyer. For example, the prosecution may always seek a protective order under CrR 4.7(h)(4) if nondisclosure to a defendant is considered necessary.

Amendments to CrR 4.7(a)(1), (a)(3), (a)(4), (b)(1), (b)(2)(vi), (b)(2)(vii), (b)(2)(xi), (b)(2)(xii), (b)(2)(xiii), (b)(2)(xiv), (f)(2), (h)(2), and (h)(4) reflect the committee's policy of correcting gender-specific pronouns. These changes also correct mistaken cross references to "standards".

DISCOVERY

(a) Prosecutor's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting attorney shall disclose to the defendant the following material and information within his the prosecuting attorney's possession or control no later than the omnibus hearing:

(i) the names and addresses of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses;

(ii) any written or recorded statements and the substance of any oral statements made by the defendant, or made by a codefendant if the trial is to be a joint one;

(iii) when authorized by the court, those portions of grand jury minutes containing testimony of the defendant, relevant testimony of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial, and any relevant testimony that has not been transcribed;

(iv) any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and scientific tests, experiments, or comparisons;

(v) any books, papers, documents, photographs, or tangible objects, which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belonged to the defendant; and

(vi) any record or prior criminal convictions known to the prosecuting attorney of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial.

(2) The prosecuting attorney shall disclose to the defendant:

(i) any electronic surveillance, including wiretapping, of the defendant's premises or conversations to which the defendant was a party and any record thereof;

(ii) any expert witnesses whom the prosecuting attorney will call at the hearing or trial, the subject of their testimony, and any reports they have submitted to the prosecuting attorney;

(iii) any information which the prosecuting attorney has indicating entrapment of the defendant.

(3) Except as is otherwise provided as to protective orders, the prosecuting attorney shall disclose to defendant's counsel any material or information within his the prosecuting attorney's knowledge which tends to negate defendant's guilt as to the offense charged.

(4) The prosecuting attorney's obligation under this section is limited to material and information within the knowledge, possession or control of members of his the prosecuting attorney's staff.

(b) Defendant's Obligations.

(1) Except as is otherwise provided as to matters not subject to disclosure and protective orders, the defendant shall disclose to the prosecuting attorney the following material and information within his the defendant's control no later than the omnibus hearing: the names and addresses of persons whom the defendant intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witness.

(2) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, the court on motion of the prosecuting attorney or the defendant, may require or allow the defendant to:

(i) appear in a lineup;

(ii) speak for identification by a witness to an offense;

(iii) be fingerprinted;

(iv) pose for photographs not involving reenactment of the crime charged;

(v) try on articles of clothing;

(vi) permit the taking of samples of or from his the defendant's blood, hair, and other materials of his the defendant's body including materials under his the defendant's fingernails which involve no unreasonable intrusion thereof;

(vii) provide specimens of his the defendant's handwriting;

(viii) submit to a reasonable physical, medical, or psychiatric inspection or examination;

(ix) state whether there is any claim of incompetency to stand trial;

(x) allow inspection of physical or documentary evidence in defendant's possession;

(xi) state whether his the defendant's prior convictions will be stipulated or need to be proved;

(xii) state whether or not he the defendant will rely on an alibi and, if so, furnish a list of alibi witnesses and their addresses;

(xiii) state whether or not he the defendant will rely on a defense of insanity at the time of the offense;

(xiv) state the general nature of his the defense.

(3) Provisions may be made for appearance for the foregoing purposes in an order for pretrial release.

(c) Additional Disclosures Upon Request and Specification. Except as is otherwise provided as to matters not subject to disclosure the prosecuting attorney shall, upon

request of the defendant, disclose any relevant material and information regarding:

(1) Specified searches and seizures;

(2) The acquisition of specified statements from the defendant; and

(3) The relationship, if any, of specified persons to the prosecuting authority.

(d) Material Held by Others. Upon defendant's request and designation of material or information in the knowledge, possession or control of other persons which would be discoverable if in the knowledge, possession or control of the prosecuting attorney, the prosecuting attorney shall attempt to cause such material or information to be made available to the defendant. If the prosecuting attorney's efforts are unsuccessful and if such material or persons are subject to the jurisdiction of the court, the court shall issue suitable subpoenas or orders to cause such material to be made available to the defendant.

(e) Discretionary Disclosures.

(1) Upon a showing of materiality to the preparation of the defense, and if the request is reasonable, the court in its discretion may require disclosure to the defendant of the relevant material and information not covered by sections (a), (c) and (d).

(2) The court may condition or deny disclosure authorized by this rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment, resulting from such disclosure, which outweigh any usefulness of the disclosure to the defendant.

(f) Matters Not Subject to Disclosure.

(1) Work Product. Disclosure shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of investigating or prosecuting agencies except as to material discoverable under subsection (a)(1)(iv).

(2) Informants. Disclosure of an informant's identity shall not be required where his the informant's identity is a prosecution secret and a failure to disclose will not infringe upon the constitutional rights of the defendant. Disclosure of the identity of witnesses to be produced at a hearing or trial shall not be denied.

(g) Medical and Scientific Reports. Subject to constitutional limitations, the court may require the defendant to disclose any reports or results, or testimony relative thereto, of physical or mental examinations or of scientific tests, experiments or comparisons, or any other reports or statements of experts which the defendant intends to use at a hearing or trial.

(h) Regulation of Discovery.

(1) Investigations Not To Be Impeded. Except as is otherwise provided with respect to protective orders and matters not subject to disclosure, neither the counsel for the parties nor other prosecution or defense personnel shall advise persons other than the defendant having relevant material or information to refrain from discussing the case with opposing counsel or showing opposing counsel any relevant material, nor shall they otherwise impede opposing counsel's investigation of the case.

(2) Continuing Duty To Disclose. If, after compliance with these standards rules or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, ~~he~~ the party shall promptly notify the other party or his their counsel of the existence of such additional material, and if the additional material or information is discovered during trial, the court shall also be notified.

(3) Custody of Materials. Any materials furnished to an attorney pursuant to these standards rules shall remain in the exclusive custody of the attorney and be used only for the purposes of conducting his the party's side of the case, and shall be subject to such other terms and conditions as the court may provide.

(4) Protective Orders. Upon a showing of cause, the court may at any time order that specified disclosure be restricted or deferred, or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit his the party's counsel to make beneficial use thereof.

(5) Excision. When some parts of certain material are discoverable under this rule, and other parts not discoverable, as much of the material shall be disclosed as is consistent with this rule. Material excised pursuant to judicial order shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(6) In Camera Proceedings. Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosure, or portion of such showing, to be made in camera. A record shall be made of such proceedings. If the court enters an order granting relief following a showing in camera, the entire record of such showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(7) Sanctions.

(i) if at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the court may order such party to permit the discovery of material and information not previously disclosed, grant a continuance, dismiss the action or enter such other order as it deems just under the circumstances.

(ii) willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court.

CrR 6.15(b)

~~(b) Statute Abrogated. That portion of RCW 10.52-.040, reading as follows, is hereby abrogated:~~

~~And provided further, That it shall be the duty of the court to instruct the jury that no inference of guilt shall arise against the accused if the accused shall fail or refuse to testify as a witness in his or her own behalf. [Reserved.]~~

CrR 6.15(c)

(c) Objection to Instructions. Before instructing the jury, the court shall supply counsel with copies of the proposed numbered instructions, verdict and special finding forms. The court shall afford to counsel an opportunity in the absence of the jury to object to the giving of any instructions and the refusal to give a requested instruction or submission of a verdict or special finding form. The party objecting shall state the reasons for his the objection, specifying the number, paragraph, and particular part of the instruction to be given or refused. The court shall provide counsel for each party with a copy of the instructions in their final form.

CrR 7.1(b)

Purpose

The proposed amendment to CrR 7.1(b) requires the presentence report, if one is ordered, to contain information about the victim.

Other changes revised gender-specific pronouns.

(b) Report. The report of the presentence investigation shall contain the defendant's criminal history, as defined by RCW 9.94A.030, and such information about his the defendant's characteristics, his financial condition, and the circumstances affecting his the defendant's behavior as may be relevant in imposing sentence or in the correctional treatment of the defendant, information about the victim, and such other information as may be required by the court.

CrR 7.2(b)

Purpose

The deletion of the indicated phrase in CrR 7.2(b) eliminates an internal ambiguity in the rule. The Washington Association of Prosecuting Attorneys' letter mentioned above suggested that the phrase should be moved into CrR 7.2(b)(1). Upon examination, the drafting subcommittee decided the phrase was contradictory because, pursuant to CrR 7.2(b)(2), a defendant who pleads guilty can appeal a sentence outside the standard sentence range. Therefore, the committee chose to delete, rather than to move, the phrase.

The amendments to CrR 7.2(b)(4) are intended to clarify the precise functions of the superior court clerk in the event a defendant wishes to exercise his or her right to appeal. The correct interpretation is that the clerk will supply a copy of the form and will file it after the defendant has completed it. As now drafted, the rule appears to require the clerk to complete the form.

(b) Procedure at Time of Sentencing. The court shall, at the time of sentencing, ~~unless the judgment and sentence are based on a plea of guilty~~, advise the defendant: (1) of his the right to appeal the conviction; (2) of the right to appeal a sentence outside the standard sentence range; (3) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; (4) that the superior court clerk will, if requested by the defendant appearing without counsel, file supply a notice of appeal ~~in his behalf~~ form and file it upon completion

by the defendant; and (5) of his the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal. These proceedings shall be made a part of the record.

CrR 7.8

Purpose

The original set of Superior Court Criminal Rules, 82 Wn.2d 1114 (1973), contained a rule 7.7 governing post-conviction relief. The prior and subsequent history relating to CrR 7.7 were described in In re Hagler, 97 Wn.2d 818, 650 P.2d 1103 (1982) as:

Personal restraint procedure has its origins in the State's habeas corpus remedy, guaranteed by article 4, section 4 of the state constitution. Prior to 1947, decisional law limited postconviction relief by petition for writ of habeas corpus to cases where the judgment and sentence could be said to be void on their face. But in 1947 the Legislature amended RCW 7.36.130(1) in an attempt to expand postconviction relief. This resulted in the development on a case-by-case basis of a somewhat haphazard habeas corpus procedure. In an effort to achieve a unified, systematic and expeditious procedure for postconviction relief, this court promulgated CrR 7.7, effective July 1973. Three years later, the rule was reformulated in RAP 16.3-16.15 to provide for postconviction relief by personal restraint petition.

(Citations omitted.) In re Hagler, *supra* at 823. CrR 7.7 was rescinded when the Rules of Appellate Procedure were adopted. The habeas corpus writ procedure under RCW 7.36 is still available.

In 1979, the Supreme Court held that CR 60(b) applied to the vacation of judgments or orders in criminal cases. State v. Scott, 92 Wn.2d 209, 595 P.2d 549 (1979). Specifically, CR 60(b)(11) was held to support vacation of an erroneous judgment that resulted from inaccuracies in the presentation of the underlying facts during the sentencing proceeding.

Subsequent appellate court cases have elaborated on the decision in Scott. In State v. Hall, 32 Wn. App. 108, 645 P.2d 1143, review denied, 97 Wn.2d 1037 (1982), the State moved to vacate a judgment when it was discovered that the defendant had lied about his name, thereby concealing previous convictions. The Court of Appeals concluded that CR 60(b) was appropriate authority for the trial court's decision to vacate the judgment for fraud.

In State v. Keller, 32 Wn. App. 135, 647 P.2d 35 (1982), the trial court dismissed with prejudice all charges against a juvenile offender because of the prosecution's unreasonable delay in filing charges. The trial court thereafter reconsidered and reversed its decision in reinstating the order of dismissal, the appellate court noted that direct appeal is the remedy for correcting errors of law; CR 60(b) permits vacation of judgments only for reasons extraneous to the court's action or for matters affecting the regularity of the proceedings. These two bases for vacation were also stated to limit the "any other reason" phrase in CR 60(b)(11). 32 Wn. App. at 140-41.

The drafting subcommittee agreed that the Scott decision, applying CR 60 to criminal cases, should be codified in a court rule, in part to assist practitioners who do not regularly practice criminal law. The rule would be numbered as 7.8 to avoid confusion with the much broader, pre-RAP rule, which had evolved into the personal restraint procedure. The drafting subcommittee also concluded CR 60 would have to be selectively incorporated because portions such as CR 60(b)(7) do not arise in criminal cases.

Proposed rule 7.8(a) is identical to CR 60(a). The subcommittee decided a defendant would be adequately protected by the provision for notice as directed by the court.

Proposed rule 7.8(b) incorporates most of CR 60(b), and includes as pertinent grounds for the motion in criminal cases: CR 60(b)(1), CR 60(b)(3), CR 60(b)(4), CR 60(b)(5), and CR 60(b)(11).

The drafting subcommittee also included the first and last sentences of the concluding paragraph in CR 60(b). Thus, the time limits under new rule 7.8(b) are precisely identical to the time periods in CR 60(b). Motions predicated on CrR 7.8(b)(1) or (b)(2) must be made within 1 year after the judgment, order, or proceeding occurred. Motions claiming the grounds enumerated in CrR 7.8(b)(3), (b)(4), or (b)(5) must be made within a reasonable time. It appears there are no appellate court cases addressing the application of the CR 60(b) time limits to criminal cases. However, the subcommittee concluded the time limits seemed appropriate under Scott and in the context of criminal law.

Proposed rule 7.8 omits CR 60(c) and (d), and provides a substantially revised procedure from the one outlined in section (e) of the civil rule.

In the initial, revised March 25, 1985, transmittal, Mr. Dawson had suggested a subsection (c) providing: "(c) Other Remedies. This rule and RCW 7.36 provide the exclusive means whereby the court may review a judgment rendered by a superior court in a criminal case." The subcommittee rejected this restriction for several reasons. First, the subsection clearly exceeded the scope of Scott and its progeny. Second, the decision to extend CR 60 to criminal cases had been made in the face of existing procedures under RCW 7.36 and RAP 16.3 *et seq.* Third, it seemed inappropriate and unnecessary to limit a superior court's power without fully understanding the impact of the limitation, or the necessity for it, especially since the idea was to codify case law. Fourth, CR 60 had a narrow scope anyway, as illustrated by the criminal cases interpreting the situations in which it may and may not be used by the trial court.

In the subsequent, April 30, 1985, transmittal, Mr. Dawson did not disagree with the deletion of his suggested section (c). Instead, he commented upon the drafting subcommittee's version of the rule, suggesting that CrR 7.8(b)(4) should be deleted, and a sentence added in CrR 7.8(b)(2) requiring a superior court to transfer to the appellate court any motion claiming the judgment is void. Mr. Dawson explained that claims of "voidness" had a much broader meaning and arise much more frequently in criminal cases than in civil cases.

Because of the timing of the receipt of this comment, the full committee acted upon it, and rejected it. First, the committee members pointed out an important reason for a rule like CrR 7.8 is to enable the superior court to correct these kinds of errors. Second, section (c)(2) of the new rule gives the trial court sufficient alternatives to avoid the volume problems that Mr. Dawson opined were more easily handled by the already existing procedures in appellate courts under the personal restraint petition rules. Pursuant to proposed rule 7.8(c)(2), the superior court may deny the motion without a hearing if the facts alleged in the affidavits fail to establish grounds for relief. Third, that subsection recognizes the superior court's authority to transfer the motion to the Court of Appeals as a personal restraint petition. For these reasons, the full committee declined to require claims of "voidness" to be handled only by the appellate court.

RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RAP 7.2(e).

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.6;

(3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) The judgment is void; or

(5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken. A motion under section (b) does not affect the finality of the judgment or suspend its operation.

(c) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion stating the grounds upon which relief is asked, and supported by affidavits setting forth a concise statement of the facts or errors upon which the motion is based.

(2) Initial Consideration. The court may deny the motion without a hearing if the facts alleged in the affidavits do not establish grounds for relief. The court may transfer a motion to the Court of Appeals for consideration as a personal restraint petition if such transfer would serve the ends of justice. Otherwise, the court shall enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted.

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

WSR 86-14-002

ADOPTED RULES

FINANCE COMMITTEE

[Resolution No. 639—Filed June 19, 1986]

Be it resolved by the Washington State Finance Committee, acting at the Washington State Treasurers Office, Legislative Building, Olympia, Washington, that it does adopt the annexed rules relating to local government investment pool, chapter 210-01 WAC.

This action is taken pursuant to Notice No. WSR 86-10-056 filed with the code reviser on May 7, 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 chapter 294, 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 June 19, 1986.

By Robert S. O'Brien
State Treasurer and Chairman

LOCAL GOVERNMENT INVESTMENT POOL

NEW SECTION

✓ WAC 210-01-010 PROMULGATION. The STATE FINANCE COMMITTEE, after due and proper notice, and pursuant to the provisions of Chapter 294, Laws of 1986, hereby adopts and promulgates the following rules and regulations, effective July 1, 1986.

NEW SECTION

✓ WAC 210-01-020 DEFINITIONS. Unless the context requires otherwise:

(1) "Local Government Investment Pool" or "pool" means the aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

(2) "Pool Participant" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local Government Official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision.

(4) "Funds" means public funds under the control of or in the custody of any local government official by virtue of the official's authority that are not immediately required to meet current demands.

(5) "Financial Institution" means a qualified public depository as defined in RCW 39.58.010.

NEW SECTION

✓ WAC 210-01-030 LOCAL GOVERNMENT ORDINANCE OR RESOLUTION. All local government entities participating in the Local Government Investment Pool will file with the State Treasurer a certified copy of an ordinance or resolution containing the following:

- (1) Name and address of entity
- (2) A statement that the governmental entity agrees to deposit or withdraw funds in the Local Government Investment Pool in accordance with the provisions of the Washington Administrative Code for the purpose of investment as stated therein.
- (3) The names and titles of the officials authorized by this ordinance or resolution to order the deposit or withdrawal of funds in the Local Government Investment Pool. No more than two (2) signatures are necessary for this purpose.

NEW SECTION

✓ WAC 210-01-040 PROPER ADOPTION AND FILING OF LOCAL GOVERNMENT ORDINANCE OR RESOLUTION. It shall be the responsibility of local government officials to properly execute and file the resolution or ordinance, described in WAC 210-01-030 with the State Treasurer. The State Treasurer shall not allow participation in the Local Government Investment Pool unless such resolution or ordinance has been filed with the Office of State Treasurer.

NEW SECTION

✓ WAC 210-01-050 STATE TREASURER'S LIABILITY. The State Treasurer shall not be liable for any damages resulting from misfeasance, malfeasance, non-feasance, or defalcation on the part of local government officials.

NEW SECTION

✓ WAC 210-01-060 DEPOSIT AND WITHDRAWAL OF FUNDS. The minimum transaction size will be at least five thousand dollars (\$5,000.00).

NEW SECTION

✓ WAC 210-01-070 TRANSACTION LIMITATION. Each pool participant shall be limited to one (1) transaction per business day. This may be either a deposit to or a withdrawal from the pool.

NEW SECTION

✓ WAC 210-01-080 DEPOSIT PROCEDURES. A pool participant, to receive same day credit, must inform the State Treasurer's Office of a deposit by 9:00 a.m. of the day the deposit is to be made. All deposits will be made by electronic funds transfer to an account designated by the State Treasurer. It is the responsibility of each pool participant to pay any bank charges associated with such electronic transfers to the Office of the State

Treasurer. Failure to wire funds by a pool participant (after notification to the State Treasurer of an intended transfer) will result in a bank overdraft in the State Treasurer's bank account. Bank penalties for overdrafts will be assessed to those pool participants responsible for the overdraft.

NEW SECTION

✓ WAC 210-01-090 WITHDRAWAL PROCEDURES. A pool participant, in order to withdraw funds from the pool, must notify the State Treasurer by 9:00 a.m. of the day on which the withdrawal will take place. Each local government entity participating in the pool shall file with the State Treasurer a letter designating the financial institution at which funds withdrawn from the pool shall be deposited. This letter shall contain the name of the financial institution, location of the financial institution, account number to which funds will be deposited and account name. This letter shall be signed by local officials authorized to receive and disburse funds, as described in WAC 210-01-030. Disbursements from the pool will be by electronic funds transfer. Failure of the State Treasurer to wire funds to a pool participant (after proper notification to the State Treasurer to disburse funds to a pool participant) may result in a bank overdraft in the pool participant's bank account. The State Treasurer will reimburse pool participants for such bank overdraft penalties charged to the pool participant's bank account.

NEW SECTION

✓ WAC 210-01-100 INTEREST EARNINGS CREDIT. Interest earnings on funds deposited in the Local Government Investment Pool will be credited to each pool participant's account in the pool on the last day of the month in which the interest income was earned. These funds may be left on deposit and earn interest at the discretion of each pool participant.

NEW SECTION

✓ WAC 210-01-110 REPORTING REQUIREMENTS. The State Treasurer will provide to each pool participant a statement showing that participant's beginning balance, deposits, withdrawals, administrative charges, earnings rate, earnings, and ending balance for the calendar month.

NEW SECTION

✓ WAC 210-01-120 ADMINISTRATIVE FEES. The State Treasurer will charge a fee for the administration of the Local Government Investment Pool. This fee will be set in a manner that will allow the State Treasurer to recover costs associated with the pool. The fee will be based on the average daily balance of the funds deposited in the pool. Each participant will pay a proportionate share of the pool's expenses based upon its share of the total pool's assets. The fee will be expressed as a percentage of the average daily funds on deposit in the pool for a specified period. This fee will be charged against each participants earnings prior to the credit of

those earnings. For Fiscal Year 1987 the administrative fee will be set at one quarter (.25%) of one percent (1.00%). The administrative fee for following fiscal periods will be adjusted to reflect actual experience.

NEW SECTION

WAC 210-01-130 PORTFOLIO MANAGEMENT. The State Treasurer shall have sole responsibility in the setting of investment strategy for the Local Government Investment Pool. Any investments made hereunder shall be made with the exercise of that degree of judgement and care, under circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable income to be derived.

WSR 86-14-003

NOTICE OF PUBLIC MEETINGS

COMMISSION FOR VOCATIONAL EDUCATION

[Memorandum—June 18, 1986]

Tuesday, July 15, 1986

1:00 p.m. – 5:00 p.m.

Phoenix 'D' Room

Sea-Tac Hyatt House

17001 Pacific Highway South

Seattle, Washington

A special meeting of the Washington State Commission for Vocational Education will be held on Tuesday, July 15, 1986, beginning at 1:00 p.m. in the Phoenix D Room of the Sea-Tac Hyatt House.

The commissioners will hear public testimony and consider emergency adoption of the Washington Administrative Codes (WACs) to implement the new Private Vocational School Act (PVSA) legislation. This new legislation signed into law by Governor Gardner in April 1986 replaces the Educational Services Registration Act (ESRA). In addition, commissioners will receive an update on the Job Training Partnership Act Education Coordination and Grants Program.

An executive session(s) may be held, if necessary: To consider the appointment, employment, or dismissal of a public officer or employee; to consider the acquisition or sale of real estate; to consult with legal counsel; and/or to consider professional negotiations, grievances, or mediation proceedings. Action item(s), if necessary, as a result of executive session(s).

The meeting site is barrier free. Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Commission for Vocational Education, Building 17, Airdustrial Park, MS LS-10, Olympia, WA 98504 by July 1, 1986, phone (206) 753-5662 or scan 234-5662.

WSR 86-14-004

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 19, 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, repeal, and add sections to chapter 296-15 WAC, rules and regulations for self-insured employers. WAC 296-15-030 is being amended to include guidelines for governmental units' security requirements; 296-15-065 is a new section intended to establish guidelines for a self-insurer insolvency trust as required by new legislation; 296-15-070 proposes to amend reporting requirements on claims and sets time limits in submitting claims information; amendments are also proposed to set guidelines in having self-insured employers close their own time loss claims under certain conditions as passed by legislature; 296-15-072 is a new section intended to set the parameters in the study of self-insured employers closing their own time loss claims. This study is required by legislation; 296-15-21003 is being repealed as the SIF-#5 form has been revised; and new section 296-15-255 and amendments to 296-15-260 intend to clarify the director's and the department's responsibility in corrective action and withdrawal of an employer's status as a self-insurer;

that the agency will at 10:00 a.m., Tuesday, August 5, 1986, in the First Floor, Large Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 28, 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 August 5, 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
334 General Administration Building, HC-101
Olympia, Washington 98504

Dated: June 19, 1986

By: Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

STATEMENT OF PURPOSE

Title and Numbers of Rule Section(s) or Chapter(s): Chapter 296-15 WAC, rules and regulations for self-insured employers; includes WAC 296-15-030 Posting of security; 296-15-065 Self-insurers' insolvency trust; 296-15-070 Accident reports and claims procedures; 296-15-072 Claim closure study; 296-15-21003 Supplemental or final report on occupational disease; 296-15-255 Hearings for corrective action or withdrawal of certification; and 296-15-260 Corrective action or withdrawal of certification.

Statutory Authority: RCW 51.04.020.

Specific Statute Rules are Intended to Implement: Chapter 51.14 RCW.

Summary of the Rule(s): To make the following substantive and updating changes in chapter 296-15 WAC: Amend WAC 296-15-030 to include guidelines for governmental units' security requirements; establish WAC 296-15-065 to set guidelines for a self-insurer insolvency trust as required by new legislation; amend WAC 296-15-070 to change reporting requirements on claims and set time limits in submitting claim information, also to set guidelines in having self-insured employers close their own time loss claims under certain conditions as passed by legislature; establish WAC 296-15-072 to set the parameters in the study of self-insured employers closing their own time loss claims. This study is required by legislation; repeal WAC 296-15-21003 because the SIF-#5 form has been revised; and establish WAC 296-15-255 and amend WAC 296-15-260 to clarify the director's and the department's responsibility in corrective action and withdrawal of an employer's status as a self-insurer.

Reasons Supporting the Proposed Rules: To set guidelines to respond to new legislation; and to clarify employers' claims reporting requirements and the department's responsibility in corrective action.

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 Rules or Their 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 and new rules 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 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~~) except counties, cities, school districts, municipal corporations and individual accounts participating in a group self-insurance program. Subsection (6) of this section shall apply only to counties, cities and municipal corporations. 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 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 (c) of this subsection.

(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.

(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.

(6) Counties, cities, school districts and municipal corporations shall maintain adequate reserves to cover claim liabilities. The security requirement for each governmental unit shall be at the level of the stated reserves presented on the annual report of the self-insured employer. Additionally, each governmental unit shall maintain a contingency reserve at least equal to twenty percent of those stated reserves to pay department assessments, overhead expenses, and to provide a safeguard against adverse development of costs. At no time shall the total security level fall below the minimum security as determined by subsection (2) of this section or one hundred twenty percent of claim payments made in the prior calendar year. Dedicated funds, governmental securities, or surety bonds may be used to provide the necessary security. The security must be approved by the department. Anticipated recoveries under reinsurance policies held by a governmental unit must be documented by the employer and reported to the department to qualify for consideration in establishing security requirements. Such anticipated recoveries, upon approval by the department, shall be applied to the governmental unit's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7). The contingency reserve required of governmental units shall be based on total stated reserves, including anticipated reinsurance recoveries.

NEW SECTION

WAC 296-15-065 SELF-INSURERS' INSOLVENCY TRUST. A self-insurance insolvency fund shall be established in the office of the state treasurer. The purpose of this fund shall be to pay for any unsecured benefits paid to the injured workers of self-insured employers under Title 51 RCW for insolvent or defaulting self-insured employers, and to pay for the department's associated administrative costs, including attorneys' fees. This fund shall be financed by assessments levied against total claim payments as defined for purposes of the administrative cost assessment in WAC 296-15-060. These assessments shall be levied on a post-insolvency basis against all self-insurers except school districts, cities, and counties, including any such self-insurer(s) who have surrendered their certification at any time during the thirty-six months prior to the close of a quarter for which assessments to the insolvency fund are payable.

The administration of claims of any insolvent or defaulting self-insurer(s) shall be under the jurisdiction of the department.

Assessments for the self-insurers' insolvency fund shall be in amounts deemed adequate to reimburse the accident, medical aid and/or pension reserve funds for benefits paid from these funds to injured workers of insolvent or defaulting self-insurers, and for associated administrative costs including attorneys' fees. Establishing assessment rates for this purpose shall be the responsibility of a five-member board of trustees comprised of the director (or the director's designee) and four representatives of self-insured employers. Initially, the self-insurer representatives shall be appointed by the director from a list of names submitted by state-wide organizations of self-insurers and others, two of whom shall serve two-year terms and two of whom shall serve three-year terms. These appointments shall be made within thirty days of the effective date of this section. Thereafter, new self-insurer representatives shall be elected by the members of the board of trustees, each member having one vote. New members so elected shall serve two-year terms. In no event shall self-insurer representatives on the board be an owner, officer or employee of a service organization as defined in WAC 296-15-110.

No later than March 31 of each year, the board of trustees shall report in writing to the members of the state legislature regarding the status of the insolvency fund as of the previous December 31, and summarizing any events or transactions of interest or importance to the ongoing operation of the insolvency fund.

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~~) requesting denial of any claim, shall provide to the claimant, the department, and the attending physician, within (~~30~~) thirty days after such self-insurer has notice of the claim, a notice of request for denial of claim, substantially identical to the example SIF #4(~~(incorporated herein by reference)~~). With every such request for claim denial a self-insurer shall send to the department all information on which the (~~denial~~) request 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~~;) Labor and Industries form No. F207-005-000, Self-Insurer's Report of Occupational Injury or Disease, 7-86 (SIF-5) 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 or date temporary disability claim is closed.

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~~).

(c) A self-insurer, upon closure of a temporary disability claim, shall issue an order on a format substantially similar to Labor and Industries form No. F207-070-000, Self-Insured Employer's Time Loss Claim Closure Order and Notice, 7-86. The self-insurer shall send a copy of the closing order and final SIF-5 to the claimant and the department at the time of closure of a temporary disability claim.

(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.

(5) Self-insurers may close temporary disability claims with the date of injury occurring July 1, 1986, through June 30, 1988, and occupational disease claims filed July 1, 1986, through June 30, 1988. Self-insured claims that involve a permanent partial disability, an order issued by the department resolving a disagreement, or return to work with a different employer are not subject to closure by the self-insurer.

NEW SECTION

WAC 296-15-072 CLAIM CLOSURE STUDY. A study shall be conducted to determine if self-insured employers are administering claim closure in a proper manner. The study shall include issues involving proper payment of time loss benefits, correctness of claim closure, conditions and duration of reemployment, and correct application of the rehabilitation laws. Protests to claim closures and the outcome of these protests will also be considered. The study will be accomplished by having department disability adjudicators review self-insured temporary disability closures and compile the statistics. This staff will review documents submitted to the department and files at the employer's worksite. A form will be used to ensure consistency and objectivity in the study. The special assessment base shall be the total claim payments as defined for the administrative cost assessment in WAC 296-15-060.

NEW SECTION

WAC 296-15-255 HEARINGS FOR CORRECTIVE ACTION OR WITHDRAWAL OF CERTIFICATION. (1) This section applies only to proceedings to withdraw certification or for corrective action instituted by the director in response to a petition filed with the department pursuant to RCW 51.14.090. This section shall not apply to actions instituted by the director to withdraw certification pursuant to RCW 51.14.080 nor to corrective action instituted by the director pursuant to RCW 51.14.095.

(2) The director is authorized to institute proceedings which may result in corrective action or decertification of a self-insured employer when there is a petition for such action by an employee or union or association having a substantial number of employees in the employ of the self-insured.

When such proceedings are instituted in response to a petition filed under RCW 51.14.090, there shall be a hearing before the director to review and determine findings pertaining to the alleged grounds for action. Any such hearing shall be conducted in accordance with the department's rules governing administrative hearings. The director will notify all parties at least twenty days prior to the date of the hearing. The notice shall include the following:

- Nature of proceedings;
- Legal authority for holding the hearing;
- Reference to the section of statutes and rules involved;
- A description of matters asserted;
- The date, time, and place of the hearing.

All parties will be allowed to respond and present evidence and arguments on the issues involved.

Within thirty days of the hearing date, the department will provide written notification of the proceedings, findings, and conclusions to all hearing participants.

(3) If, following the hearing, the decision is to withdraw certification or take corrective action, such action shall comply with the provisions of RCW 51.14.090 (2) and (3) in the case of withdrawal of certification, and RCW 51.14.095 (1), (2), and (3) in the case of corrective action.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-260 CORRECTIVE ACTION OR WITHDRAWAL OF CERTIFICATION. (1) (~~The director is authorized to institute proceedings which may result in corrective action or decertification of a self-insured employer when there is cause to believe that a self-insured employer's program is not operating in accordance with the requirements of chapter 51 RCW or when there is a petition for~~

such action by a union or association having a substantial number of employees in the employ of the self-insured. (RCW 51.14.090)

(2) Corrective action or decertification proceedings shall include a hearing before the director to review and determine findings pertaining to the alleged grounds for action. Any such hearing shall be conducted in accordance with the department's rules governing administrative hearings:

(3) Corrective action or decertification proceedings may be based upon:

(a) Grounds for decertification specified in RCW 51.14.080;

(b) Grounds for corrective action specified in section 2, chapter 21, Laws of 1983;

(c) A petition filed pursuant to RCW 51.14.090;

(4) The director will notify all parties at least twenty days prior to the date of the administrative hearing. The notice shall include the following:

(a) Nature of proceedings;

(b) Legal authority for holding the hearing;

(c) Reference to the section of statutes and rules involved;

(d) A description of matters asserted;

(e) The date, time and place of the hearing;

All parties will be allowed to respond and present evidence and arguments on the issues involved:

(5) Within 30 days of the hearing date, the department will provide written notification of the proceedings, findings and conclusions to all hearing participants. If the self-insurer's program is deemed to be not in compliance with chapter 51 RCW, the following orders may be issued:

(a) A notice of corrective action which shall include the nature and specifics of the findings and may include any or all of the following:

((i)) Corrective action against a self-insured employer shall be by order and notice. A notice of corrective action shall include the nature and specifics of the findings and may include, but will not be limited to, the following:

(a) Probationary certification status for the self-insured employer for a period not to exceed one year;

((ii)) (b) Mandatory training to correct areas of program deficiencies to be approved by the department.

The subject matter to be covered shall be specified in the notice of corrective action. Personnel required to attend and the time period within which the training is to be conducted will also be identified.

((iii)) (c) Monitoring activities of the self-insured employer for a specified period of time to determine progress regarding correction of program deficiencies may be required. The department may require submission of complete and accurate records and/or conduct an audit to verify program compliance.

((iv)) (d) If there is a contract between the self-insured employer and a service organization which has been filed with the ((supervisor of industrial insurance)) department (WAC 296-15-110), the corrective action order may specify and require that the service organization be subject to mandatory training and monitoring of activity provisions of the order.

((v)) (e) The corrective action order shall specify a time frame for submission of progress reports to the department's self-insurance administrator.

((vi)) (f) During the first ((30)) thirty days following the corrective action order, the self-insured employer shall submit a plan for the implementation of corrective action which shall include specific completion dates. If the plan is determined to be incomplete or inadequate, the department's self-insurance administrator shall notify the self-insurer of the necessary requirements or changes needed, and shall specify the date by which an amended plan shall be submitted.

((b)) (2) If sufficient grounds for decertification exist, an order and notice will be issued. The order and notice will include, but will not be limited to:

((i)) (a) The findings of fact upon which the determination is based.

((ii)) (b) A statement to the self-insurer specifying the means by which the program deficiencies may be corrected.

((iii)) (c) The date, not less than ((30)) thirty days after the self-insured employer's receipt of the order and notice, when certification will be withdrawn in absence of satisfactory remedial action.

((iv)) (d) Provisions as stipulated by RCW 51.14.090.

((b)) (3) Upon conclusion of the probationary certification period in the case of corrective action, or the remedial action period in the case of decertification, the program deficiencies requiring corrective

action by the self-insured employer shall be evaluated by the department and a written report sent to affected parties. Program activities may be reaudited beyond the stated time period in order to assess continuing compliance with the objectives of the corrective action directives.

((7)) (4) If, at the conclusion of the probationary period or remedial action period, program deficiencies continue to exist, the department shall decide whether to extend the period of probation, require additional corrective action or proceed with decertification of the self-insured employer. An order and notice stating the decision shall be issued.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-15-21003 FORM-SIF #5-SUPPLEMENTAL OR FINAL REPORT ON OCCUPATIONAL INJURY OR DISEASE.

WSR 86-14-005

ADOPTED RULES

PUBLIC DEPOSIT PROTECTION COMMISSION

[Order 86-I, Resolution No. 86-003—Filed June 19, 1986]

Be it resolved by the Washington Public Deposit Protection Commission, acting at the Office of the State Treasurer, Legislative Building, Olympia, Washington, that it does adopt the annexed rules relating to Practice and procedure—Public depositaries, chapter 389-12 WAC.

This action is taken pursuant to Notice No. WSR 86-10-063 filed with the code reviser on May 7, 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 Public Deposit Protection Commission as authorized in RCW 39.58.040.

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

APPROVED AND ADOPTED June 19, 1986.

By Robert S. O'Brien
State Treasurer and Chairman

CHAPTER 389-12 WAC

PRACTICE AND PROCEDURE — PUBLIC DEPOSITARIES

AMENDATORY SECTION (Amending Order 84-II, Resolution No. 84-004, filed 10/11/84)

✓ WAC 389-12-010 PROMULGATION. The public deposit protection commission, hereinafter referred to as the "commission," after due and proper notice, and pursuant to the provisions of chapter 193, Laws of 1969 1st ex. sess., as last amended by chapters ((+77)) 25 and 160, Laws of ((+984)) 1986, hereinafter referred to as the "act," hereby adopts and promulgates the following

rules and regulations, effective ~~((October 10, 1984))~~
July 1, 1986.

AMENDATORY SECTION (Amending Order 84-11,
 Resolution No. 84-004, filed 10/11/84)

✓ WAC 389-12-020 DEFINITIONS. Unless the
 context requires otherwise:

(1) Qualified public depository. "Qualified public depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the commission to hold public deposits.

(2) Financial institution. A "financial institution" means any of the following which are located in this state and are lawfully engaged in business:

(a) Bank depositories—Any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, and any state bank or trust company or national banking association.

(b) Thrift depositories—Any state chartered mutual savings bank or stock savings bank, any state or federally chartered savings and loan association (including federally chartered savings bank).

(3) Investment deposits. The term "investment deposit" shall mean time deposits, ~~((and))~~ savings deposits, and money market deposit accounts of public funds available for investment. Savings deposits shall mean an interest bearing deposit of public funds that is subject to withdrawal and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. Time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a qualified public depository, or reflected in a book-entry system of such depository approved by federal regulatory authorities, state supervisor of banking and/or state supervisor of savings and loan associations, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or qualified public depositories. Money market deposit account shall mean an account established with a qualified public depository in accordance with Public Law No. 97-320, the Garn-St. Germain depository institutions act of 1982.

(4) Commission report. The "commission report" shall mean a formal accounting rendered by qualified public depositories to the commission, which details pertinent information of each depository as of the close of the last business day of each calendar quarter; the commission report is due in the office of the commission not later than thirty days after the end of the calendar quarter.

(5) Date of loss. The term "date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the financial institution by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a financial institution; or

(c) The date of the commencement of a voluntary liquidation proceeding for a financial institution; or

(d) The date of an order issued by a regulatory authority or a court of competent jurisdiction restraining a financial institution from making payments on deposit liabilities; or

(e) The date on which the commission declares that a financial institution no longer has the ability to repay public deposits in full.

(6) Depository pledge agreement. "Depository pledge agreement" means a written tri-party agreement, on a form supplied by the commission, wherein a financial institution, in compliance with the act and as a condition precedent to becoming or continuing to be a qualified public depository, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of its trust powers, to a federal reserve bank or any branch thereof or federal home loan bank or any branch thereof, which agrees to safekeep such securities for the primary benefit of the commission under the terms and conditions of the agreement and for the purposes set forth by the act and the regulations of the commission. Such agreement shall be executed on behalf of the commission by the chairman, who shall be the state treasurer.

(7) Segregation of collateral. "Segregation of collateral" means the transfer and delivery of eligible securities by a qualified public depository pursuant to a depository pledge agreement (RCW 39.58.050). A depository wishing to reduce the amount of securities pledged as collateral must submit a written request to the commission. The trustee holding the collateral shall not allow a reduction of securities without the prior written approval of the commission. ~~((Eligible securities shall not include coupon securities from which have been detached any coupon which is not matured at the time of transfer and delivery of such securities as segregated collateral.))~~ When a qualified public depository pledges eligible securities whose payments include a periodic principal reduction, the depository shall promptly advise the commission of the dates and amounts of such principal payments.

(8) Net worth. "Net worth" of a qualified public depository means:

(a) For a bank depository, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors;

(b) For a thrift depository, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and all capital notes and debentures which are subordinate to the interest of depositors, as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association, excluding appraised equity capital, ~~((and))~~ income capital certificates, ((and)) net worth certificates, and deferred losses on loans sold.

(9) Corporate fiduciary. "Corporate fiduciary" for the purposes of these rules means a financial institution as defined herein which is possessed of statutorily granted

trust authority: PROVIDED, That ((provided that)) for the purposes of this definition such financial institution need not be located or doing business in the state of Washington.

(10) Banking institution. "Banking institution" for the purposes of these rules means an institution organized under the laws of the United States, any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, except an institution the accounts of which are insured by the federal savings and loan insurance corporation or an institution chartered by the federal home loan bank board, which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans.

(11) Out-of-state bank. "Out-of-state bank" for the purposes of these rules means a banking institution as defined in WAC 389-12-020(10) which has its principal place of business outside the state of Washington.

(12) Alien bank. "Alien bank" for the purposes of these rules means a bank organized under the laws of a foreign country and having its principal place of business in that country, the majority of the beneficial ownership and control of which is vested in citizens of countries other than the United States of America.

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 389-12-071 MINIMUM STANDARDS FOR THE FINANCIAL CONDITION OF QUALIFIED PUBLIC DEPOSITARIES. Notwithstanding any other provisions of chapter 39.58 RCW and chapter 389-12 WAC, a qualified public depository must maintain a specified ratio of net worth to assets of not less than three percent. If such ratio for a depository shall fall below three percent, the depository shall pledge securities as collateral, valued at current market value, in a total amount at least equal to one hundred percent of its current public deposits: PROVIDED, That the commission may, at any time, in its discretion, require a depository to pledge additional collateral after consultation with appropriate regulatory authorities.

The collateral pledged under this section shall not be less than the maximum liability as required in RCW 39.58.050(1), but may include collateral required by RCW 39.58.130, RCW 39.58.135, and WAC 389-12-065.

NEW SECTION

WAC 389-12-075 COLLATERAL LEVEL TO BE MAINTAINED. Whenever a depository must pledge securities as collateral in accordance with RCW 39.58.130, RCW 39.58.135, WAC 389-12-065, and WAC 389-12-071, the depository must monitor its public funds on deposit on a daily basis and maintain securities, valued at current market value, accordingly.

NEW SECTION

WAC 389-12-140 DEMAND DEPOSIT ACCOUNT WITH BANKING INSTITUTION LOCATED OUTSIDE THE STATE OF WASHINGTON. A treasurer may, with the approval of the commission, establish a demand deposit account with an out-of-state bank or an alien bank. Prior to establishing such account, a treasurer shall submit, in writing, for review by the commission, the following information: (1) detailed information setting forth the justification for such account, projected cash flows, and other benefits which will accrue to the public entity through the establishment of such account; (2) period of time such account will be in use; (3) reasons such account cannot be established with a qualified public depository; (4) name and location of banking institution or alien bank and name and telephone number of contact person at banking institution or alien bank; (5) extent of deposit insurance provided by banking institution or alien bank; (6) most recent fiscal year end and quarterly financial report, if any, provided to regulatory agency and/or shareholders by banking institution or alien bank; (7) proposed method of ensuring safety of deposits if not fully covered by deposit insurance, and (8) such other information as the commission reasonably may require.

The account shall not be established until it shall have been authorized by a resolution of the commission setting forth the terms and conditions for such account. A copy of such resolution will be forwarded to the public entity, the state auditor, and the appropriate committee of the legislature.

Accounts authorized under this section are not considered to be protected against loss by the public deposit protection act.

WSR 86-14-006
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
[Filed June 19, 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 radioactive waste site surveillance fee, amending WAC 440-44-061.

It is the intention of the secretary to adopt these rules on an emergency basis on or about June 20, 1986;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 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 August 7, 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, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 18, 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 440-44-061.

Purpose of the Rule Change: To increase the radioactive waste site surveillance fee for the low-level waste disposal site operator from three to four percent of the basic minimum fee as defined in RCW 70.98.085(2).

This amendment is necessary to generate sufficient revenue to support disposal surveillance, environmental monitoring, and those essential radiation control activities of the department which are not otherwise covered by cost recovery programs.

Statutory Authority: RCW 43.20A.055 and 70.98.085.

Summary of the Rule Change: To increase the radioactive waste site surveillance fee from three to four percent of the basic minimum fee as defined in RCW 70.98.085(2), to be collected on a monthly basis.

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 the Department of Social and Health Services.

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

This rule does not meet the criteria for small business as defined in chapter 19.85 RCW. The emergency adoption is necessary to implement the August 1, 1986, fee increase. All fees will be reviewed by June 30 every year.

AMENDATORY SECTION (Amending Order 2283, filed 9/23/85)

WAC 440-44-061 RADIOACTIVE WASTE SITE SURVEILLANCE FEE. The operator of a low-level radioactive waste disposal site in this state shall collect from the waste generators and brokers a surveillance fee as an added charge on each cubic foot of low-level waste disposed at the disposal site. The fee shall be ~~((three))~~ four percent of the basic minimum fee as defined in RCW ~~((70.98.—(section 3, chapter 383, Laws of 1985)))~~ 70.98.085 and shall be remitted to the department ~~((quarterly))~~ monthly by the site operator. This fee will be reviewed prior to June 30, 1987, for consistency with budget allocations authorized by the legislature.

WSR 86-14-007
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)

[Order 2389—Filed June 19, 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 radioactive waste site surveillance fee, amending WAC 440-44-061.

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 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 RCW 43.20A-.055 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 18, 1986.

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

AMENDATORY SECTION (Amending Order 2283, filed 9/23/85)

WAC 440-44-061 RADIOACTIVE WASTE SITE SURVEILLANCE FEE. The operator of a low-level radioactive waste disposal site in this state shall collect from the waste generators and brokers a surveillance fee as an added charge on each cubic foot of low-level waste disposed at the disposal site. The fee shall be three percent of the basic minimum fee as defined in RCW ~~((70.98.—(section 3, chapter 383, Laws of 1985)))~~ 70.98.085 and shall be remitted to the department quarterly by the site operator. Effective August 1, 1986, the fee shall be four percent of the basic minimum fee as defined in RCW 70.98.085 and shall be remitted to the department monthly by the site operator. This fee will be reviewed prior to June 30, 1987, for consistency with budget allocations authorized by the legislature.

WSR 86-14-008
ADOPTED RULES
BOARD OF HEALTH
[Order 300—Filed June 19, 1986]

Be it resolved by the Washington State Board of Health, acting at the Council Chambers, Snohomish

Health District, Everett, Washington, that it does adopt the annexed rules relating to:

Amd WAC 248-40-040 Funerals, care of bodies, and burial.
Amd WAC 248-40-050 Transportation of human remains.

This action is taken pursuant to Notice No. WSR 86-10-074 filed with the code reviser on May 7, 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 Board of Health as authorized in RCW 43.20.050.

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

APPROVED AND ADOPTED June 11, 1986.

By John A. Beare, MD, MPH
Secretary

AMENDATORY SECTION (Amending Regulation 40.040, effective 3/11/60)

WAC 248-40-040 FUNERALS, CARE OF BODIES, AND BURIAL. (1) ((Funeral services for)) Definitions applicable to WAC 248-40-040 and 248-40-050.

(a) "Burial transit permit" means a form, approved and supplied by the state registrar of vital statistics pursuant to chapter 43.20A RCW, identifying the name of the deceased, date and place of death, general information, disposition and registrar and sexton information.

(b) "Common carrier" means any person transporting property for the general public for compensation as defined in chapter 81.80 RCW.

(c) "Embalmer" means a person licensed pursuant to chapter 18.39 RCW and engaged in the profession or business of disinfecting, preserving, or preparing dead human bodies for disposal or transportation.

(d) "Local registrar of vital statistics" means the health officer or administrator who registers certificates of birth and death occurring in his or her designated registration district as defined in chapter 70.58 RCW.

(2) Individuals who have died of ((the following named communicable diseases)) a reportable disease or condition, as described in chapter 248-100 WAC, shall be ((conducted under)) reported to the ((supervision of the)) local health officer ((Cholera, diphtheria, meningococcal meningitis, plague, poliomyelitis, and smallpox. The local health officer may permit the holding of a public funeral for such individuals provided members of the family or close associates of the deceased are satisfactorily segregated from the public, and provided that appropriate prophylactic treatment or immunization of such persons is accomplished according to the direction and orders of the local health officer)) pursuant to chapter 248-100 WAC.

~~(((3)))~~ (3) Bodies of persons who have died of cholera((;)) or plague((, or smallpox)) shall be properly embalmed or cremated. If embalmed, a licensed embalmer shall prepare such bodies in the following manner:

(a) The body shall be thoroughly embalmed with a suitably effective disinfectant solution.

(b) If the body is prepared for burial at the place of death, the rooms used for the preparation shall be thoroughly aired and cleaned.

(c) In lieu of preparing for burial at the place of death, a body may be wrapped completely in a sheet soaked with an effective disinfectant and removed to the embalmer's place of business for the process of embalming.

~~(((3)))~~ (4) The embalmer and ~~((/or))~~ anyone assisting ~~((to prepare the))~~ in preparation of a dead body ~~((of a person who has died of an infectious disease))~~ shall wear an outer garment and rubber gloves while handling the body during preparation. These shall be removed before coming into contact with other persons after preparation has been completed and shall be properly disinfected immediately thereafter.

~~(((4))~~ ~~Embalmers or their assistants shall not handle the bodies of persons who have died of smallpox unless said embalmers and assistants have been successfully vaccinated within the preceding three years and at least seven days prior to contact with the bodies.))~~

(5) All instruments and equipment used in the preparation of a body shall be properly disinfected immediately after use.

(6) ~~((A))~~ Disposal of wastes.

(a) Preparation rooms or other places used for ~~((the process of))~~ embalming or ~~((for otherwise))~~ preparing a dead body for ~~((burial))~~ disposition shall be equipped with a ~~((metal))~~ liquid impervious disposal ~~((can or))~~ container.

(b) Disposal containers shall be lined with liquid impervious, disposable material.

(c) Disposal containers shall be equipped with ~~((a))~~ tightly fitting ~~((lid or cover in which shall be placed immediately all solid matter of any sort such as bandages or cotton found upon or in contact with a dead body or used by the embalmer in the performance of his duties))~~ closures. ~~((Upon completion of the process of embalming or preparing the body for burial))~~

(d) The contents of ~~((this can))~~ disposal containers shall be destroyed by ~~((burning and every funeral establishment shall be equipped with an incinerator suitable for this purpose))~~ incineration or by other methods approved by local ordinances and requirements related to disposal of infectious wastes.

(e) All containers or cans used in receiving solid or fluid matter taken from a dead human body shall be disinfected immediately after use.

(f) In ~~((the instance of a reportable))~~ case of death by communicable disease ~~((having caused the death))~~, as defined in chapter 248-100 WAC, fluids removed from said body shall be mixed ~~((in equal parts))~~ immediately with equal parts of an effective disinfectant solution ~~((and shall not be released into any)).~~ Said solution shall be held a minimum of three hours prior to disposition including release into any drain, sewer, or other public

or private disposal system (~~((public or private or otherwise disposed of before the expiration of at least three hours time)). ((All containers or cans used in receiving solid or fluid matter taken from a dead human body shall be disinfected immediately after use:))~~)

(7) All ambulances, hearses, ~~((and))~~ first call cars, ~~((and))~~ equipment therein, and transfer cases shall be kept clean ~~((and))~~, sanitary, and free from deleterious odors at all times. Such ambulances, hearses, cars, ~~((and the))~~ equipment, and transfer cases thereof shall be sanitized with a suitable disinfectant solution immediately ~~((after having been used for the transportation))~~ following transport of a human body dead of a ~~((contagious))~~ communicable disease ~~((with a suitable disinfectant solution))~~.

(8) ~~((Bodies of persons who have died of an infectious disease that are to be transferred outside the jurisdiction of the local health department shall be thoroughly washed with a suitably effective disinfectant and thoroughly embalmed with a suitable disinfectant embalming fluid and placed at once in a casket or transfer case.~~

(9) Any body that is to be transported by common carrier shall be properly embalmed and prepared for transportation by a licensed embalmer.

~~((10))~~ All ~~((deceased))~~ dead human bodies ~~((that are))~~ to be disposed of by earth burial in the state of Washington ~~((must))~~ shall be buried in the ground at least three feet (top of casket to surface of ground).

AMENDATORY SECTION (Amending Regulation 40.050, effective 3/11/60)

✓ WAC 248-40-050 TRANSPORTATION OF ~~((DEAD BODIES))~~ HUMAN REMAINS. (1) ~~((When))~~ A burial-transit permit ~~((is))~~ shall be required and used ~~((in connection with transportation of a dead human body by common carrier, the permit shall include the name of the embalmer, the terminal point, and shall be))~~ when transporting human remains by common carrier. The permit shall be obtained from the local health officer or the local registrar of vital statistics, enclosed in a strong envelope, and attached to the shipping case.

(2) When ~~((a dead body is))~~ human remains are to be transported by common carrier, the casket or transfer case shall be encased in an outer box constructed of substantial material, ~~((put))~~ securely ~~((together))~~ constructed, and tightly closed ~~((, provided that))~~. No ~~((body))~~ human remains shall be transported pending final disposition more than twenty-four hours after ~~((death))~~ the receipt of said remains unless:

(a) The ~~((body is))~~ remains are thoroughly embalmed ~~((The outside case may be omitted in all instances where the casket or transfer case is transported in a funeral director's vehicle used for that purpose)), or~~

(b) The following conditions are satisfied:

(i) Orifices shall be packed with a material saturated with a topical preservative;

(ii) The remains shall be wrapped in absorbent material approximately one inch thick which has been saturated with a preservative or the remains shall be coated with heavy viscosity preservative gel;

(iii) The remains shall be placed in a light-weight, disposable burial pouch; and

(iv) The pouch shall be placed inside a heavy canvas rubberized pouch which is appropriately sealed along the zippered area with a substance such as collodion.

~~(3) ~~((Disinterment = no disinterred body dead from any disease or cause shall be transported by a common carrier unless approved by the health authorities having jurisdiction at the place of disinterment, and a burial-transit permit shall be required as provided in paragraph (1) above:~~~~

~~Disinterred bodies of persons who have died of cholera, plague, smallpox or typhus fever shall not be removed from the cemetery premises unless approved by the health authorities having jurisdiction at the place of disinterment.~~

~~All bodies held for more than 30 days after death shall be considered disinterred bodies when moved from the establishment where held.~~

~~(4) Any corpse shipped originally from any primary registration district within the state of Washington accompanied by a properly executed burial-transit permit to any other primary registration district within the state may be transshipped by surrendering the original burial-transit permit to the local registrar and receiving in exchange a new burial-transit permit, unless said body has been held over thirty days after death or has been interred, in which case proceed under paragraph (3) above.~~

~~If the corpse is))~~ Human remains routed to the point of final destination on ~~((an original))~~ a burial-transit permit ~~((, it))~~ may be held temporarily at a stopover point within the state of Washington for funeral or for any other purpose without any additional permit ~~((being required))~~.

The burial-transit permit shall be accepted as authority for interment or cremation anywhere within the state of Washington by sexton or crematory official and shall be surrendered to them by the person in charge of the ~~((corpse))~~ remains at the point of interment or cremation.

WSR 86-14-009
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 86-48—Filed June 19, 1986]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to ceremonial and subsistence 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 a harvestable number of salmon are available for a ceremonial fishery.

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

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

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

APPROVED AND ADOPTED June 18, 1986.

By Gene DiDonato
for William R. Wilkerson
Director

NEW SECTION

WAC 220-36-02500W CHEHALIS RIVER—CEREMONIAL FISHERY. *Notwithstanding the provisions of WAC 220-36-025, effective immediately until July 31, 1986, it is unlawful for any person, including treaty Indian fishermen, to fish for or possess foodfish taken for any purpose from the waters of the Chehalis River upstream from the Porter Bridge, except as provided for in this section:*

(1) *The fishermen listed in subsection (3) of this section may fish for salmon for ceremonial purposes from 8:00 p.m. June 18, 1986 to 6:00 a.m. June 19, 1986 using no more than one net with mesh no smaller than 6 3/4 inches, and these fishermen must have Chehalis tribal fishing identification cards or receipts in possession while fishing. The nets must be identified.*

(2) *If fewer than 10 chinook salmon are taken in the fishery authorized in subsection (1) of this section, the fishermen listed in subsection (3) of this section may fish for salmon from 8:00 p.m. June 19, 1986 to 6:00 a.m. June 20, 1986, using no more than one net with mesh no smaller than 6 3/4 inches, and these fishermen must have Chehalis tribal fishing identification cards or receipts in possession while fishing. The nets must be identified:*

(3) *The authorized fishermen are:*

1. John Youckton
2. Amil Starr, Jr.
3. Darren Jones
4. Violet Starr
5. Pam Brown
6. Lee Starr
7. Joan Cayenne
8. James Cayenne
9. Dale Klatush, Jr.
10. Karen Klatush
11. Virginia Canales
12. Percy Youckton
13. Bill Secena
14. David Youckton
15. Margie Youckton
16. Cheryl Cayenne
17. Jerry Youckton
18. Stacey Brown
19. Kenneth Brown
20. Betty Cayenne

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-36-02500V CHEHALIS RIVER—CEREMONIAL FISHERY. (86-43)

WSR 86-14-010
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Filed June 20, 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 schedule of charges, amending WAC 275-16-030.

It is the intention of the secretary to adopt these rules on an emergency basis on July 1, 1986;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 1986.

The authority under which these rules are proposed is RCW 71.02.412.

The specific statute these rules are intended to implement is RCW 71.02.410.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 7, 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, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 20, 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 275-16-030.

Purpose of the Rule or Rule Change: To revise schedule of charges for state hospitals. Charges will generally be increased which will result in substantial additional revenue to the state.

Reasons These Rules are Necessary: To reflect current costs of operating the state hospitals.

Statutory Authority: RCW 71.02.410.

Summary of the Rule or Rule Change: Revise schedule of charges for state hospitals based on current operating costs.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Dave Padgett, Mental Health Program Administrator, Mental Health Division, mailstop OB-42F, phone (206) 753-2098 or scan 234-2098.

Person or Organization (if other than DSHS) who Proposed These Rules: N/A.

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

AMENDATORY SECTION (Amending Order 2273, filed 8/15/85)

WAC 275-16-030 SCHEDULE OF CHARGES. Hospitalization charges shall be due and payable on or before the tenth day of each calendar month for services rendered during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$(113.24) \$179.32 \$144.78)		
Physician Costs	<u>124.58</u>	<u>\$212.06</u>	<u>\$145.21</u>
	((8.64))	<u>7.14</u>	*
*Physician costs will be billed on a fee for service basis			
(b) OUTPATIENT SERVICES -			
Per diem			
Outpatient Day Care Per Day	—	—	—
Per Hour	—	((67.78)) <u>71.17</u>	—
	—	((11.30)) <u>11.86</u>	—
(c) ANCILLARY SERVICES -			
Per relative value unit / ¹			
Radiology	((7.47)) 7.47 4.83)		
	<u>4.91</u>	<u>4.91</u>	<u>3.99</u>
Pathology	((.55)) .55 .38)		
	<u>.35</u>	<u>.35</u>	<u>.36</u>
Medical Clinics	((1.94)) 1.94 1.00)		
	<u>2.60</u>	<u>2.64</u>	<u>2.05</u>
Electroencephalogram	—	—	1.00
Electrocardiogram	—	—	((.41))
	—	—	<u>.30</u>
Inhalation Therapy	—	—	—
Physical Therapy	((2.02)) 2.02 1.18)		
	<u>1.85</u>	<u>1.85</u>	<u>2.29</u>
Occupational Therapy	—	—	((27.82))
	—	—	<u>21.27</u>
Speech Therapy	—	—	((10.43))
	—	—	<u>15.53</u>
Dental	((41.24))		
	<u>22.95</u>	<u>22.95</u>	<u>37.66</u>
Podiatry	((1.18)) 1.18 1.22)		
	<u>.92</u>	<u>.92</u>	<u>1.00</u>
Optometry	—	—	1.00

(2) Services required by the patient that cannot be provided by hospital staff are purchased from private sources and charged at actual cost.

¹/California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

WSR 86-14-011
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 86-49—Filed June 20, 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 sockeye and jack salmon are available but escapement needs for chinook and coho salmon require release of adult salmon of these species.

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 June 20, 1986.

By Gene DiDonato
 for William R. Wilkerson
 Director

NEW SECTION

WAC 220-57-16000Z COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective June 21, 1986 until further notice, in those waters of the Columbia River downstream from the Hood River Bridge to the I-5 Bridge - bag limit C, except that the daily bag limit may include two sockeye salmon.

WSR 86-14-012
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 86-50—Filed June 20, 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 sockeye salmon are available. These rules are adopted pursuant to the Columbia River Compact.

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

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

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

APPROVED AND ADOPTED June 20, 1986.

By Gene DiDonato
for William R. Wilkerson
Director

NEW SECTION

WAC 220-32-02000B **LAWFUL GEAR—SALMON.** *Notwithstanding the provisions of WAC 220-32-020, effective immediately until further notice it is unlawful to fish for salmon or to have on the boat while fishing for salmon monofilament gillnet webbing of any description while fishing in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D or 1E.*

NEW SECTION

WAC 220-32-03000Z **GILL NET SEASON.** *Notwithstanding the provisions of WAC 220-32-022, WAC 220-32-031, WAC 220-32-032, WAC 220-32-040, and WAC 220-32-041 it is unlawful to take fish or possess salmon, sturgeon and shad for commercial purposes with gill net gear in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E except in those areas, at those times and with the gear designated below:*

Areas 1A and 1B: 6:00 p.m. June 22 to 6:00 p.m. June 23, 1986

Lawful gear is restricted to single wall floating gill nets with 4 1/2 inch maximum mesh.

It is lawful to sell only sockeye salmon, shad, sturgeon of lawful size, and chinook less than or equal to 24 inches taken in this fishery.

NEW SECTION

WAC 220-32-05100W **SEASONS—SALMON** *Notwithstanding the provisions of WAC 220-32-051 and WAC 220-32-052, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Columbia River Management and Catch Reporting Areas 1F, 1G, or 1H, except that those individuals possessing treaty rights pursuant to the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish, using 4 1/2 inch maximum mesh from:*

12:00 noon June 25 to 12:00 noon June 28, 1986.

It is lawful to sell sockeye salmon, chinook salmon, shad, and sturgeon taken in this fishery.

WSR 86-14-013

EMERGENCY RULES

1989 CENTENNIAL COMMISSION

[Resolution No. 86-1—Filed June 20, 1986]

Be it resolved by the Washington Centennial Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to agency administration; and repealing chapter 100-100 WAC.

We, the 1989 Washington Centennial Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the need to prevent unauthorized use of the centennial logo and to make housekeeping changes required by legislative action and developments in centennial policy.

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

This rule is promulgated pursuant to chapter 27.60 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 3, 1986.

By Putnam Barber
Co-chairman

Washington Administrative Code (WAC)

Chapter 100-100 WAC

1989 WASHINGTON CENTENNIAL
COMMISSION

NEW SECTION

WAC 100-101-010 **THE WASHINGTON CENTENNIAL COMMISSION — DESCRIPTION.** *On November 11, 1989, Washington state will celebrate the one hundredth anniversary of Washington's admission to the United States of America and the adoption of Washington state's constitution. In 1987 Washington State will join the other 49 states in celebrating the two hundredth anniversary of the United States Constitution. In 1992 Washington will celebrate the bi-centennial of the maritime explorations of Captains Robert Gray and George Vancouver respectively and the sesquicentennial of Captain Charles Wilkes' expedition.*

The 1989 Washington Centennial Commission is the agency charged with the development of comprehensive programs for commemoration and celebration of these important and memorable events.

The commission consists of twenty five members. Seventeen of the members serve as citizen members, appointed by and serving at the pleasure of the governor. The chairperson is appointed by the governor from among the citizen members. Four members are appointed by the speaker of the house of representatives, and

four members are appointed by the president of the senate.

The commission establishes plans, sets overall program policies and appoints the commission's executive secretary.

The commission's major purpose and goal is to develop programs which will encourage the active participation of all interested communities and citizens, and be representative of the contributions of all peoples and cultures to Washington's history as a state. The programs will include special events, cultural and historical programs and displays, publications, and scholarly projects, and a variety of similar programs. The commission is particularly desirous of ensuring programs and projects with enduring value.

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

NEW SECTION

WAC 100-101-020 COMMISSION DUTIES. The commission's duties include:

(1) Development of a comprehensive plan and program for celebrating the centennial of Washington's admission to the union;

(a) Representing the contributions of all people and cultures to Washington state history;

(b) Encouraging and supporting participation in every community in the state;

(c) Protecting and preserving the evidence of Washington's heritage; and

(d) Transmitting that heritage to future generations of Washington's citizens;

(2) Development of comprehensive program events commemorating:

(a) The first successful crossing of the Columbia River bar and exploration of the Columbia River, Grays Harbor, and Washington coast by Captain Robert Gray;

(b) The exploration and mapping of Puget Sound and the Washington coast by Captain George Vancouver, and

(c) The exploration and mapping of the Washington coast and inland areas by Captain Charles Wilkes and the Great United States Exploration Expedition;

(3) Development and implementation of a "Return of the Tall Ships" program, designed to:

(a) Develop destination tourism attractions;

(b) Promote the construction of life-sized replicas of "The Lady Washington", the "Chatham," or other vessels which carried members of the Gray and Vancouver expeditions to this region, and other appropriate commemorations of the accomplishments of these explorations, in cooperation with communities throughout the state; and

(c) Locate destination tourism projects in the economically depressed areas of the state if feasible, in accordance with RCW 27.60.045(2);

(4) Development and implementation of a program to observe the two hundredth anniversary of the United States Constitution and the one hundredth anniversary of the adoption of Washington's constitution, including:

(a) Promotion of public education concerning the United States Constitution and the state constitution;

(b) Development of opportunities to explore the relationship between the two constitutions; and

(c) Cooperation with, assistance to, or sponsoring private organizations which are conducting programs consistent with RCW 27.60.070;

(5) Cooperation with state agencies, private corporations and other organizations in the sponsorship of "Pacific Celebration '89," focusing on Washington's future relationship with Pacific Rim nations;

(6) Reports to the governor and the legislature incorporating recommendations of programs and activities, no later than December 31 of each year, including but not limited to:

(a) Restoration of historic properties with emphasis on those properties appropriate for use in the observance of the centennial;

(b) State and local historic preservation programs and activities;

(c) State and local archaeological programs and activities;

(d) Publications, films and other educational materials, emblems, decals, and/or other symbols;

(e) Bibliographical and documentary projects;

(f) Conferences, lectures, seminars, and other educational programs;

(g) Concerts, dramas, readings, athletic contests, and other participatory activities;

(h) Museum, library, cultural center, and park exhibits, including mobile exhibits; and

(i) Destination tourism attractions, as defined by RCW 27.60.040(h); and

(j) Ceremonies and celebrations;

(7) Biennial funding proposals for presentation to the legislature, including but not limited to development of fund-raising plans requiring legislative authority for this commission to conduct:

(a) Sale of books, documents, and other materials to be published by this commission and/or by contract with private publishers;

(b) License of uses of emblems, decals, or other symbols;

(c) Development of subscriptions at various levels; and/or

(d) Other fund-raising activities, or enterprises;

(8) Cooperation with, and coordination of the activities of, state agencies, local governments, historical societies, regional/community/neighborhood groups, nonprofit associations, corporations, labor unions, and other organizations in development of state, regional and local plans for the centennial celebrations, capital projects both new and especially restorative, and other projects and activities, and assisting the foregoing organizations with plans for raising the revenue necessary for their implementation;

Development of a plan of matching grants for historic preservation projects, museums, libraries, parks, and/or other state, regional and local projects intended to be legacies to succeeding generations as may be authorized by statute or executive order,

(10) Sponsorship and cooperation with other organizations sponsoring composition of centennial music, creation of works in the plastic arts, drama, fiction, poetry, and other audio-visual media;

(11) Sponsorship of cooperation with other organizations sponsoring fun and games, athletic contests, and other participatory activities designed to elicit the widest possible interest in the celebration of the centennial;

(12) Acceptance of gifts and grants from government agencies, corporations, other organizations, and private citizens, in accordance RCW 27.60.060;

(13) Adoption of policy and procedures for contracting and procurement, which shall be published in a contracting manual and made available to any interested person.

(14) Appointment and employment of a director and such other personnel as may be required to accomplish the objectives and purposes enumerated herein;

(15) Adoption of a preliminary budget for approval of the governor and the legislature and a final budget which complies with legislative appropriations and governor's directives;

(16) Compilation and use regularly of the widest possible mailing list, including newsmedia, historic societies, government agencies, relevant community groups, and other organizations not only for the purpose of generating interest in the centennial celebration but also as a means of conducting commission business in a public manner;

(17) Establishment and maintainance of close working rapport with the other states whose centennials will occur in 1989 and 1990;

(18) Establishment of standing and ad hoc committees as necessary;

(19) Preparation of and publishing a final report to the legislature and the governor no later than December 31, 1993; and

(20) Conclusion of commission business on December 31, 1993, in an orderly manner and disposition of all documents, records, furniture, equipment, and other assets in accordance with directives from the legislature and governor.

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

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

NEW SECTION

WAC 100-101-030 ORGANIZATION. (1) Officers. The officers of the commission shall be chairman, vice chairman, and executive secretary who shall function as the secretary of the commission. The chairman is appointed by the governor. The vice chairman shall be a citizen member of the commission, who shall be elected for one year terms by the commission.

(2) Duties of officers.

(a) The chairman shall preside at all meetings of the commission, shall act as an ex officio member of all standing committees, and shall perform such other duties as pertain to the office.

The chairman shall also act as principal spokesman for the commission, appoint standing and ad hoc committees, remove members of committees on the concurrence of two-thirds majority of the commission, and provide a regular report to the commission on the status of the commission's work.

The chairman shall be responsible for the appointment, supervision, and termination of the executive secretary with the concurrence of a two-thirds majority of the commission prior to action.

(b) The vice chairman shall perform the duties of the chairman in his absence, shall act as an ex officio member of all standing committees and perform any other duties delegated by the chairman or commission.

(c) The executive secretary, in addition to duties assigned elsewhere in this chapter shall keep a record of the proceedings of the commission, notify all commission members of meetings, and perform such other duties as may be delegated by the chairman or the commission.

(3) Term of office. Term of office for the vice chairman shall be one year beginning July 1 and ending June 30.

(4) Election of officers and committee appointments.

(a) The nominating committee shall present nominations for vice chairman and executive committee member.

(b) The chairman shall appoint a nominating committee no later than April. The nominating committee shall consist of three citizen members and two members from the legislative membership of the commission.

(c) The nominations shall be presented and elections held at the commission's meeting last preceding June 30 of each year. Election shall be by majority vote.

(d) Committee appointments to the various standing and ad hoc committees will be made by the chairman in June of each year, and at such other times as vacancies occur, by and with the advice and consent of the commission.

(5) As used in this chapter, the terms "chairman" and "vice chairman shall refer to persons of either sex.

(6) As used in this chapter, the term "chairman" shall refer to a single chairperson or to co-chairpersons.

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.

WAC 100-101-040 MEETINGS. (1) Regular meetings. The commission shall meet at such times as it is called by the governor or by the chairman in accordance with RCW 27.60.020, or as scheduled in accordance with RCW 42.30.070 and .075.

(2) Place of meetings. The meetings of the commission may be held at any place as determined by the chairman, the the commission.

(3) Notice. Twenty days notice of all meetings shall be given by mailing a copy of the notice and agenda to each member and to any person who has made written request to the commission.

(4) Special meetings. The twenty-day notice may be waived for special or emergency meetings upon consent of a majority of the commission members. In such cases,

the provisions of RCW 42.30.080 will govern due notification of the time, place and business to be transacted. A quorum for such special meetings shall consist of ten members or two-thirds of the current membership of the commission, whichever is smaller.

(5) *Executive sessions.* An executive session may be called by the chairman or a majority of the commission. No official actions taken at executive sessions shall be binding without formal action at a regular or special meeting of the commission. Executive sessions shall deal only with matters authorized by RWC 42.30.110.

(6) *Agenda.* The agenda shall be prepared by the executive secretary in consultation with the chairman. Items submitted by commission members to the executive secretary at least twenty-five days prior to the commission meetings shall be included on the agenda. Each agenda shall also include provisions for public participation.

(7) *Attendance of commission members.* Each member of the commission is expected to attend all commission and assigned committee meetings. In the event that a member is unable to attend a scheduled meeting, he or she is requested to provide the chairman or the executive secretary with the reasons for the absence. If attendance by a legislative member is not possible, a representative may be sent who will be afforded full speaking privileges but shall not be able to move or second motions or vote. In the event of three consecutive absences of a citizen member from regular meetings as described in WAC 100-101-040(1), the chairman shall notify the governor of such absences, in writing, with copies to all members.

(8) *Voting procedures.* Voting procedures for the commission shall be as follows:

(a) All members shall have the right to vote.

(b) The chairman shall have the right to vote on all matters coming before the commission. In the case of a tie, the matter shall be referred to committee for further consideration.

(c) A roll call vote shall be taken on any matter at the request of a member.

(d) There shall be no proxy voting.

(9) *Minutes.* Insofar as practicable, minutes of all meetings shall be distributed to the members within five days following each meeting.

(10) *Public attendance.* All regular and special meetings shall be open to the public. All executive sessions shall be closed to the public.

(11) *Press releases.* All press releases and information concerning commission activities shall be released by the chairman or executive secretary except as otherwise authorized.

(12) *Public participation.* Any person(s) or organization wishing to make a formal presentation at a meeting of the commission shall notify the executive secretary in writing at least forty-eight hours prior to the time of the meeting. Such notification shall contain the person's or organization's name, address, and the topic to be presented to the commission. The chairman may establish time limits for such presentations.

(13) The chairman may, at his discretion, recognize anyone in the audience who indicates at the time of the

meeting a desire to speak, provided that reasonable time limits for such remarks may be established.

(14) Except as otherwise provided herein, Roberts Rules of Order, Newly Revised, shall serve as parliamentary authority for meetings of the commission or committees thereof insofar as not inconsistent with law.

(15) The Open Public Meetings Act, chapter 42.30 RCW, shall govern the proceedings of the commission.

Reviser's note: Pursuant to the requirements of RCW 34.08.040 the above section is published in the same form as filed by the agency.

NEW SECTION

WAC 100-101-050 COMMITTEES. (1) *Executive Committee.*

(a) There shall be an executive committee which shall consist of the chairman, vice chairman, and a member to be elected by the commission, and which shall transact such business as may be necessary between meetings, provided that the executive committee shall not obligate the commission for expenditures exceeding ten thousand dollars.

(b) Minutes of executive committee meetings will be signed by each member of the executive committee present and circulated to the commission at or before the next regular meeting.

(2) *Budget and finance committee.* This committee shall be composed of not less than three citizen members and one legislative member. The committee shall assist the commission in the management of its financial affairs, including policy guidance for an approval of biennial budgets, project budgets, review and approval of revenue, contract and grant programs, and general accounting and fiscal overview of the agency.

(3) *Administration and personnel committee.* This committee shall be composed of not less than three citizen members and one legislative member. The committee shall assist the commission in the evaluation of management and administration of its work, including serving as a screening committee for the selection of the director, establishment of personnel policies, and review of any performance evaluation or disciplinary action with respect to the executive secretary.

(4) *Program/Project Committees.* The commission may establish other standing committees charged with responsibility for recommending implementation action with regard to the major programs or projects assigned to the commission by statute, by executive order, or by the commission.

(a) Membership of standing committees may consist of both commissioners and other citizens who are particularly qualified to work on the respective programs or projects. In order to maintain close communication between the commission and a standing committee, the committee chairman normally will be a commissioner.

(b) Unless a bill of particulars is adopted by the commission in establishing a standing committee, said committee shall draft and recommend to the commission, at the earliest practicable opportunity, a statement of responsibilities for that committee.

(c) The chairman of each committee shall be responsible for submitting a statement of contemplated activities accompanied by proposed budget as early as practicable, after commission approval of committee responsibilities, and in accordance with a schedule adopted by the budget and finance committee.

(d) In order to assure an orderly continuation of its work, each standing committee at its first meeting or as soon thereafter as practicable shall elect from among its members a vice-chairman, unless said vice-chairman has been designated by the commission chairman or the commission.

(5) Each committee member shall serve for a term of one year and may be reappointed. Vacancies in any committee shall be filled in the same manner as provided in the original appointment.

(6) Other Committees. In addition, the commission may establish such other ad hoc and standing, including internal audit, as may be necessary and appropriate from time to time. Specific authority for recommendation and/or action, and for expenses, shall be clearly stated when ad hoc committees are established.

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

NEW SECTION

WAC 100-101-052 COUNTY CENTENNIAL COMMITTEES/COMMISSIONS. (1) Although the county centennial committees and/or commissions are independent of this commission, the commission recognizes that its own effectiveness is increased many times over by the establishment of local coordinating agencies. This commission urges the creation of such agencies by all political sub-divisions of the state. At the same time, the commission must rely and can only work uniformly and effectively with a limited number of such coordinating agencies. Therefore, the commission will consider that single committee or commission by whatever title, designated by the legislative authority in each county and meeting the requirements of paragraph (2) of this section, as the prime coordinating agency for local celebrations of the centennial, commemoration of explorations, or other related activities.

(2) To be eligible as an official centennial committee/commission said committee/commission shall have been designated by resolution of the legislative authority, including an anti-discrimination clause, provision for public submission of proposals and an appeals procedure, and adoption of program plans and budget by vote of said legislative authority. The state commission will not review details of county plans for approval.

(3) Distribution of state funds by the commission to assist in local centennial related activities shall be made through the respective legislative authority for use by its designated county centennial committee, unless directed otherwise by contract with said authority or statute or executive order. Nothing herein shall prohibit the commission from making grants or expenditures locally for projects deemed by the commission to be of statewide significance, in accordance with WAC 100.100.

(a) As and when appropriated by the legislature, one-half of the revenue generated by the sale of motor vehicle centennial license plates from January 1, 1987 through June 30, 1989 shall be allocated and distributed to the counties as directed by RCW _____ (Substitute Senate Bill 4675 (1986)), in accordance with the following formula:

(i) Such distribution shall be prorated to the respective counties on the basis of the number of centennial plates issued to residents in those counties; provided that

(ii) A minimum of \$100.00 per month shall be allocated to each county regardless of the number of centennial plates issued; and provided further that

(iii) The balance of the centennial plate revenue to be allocated under this section shall be recomputed and prorated to each of the counties on the basis of the number of centennial plates issued to the residents of said counties.

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

NEW SECTION

WAC 100-101-060 PERSONNEL. (1) Executive secretary. The chairman shall appoint an executive secretary as provided in WAC 100-101-030 (2)(a). The executive secretary shall be the executive officer of the commission, and under the administrative direction of the commission, shall plan, organize, coordinate, and direct all staff support activities for the commission and its committees; act as liaison between the commission and other agencies and persons; serve as secretary to the commission; be responsible for administering any program or directive of the commission; enter into administrative contracts and procurement in accordance with a contract manual adopted by the Commission; direct, manage, and supervise the staff personnel of the commission; manage necessary administrative functions such as facilities, services, accounting and payroll functions, and travel expense reimbursement; prepare the budget and allotments, which will be reviewed and approved by the commission; and perform such other duties as may be assigned. The executive secretary shall be in an exempt position,

(2) Staff. In addition to the executive secretary, the commission may employ such other assistants and employees as may be required in accordance with chapter 41.06 RCW.

(3) Legal advisor. The attorney general serves as legal advisor to the commission.

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

NEW SECTION

WAC 100-101-070 OUTSIDE RESOURCES. (1) The commission encourages the use of other state agencies, employees, and outside groups to implement and support the 1989 centennial.

(2) The commission may, from time to time, allow others to associate their projects or activities with the

centennial celebration or provide other specific assistance as set forth in the application described in paragraph (3) below.

(3) Sponsors of such programs or activities, other than publications, must complete an application specifying the manner in which they wish to associate their projects or activities with the centennial celebration or requesting such other assistance as may be described in the application form, which is available on request, and submit it to the centennial office in Olympia. The Application will enable the commission to consider three aspects in its deliberation:

(a) Appropriateness of the project/activity as part of the centennial celebration.

(i) The project must show promise of contributing directly to public knowledge and appreciation of the history, society or landscape of Washington.

(ii) If the project presents events of Washington history, it must be historically accurate or make adequate disclaimers to protect against perpetuation of errors.

(iii) If the project/activity touches on one of the statewide programs of the commission (e.g., "Pacific Celebration '89", the "Centennial Games"), the project/activity must complement and support the goals of such related program. When necessary, the Application will be referred to the appropriate centennial committee sponsoring said statewide program for review.

(b) Population affected by the project/activity.

(i) Projects/activities which are primarily intended to appeal to residents of a single county shall be reviewed and approved by the county centennial commission/committee, described in WAC 100-101-052(1);

(ii) Projects/activities which are statewide in scope or intended to draw visitors from a multi-county area shall be reviewed and approved by the executive secretary. The executive secretary may consult with one or more county centennial commissions/committees in the course of his review.

(c) Financial support of the project/activity;

(i) When projects/activities use internal resources of their sponsors or organizers, no further attention will be paid to this question.

(ii) When projects will rely on ticket sales or small direct contributions by participants or on support in an amount of less than \$1,000 from local sources, an effort will be made to coordinate dates and locations to avoid damaging overlap of programming. If appropriate dates and locations cannot be identified, priority will be given to projects which have earliest dates of application.

(iii) When projects or activities seek grants or other external support, an effort will be made to coordinate requests in accordance with known policies of granting agencies. In the event that a coordinated approach cannot be agreed upon, priority will be given to projects which have earliest dates of application.

(iv) Requests which may total more than \$10,000 to organizations making contributions or grants in more than one county shall comply with "Policies and Procedures for Large Gifts" as approved by the commission.

(4) Approved projects may use the commission's centennial logo only when the conditions specified in WAC 100-101-900 are satisfied.

(5) In the event of disagreement with the decision of the executive secretary, either by the applicant recognition or by another group which considers itself affected adversely, the disputed Application and all supporting exhibits shall be referred to the executive committee. The executive committee may decide the issue or may refer the dispute to a standing committee or to the commission. In the event of an adverse decision by the executive committee, further appeal may be made to the commission at its first meeting which occurs not less than thirty days after such commission review is requested in writing.

(6) (Reserve for "Projects of Statewide Significance.")

(7) The commission may contract with other agencies, persons, and groups in appropriate manner, to accomplish commission activities, in accordance with state law.

(8) The commission requires compliance with local, state, and federal civil rights and anti-discrimination laws and regulations, and open access for all persons regardless of race, religion, ethnic background, or physical handicap, as a condition of sponsorship, recognition, endorsement or support of any activity proposing to celebrate the state centennial.

(9) The commission may provide co-sponsorship, recognition, endorsement, financial support and/or other assistance to persons or groups in order to facilitate contributions to literature about Washington, its culture, history, geography and other aspects to be celebrated during the centennial and other events or programs under the purview of the commission by statute or executive order.

(a) Authors and publishers who are developing projects which they believe will make a contribution to the celebration of the centennial, and who wish to have that expectation confirmed in writing may request a letter of encouragement.

(i) The executive secretary may require such information as he deems necessary, and shall provide the applicant with full information about procedures and criteria.

(ii) If the executive secretary issues a letter of encouragement, the letter may be reproduced for publicity purposes or reprinted in the work.

(iii) Issuance of a letter of encouragement does not imply approval to print or otherwise use the centennial symbol in any way.

(b) The commission may endorse publications which make important contributions to the celebration or the understanding of the history or character of Washington

(i) Endorsement allows commercial use of the commission symbol, provided that such commercial use shall be in compliance with WAC 100-101-900.

(ii) Application for publication endorsement shall be made to the executive secretary on forms provided for that purpose, provided that the executive secretary shall require submission of two copies of the publication or manuscript plus \$25.00. Neither the copies nor the \$25.00 will be returned.

(iii) In the event that the applicant disagrees with the decision of the executive secretary, the applicant may request a review by the executive committee who may

decide the issue or refer it to the commission's publications committee.

(c) The "Centennial Bookshelf" is a list of publications maintained and distributed by the commission. Listing does not imply endorsement by the commission of the content or opinions expressed in the work. Prominent notice shall be given for each issue of the "Centennial Bookshelf".

(i) Each publication in the "Bookshelf" must make a contribution to the understanding of the history or character of Washington.

(ii) Each publication must be in print or generally available to the public through bookstores or mail distribution.

(iii) Promotional items, limited editions, membership premiums, and other similar publications are not eligible to be listed.

(iv) An application for listing in the "Centennial Bookshelf" and instructions for filing shall be available from the Commission upon request.

(v) Applications for listing may be approved in advance of publication when a definite publication date has been set; provided that in addition to information about the work the executive secretary shall charge the applicant \$10.00 plus twice the full purchase price including shipping cost and tax. Such funds will be used to purchase two copies of the work when available.

NEW SECTION

WAC 100-101-075 DONATIONS, GIFTS AND CONTRIBUTIONS. This section shall govern the solicitation, acceptance and disposition of all gifts and donations, whether of cash, negotiable instruments or property, in connection with the centennial or other events or programs under the purview of the commission by statute or executive order.

(1) All proposed gifts and donations to the commission shall be approved or rejected by the commission.

(2) All proposals for gifts or donations shall be presented to the commission in writing, explaining the intended purpose and use of such gifts or donations, and any restrictions or obligations to be assumed by the commission.

(3) Restricted donations shall be used only for the purpose specified by the donor.

(4) Non-monetary gifts shall be the property of the State and shall be inventoried and disposed of as provided by law or as agreed by the donor no later than December 31, 1993.

(5) No commissioner or person or contractor employed by the commission may serve as an officer or director in any organization making a donation unless disclosed to and approved by the commission.

(6) Donations shall not be used for supplementation of salary or travel expenses of any commissioner or employee of the commission.

(7) The commission shall not consider any donations from any manufacturer or vendor, or agent therefor whether past, present or known future, when deciding upon products under consideration for licensing.

(8) In soliciting, accepting and/or disposing of gifts, the commission shall ensure that no obligation is assumed that might influence or appear to influence the commission, or employees or contractors employed by the commission in the conduct of their duties.

NEW SECTION

WAC -101-080 PUBLIC RECORDS. The commission's public records shall be in the charge of the executive secretary, who shall act as public records officer pursuant to RCW 42.17.310. The commission hereby adopts by reference the records request procedures outlined in chapter 1-06 WAC except that all references to the code reviser shall be deemed to refer to the commission or its chairman.

No fee shall be charged for the inspection of public records. The commission shall charge a fee of twenty-five cents per page, plus necessary postage, for providing copies of public documents, and five dollars for certification if requested.

Reviser's note: The above new section was filed by the agency as WAC -101-080. This section is placed among sections forming new chapter 100-101 WAC, and therefore should be numbered WAC 100-101-080. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

WAC 100-101-085 TRAVEL EXPENSES. (1) Commissioners' travel expenses shall be reimbursed, upon submission of proper voucher, pursuant to RCW 27.60.030.

(2) The executive secretary's travel, and other expense reimbursement permitted by state law, shall be approved by the chairman, and other staff travel and expense reimbursement request shall be approved by the executive secretary.

(3) Committee members may claim reimbursement for travel expenses only (by personally owned vehicle, common carrier or air as circumstances dictate) to and from announced meetings of Centennial Commission Committees when the location of the meeting requires travel of at least 100 miles in one direction from their homes. Committee chairs will be expected to schedule meetings in locations which minimize travel expenses under this policy. Meetings in other locations, when required by the committee's work, must be approved in advance by the executive secretary.

(a) Occasionally committee members and other members of the public are asked to perform tasks, on a volunteer basis, which impose unreasonable expenses on the volunteer.

On request of a Committee chair and when approved, in writing in advance by the executive secretary, project volunteers may receive reimbursement for expenses including travel and per diem according to state regulations.

(b) In all cases, expense reimbursement for volunteers will be charged against the relevant committee's allocation. A separate running total will be maintained and shown on a financial report for the commission to allow monitoring of the effect of these policies. The budget

and finance committee will recommend a total to be expended for this purpose by all committees combined in each budget period.

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

NEW SECTION

WAC 100-101-900 LOGOS. Pending final adoption of complete guidelines for the use of the centennial logo adopted November 11, 1985, all uses, reproductions and imprints of the logo by parties other than the Commission or news media use for illustrative purposes only, shall be by written authorization of the Executive Secretary only. All interested parties must apply for and receive such written authorization prior to any logo use. The reference to the logo shall include the full design and any and all of its component parts, including design and color.

NEW SECTION

WAC 100-101-1989 INVITATION TO THE PUBLIC. The commission enthusiastically believes the 1989 centennial of Washington's statehood should be an event celebrated by, enjoyed by, participated in, and positively affecting the greatest number and variety of Washingtonians as possible — young, old, and varied ethnic and cultural backgrounds and interests. The commission encourages and actively seeks citizen input, thoughts, and suggestions, to the end that, in 1989, all Washingtonians can join in "THE CELEBRATION OF THE CENTURY".

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

REPEALER

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

- 100-100-010 The 1989 Washington centennial commission — Description.
- 100-100-020 Commission duties.
- 100-100-030 Organization.
- 100-100-040 Meetings.
- 100-100-050 Committees.
- 100-100-060 Personnel.
- 100-100-070 Outside resources.
- 100-100-075 Recognition.
- 100-100-080 Public records.
- 100-100-090 Travel expenses.
- 100-100-100 Invitation to the public.

WSR 86-14-014

EMERGENCY RULES

CRIMINAL JUSTICE TRAINING COMMISSION

[Order 2B—Filed June 23, 1986]

Be it resolved by the [Criminal Justice Training Commission], that it does adopt the annexed rules relating to the amending of WAC 139-08-600 and new section WAC 139-08-601.

We, the Washington State Criminal Justice Training 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 reassignment of functions previously carried out by boards on training standards and education which are sunsetted effective June 30, 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 the Washington State Criminal Justice Training Commission as authorized in RCW 43.101.080(2).

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

APPROVED AND ADOPTED May 29, 1986.

By James C. Scott
Executive Director

AMENDATORY SECTION (Amending Order 2-A, filed 3/27/85)

WAC 139-08-600 APPEAL. (1) Any action which directly and adversely ((effects)) affects an individual's interest under this title or chapter 43.101 RCW may be reviewed at the request of such individual, or the head of such individual's employing agency, and shall be considered in accordance with the process hereinafter provided. ~~((If such action was taken by a commission employee or representative, the review shall be considered by the board on training standards and education having primary responsibility in the matter as determined by the executive director of the commission. If such responsibility cannot be determined, or if the action for which review is requested was initiated by, or originated with, any board, the review shall be made by the commission only.))~~ This section shall not apply to a request for a variance or exemption pursuant to WAC 139-08-601.

(2) An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable:

- (a) The action for which review is requested, identified by date and description of action;
- (b) The direct and adverse effects of such action;
- (c) The corrective or remedial action or relief sought;
- ~~((d) Whether review is to be effected in executive or public session, provided that, approval and/or conduct of~~

~~any executive session shall be subject to applicable provisions of this state's open public meetings act (chapter 43.30 RCW);)~~

~~((e))~~ (d) The name and mailing address of the requesting party, any witness to be called by the requesting party, and any person who will personally appear in support of the requesting party, including legal counsel;

~~((f))~~ (e) A statement that the person signing the request for review has read it and that to the best of his or her knowledge or information and belief the contents thereof are true;

~~((g))~~ (f) The signature by the requesting party and/or the party's authorized representative; and

~~((h))~~ (g) A copy of any document or other written material which will be offered by the requesting party.

(3) Upon receipt of a request for review which satisfies the requirements of subsection (2) of this section, the executive director shall ~~((schedule the review for full consideration at the next meeting of the responsible board or the commission, as provided in subsection (1) of this section. If the executive director determines that exigent and attendant circumstances exist, such director may, in his/her discretion, schedule a special meeting of a board or, where applicable, of the commission, for the sole purpose of effecting review.))~~ conduct the review within 30 days.

(4) ~~((Whenever sitting as a reviewing body, a board or the commission))~~ In conducting the review, the executive director may consider any information or testimony determined by its chairperson to be relevant to full consideration of the matter for which review is requested. At least five days prior to the review proceeding, commission staff shall provide to the individual requesting review((;)) a complete listing of those individuals who are expected to provide testimony((;)) and a copy of any document or other written material which will be offered((,- provided that)). If a request is made by commission staff, the individual requesting review shall, at least five days prior to the review proceeding, provide to the commission a complete listing of those individuals who are expected to provide testimony and a copy of any document or any other material which will be offered. At the time of the proceeding, additional witnesses and written materials may be offered by staff or the requesting party, but only if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. Each review proceeding((;- whether conducted in executive or public session,)) shall be recorded electronically. Thereafter, such recording shall be transcribed in writing if requested by ((a)) the appealing party or if directed by the commission((;- board)) or staff.

(5) After full consideration of the matter, the ~~((reviewing body shall affirm, rescind, or modify the action for which review is requested. In any instance wherein a board sits as the reviewing body, appeal of such determination may be taken to the training commission at its next meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency.))~~ executive director shall affirm, rescind, or modify the action for which review is requested and shall give written notice of

his or her decision to the individual requesting review. Such decision of the executive director shall become final unless a written appeal is received by the commission within thirty days of the receipt of such notice. Appeal of such determination may be taken to the commission at its next scheduled meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency, unless there is insufficient time to permit administration of the appeal, in which case the appeal will be considered at the next succeeding scheduled meeting of the commission. In considering such appeal, the commission shall not be bound by any previous action or determination and may take any action it deems necessary and appropriate to the matter. The commission may consider only the record of the matter consisting of the transcript of the review proceeding and any written material((s)) considered by the ((reviewing board)) executive director, as well as any information requested or deemed relevant by the commission chairperson. A complete copy of such record shall be provided to the appellant at least five days prior to ((its consideration by)) the appeal proceeding before the commission. Additional written materials may be submitted at the time of the appeal proceeding by staff or the requesting party if there is a showing of good cause for the failure to provide prior notice of such additional written evidence. Oral arguments by the appellant or the appellant's representative shall be allowed, subject to time limitations set by the chairperson of the commission.

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

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

NEW SECTION

WAC 139-08-601 REQUEST FOR EXEMPTION OR VARIANCE (1) Requests for exemption or variance from the commission's regulations may be pursued only under this section.

(2) A request for exemption or variance may be made only by the head of a law enforcement agency on behalf of an employee or employees directly affected by the regulation. Where a request for an exemption or variance is on behalf of a chief of police, such request shall be made by the appointing authority. Requests for exemption or variance shall be for mitigation only and shall not raise questions of law or of fact. Such requests shall be submitted in writing to the director of the commission and shall include, where applicable:

(a) The particular regulation from which exemption or variance is sought;

(b) The nature of the exemption or variance which is sought;

(c) The mitigating factors favoring exemption or variance in the particular case;

(d) The name and mailing address of the requesting party and any person who will personally appear in support of the requesting party, including legal counsel;

(e) A statement that the person signing the request has read it and that to the best of his or her knowledge or information and belief the contents thereof are true.

(3) Upon receipt of a request for exemption or variance which satisfies the requirements of subsection (2) of this section, the executive director shall schedule the request for full consideration at the next commission meeting. If it is determined by the chairperson of the commission that circumstances justify expedited review, the chairperson may schedule a special meeting for the sole purpose of effecting review. After full consideration of the matter, the commission shall deny the request, grant the request, or provide alternative mitigating relief.

WSR 86-14-015

ADOPTED RULES

DEPARTMENT OF NATURAL RESOURCES

[Order 478—Filed June 23, 1986]

I, Brian J. Boyle, director of the Department of Natural Resources, do promulgate and adopt at Olympia, Washington, the annexed rules relating to mineral prospect leases and mining contracts, amending chapter 332-16 WAC.

This action is taken pursuant to Notice No. WSR 86-09-080 filed with the code reviser on April 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 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 June 23, 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 gross value. "Gross value" 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.

REPEALER

The following section of the Washington Administrative Code is repealed:

- ✓ (1) WAC 332-16-280 ROYALTIES — GROSS INCOME

WSR 86-14-016
ADOPTED RULES
DEPARTMENT OF LICENSING
[Order TL/RG 26—Filed June 24, 1986]

I, Theresa Anna Aragon, director of the Washington State 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 purposes of RCW 46.16.028).

This action is taken pursuant to Notice No. WSR 86-09-100 filed with the code reviser on April 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 pursuant to RCW 46.85.060 and 46.16.028 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 June 20, 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]; aid to families with dependent children [42 U.S.C. §§ 601-606]; and federal housing assistance programs administered by the Department of Housing and Urban Development or the Farmers Home Administration [42 U.S.C. §§ 1437-1440, 1441-1471, 1471-1490, and 12 U.S.C. §§ 1701-1706.]

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 86-14-017
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Order PM 601—Filed June 24, 1986]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the establishment of annual registration fees for auction company licenses.

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 the auctioneer law, SSB 4779, becomes effective on July 1, 1986, and requires the director of the Department of Licensing to set registration fees for auction companies, which prior to July 1, 1986, have not been licensed in this state.

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

This rule is promulgated pursuant to RCW 18.11.060 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 19, 1986.

By Theresa Anna Aragon
 Director

NEW SECTION

WAC 308-11-130 REGISTRATION FEE FOR AUCTION COMPANY LICENSE. The registration fee for an auction company license is one hundred fifty dollars. Registration is subject to annual renewal.

WSR 86-14-018
PROPOSED RULES
DEPARTMENT OF LICENSING
(Occupational Therapy Practice Board)
 [Filed June 24, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Occupational Therapy Practice Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 308-171-001 Definitions.
- Amd WAC 308-171-103 Persons exempt from licensing pursuant to RCW 18.59.040(5).
- Amd WAC 308-171-104 Foreign trained applicants.
- Amd WAC 308-171-200 Definition of "commonly accepted standards for the profession."
- Amd WAC 308-171-300 Unprofessional conduct or gross incompetency.
- Amd WAC 308-171-301 Code of ethics and standards of professional conduct.
- New WAC 308-171-302 Mandatory reporting;

that the agency will at 9:30 a.m., Friday, August 8, 1986, in the Vance Airport Inn, Seattle Room, 18200 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 shown below.

The specific statute these rules are intended to implement is shown below.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

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

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

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

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

Sydney Beckett, Executive Secretary
 Department of Licensing
 Division of Professional Licensing
 P.O. Box 9649
 Olympia, WA 98504

Dated: June 23, 1986
 By: Joyce R. Dolliver
 Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 308-171-001 Definitions; 308-171-103 Persons exempt from licensure pursuant to RCW 18.59.040(5); 308-171-104 Foreign trained applicants; 308-171-200 Definition of "commonly accepted standards for the profession"; 308-171-300 Unprofessional conduct or gross incompetency; 308-171-301 Code of ethics and standards of professional conduct; and 308-171-302 Mandatory reporting.

Statutory Authority and Specific Statute(s) that Rule(s) are Intended to Implement: WAC 308-171-001 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement RCW 18.59.020 (4) and (5), 18.59.040(7) and section 104, chapter 259, Laws of 1986. WAC 308-171-103 is proposed under authority of RCW 18.59.130(2) and 18.59.050(1) and is intended to implement section 104, chapter 259, Laws of 1986. WAC 308-171-104 is proposed under authority of RCW 18.59.130(2) and is intended to implement RCW 18.59.070(1). WAC 308-171-200 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement section 104, chapter 259, Laws of 1986. WAC 308-171-300 is proposed under authority of RCW

18.59.130(2) and 18.130.050(1) and is intended to implement section 104, chapter 259, Laws of 1986. WAC 308-171-301 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement RCW 18.59.100 and 18.130.050(12). WAC 308-171-302 is proposed under authority of RCW 18.130.070 and 18.130.050(1) and is intended to implement RCW 18.130.070.

Summary of the Rules: WAC 308-171-001 defines terms used in RCW 18.59.020(4) and 18.59.040(7) and addresses the implementation of chapter 18.130 RCW; 308-171-103 addresses the implementation of chapter 18.130 RCW; 308-171-104 clarifies the rule describing what information must be submitted by a foreign trained applicant to obtain a waiver pursuant to RCW 18.59.070(1); 308-171-200 addresses the implementation of chapter 18.130 RCW; 308-171-300 addresses the implementation of chapter 18.130 RCW; 308-171-301 addresses the implementation of chapter 18.130 RCW and clarifies the definition of what is or is not a medical case pursuant to RCW 18.59.100; and 308-171-302 requires mandatory reporting of convictions, determinations, or findings of unprofessional conduct and information that a licensee may be impaired so as to not be able to practice with reasonable skill and safety.

Reasons Supporting the Proposed Rules: WAC 308-171-001 assists in understanding and complying with the Occupational Therapy Practice Act and addresses the implementation of chapter 18.130 RCW; 308-171-103 addresses the implementation of chapter 18.130 RCW; 308-171-104 clarifies the current rule on information to be submitted by a foreign trained applicant applying for a waiver; 308-171-200 addresses the implementation of chapter 18.130 RCW; 308-171-300 addresses the implementation of chapter 18.130 RCW; 308-171-301 clarifies the current rule defining what is not a medical use and addresses the implementation of chapter 18.130 RCW; and 308-171-302 adopts mandatory reporting as authorized by RCW 18.130.070.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: In addition to members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Sydney Beckett, Executive Secretary, Division of Professional Licensing, P.O. Box 9649, Olympia, WA 98504, (206) 753-3129 comm, 234-3129 scan.

Name of the Person or Organization that is Proposing the Rules: Board of Occupational Therapy Practice.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: None.

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

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

Small Business Economic Impact Statement: Not required for these rules. The board has reviewed the impact that these rules would have on occupational therapists and occupational therapy assistants. The

board finds that a small business impact statement is not required. Occupational therapists and occupational therapy assistants are classed in SIC Code 804, offices of other health care practitioners. As such, they account for less than 10 percent of the health practitioners in this area. Also, they are less than 20 percent of all industries. Finally, any impact that these proposed rules may have is intended to fall equally on all occupational therapists and occupational therapy assistants.

AMENDATORY SECTION (Amending Order PL 588, filed 4/24/86)

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

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

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

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

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

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

(2) "Supervision" and "regular consultation" in RCW 18.59.020(4) and "direct supervision" in RCW 18.59.040(7) shall mean face to face meetings between the occupational therapist and occupational therapy assistant and between the occupational therapist and holder of a limited permit occurring at intervals as determined necessary by the occupational therapist to establish, review, or revise the client's ((short-term)) treatment objectives. The meetings shall be documented and the documentation shall be maintained in each client's treatment record. The failure to meet to establish, review, or revise the client's ((short-term)) treatment objectives at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license and/or the occupational therapy assistant's license to practice in the state of Washington and or/the limited permit pursuant to WAC 308-171-300 (4) and (14), WAC 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(3) "Professional supervision" in RCW 18.59.020(5) shall mean:

(a) documented training by the occupational therapist of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client;

(b) face to face meetings between the occupational therapy aide and the supervising occupational therapist or an occupational therapy assistant under the direction of the supervising occupational therapist occurring at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two weeks; and

(c) the occupational therapist shall observe the occupational therapy aide perform on the client the specific occupational therapy techniques

for which the occupational therapy aide was trained at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once a month.

The meetings and client contacts shall be documented and the documentation shall be maintained in the client's treatment records. The failure to meet at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license to practice in the state of Washington pursuant to WAC 308-171-300 (4) and (14), WAC 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

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

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

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

(7) "Work site" in RCW 18.59.080 means the primary work location.

(8) "in association" for RCW 18.59.040(7) shall mean practicing in a setting in which another occupational therapist licensed in the state of Washington is available for consultation and assistance as needed to provide protection for the clients' health, safety and welfare.

AMENDATORY SECTION (Amending Order PL 588, filed 4/24/86)

WAC 308-171-103 PERSONS EXEMPT FROM LICENSURE PURSUANT TO RCW 18.59.040(5). (1) To qualify for the exemption from licensure pursuant to RCW 18.59.040(5), the individual claiming the exemption shall in writing notify the department, at least thirty days before any occupational therapy services are performed in this state, of the following:

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

(b) If the exemption is claimed pursuant to RCW 18.59.040 (5)(b), the individual shall submit a signed notarized statement attesting to having passed the American Occupational Therapy Association certification examination and having engaged in occupational therapy practice; not having engaged in unprofessional conduct or gross incompetency as established in WAC 308-171-300 for conduct occurring prior to June 11, 1986 and as established in RCW 18.130.180 for conduct occurring on or after June 11, 1986; and not having been convicted of a crime involving moral turpitude or a felony relating to the profession of occupational therapy; and

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

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

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

AMENDATORY SECTION (Amending Order PL 588, filed 4/24/86)

WAC 308-171-104 FOREIGN TRAINED APPLICANTS. An applicant obtaining education and training at foreign institutions shall submit the following information for the board's consideration in determining whether or not to waive the education and experience requirements for licensure, pursuant to RCW 18.59.070(1):

(1) An official description of the education program at the educational institution and if the description is not in English, then an English translation signed by the translator shall be submitted with the official description;

(2) An official transcript of the applicant's grades from the educational institution and if the transcript is not in English, then an English

translation signed by the translator shall be submitted with the official transcript;

(3) Applicant's affidavit containing the following information:

(a) location and dates of employment as an occupational therapist or occupational therapy assistant for up to ((the)) three years immediately prior to the date of application;

(b) description of capacity in which applicant was employed, including job titles and description of specific duties;

(c) description of nature of clientele; and

(d) name and title of direct supervisors;

(4) Written job description for each employment as an occupational therapist or occupational therapy assistant for up to ((the)) three years immediately prior to the date of application;

(5) Signed, written statements from all employers or direct supervisors for up to ((the)) three years immediately prior to the date of application containing the following information:

(a) dates of applicant's employment;

(b) description of applicant's specific duties; and

(c) employer or direct supervisor's title;

(6) If the applicant graduated from the educational institution with-in ((m)) the three years immediately prior to the application, the applicant shall obtain a signed, written statement from the applicant's program director at the educational institution discussing the applicant's fieldwork experience at the educational institution.

After reviewing the information submitted, the board may require submission of additional information necessary for purposes of clarifying the information previously submitted.

AMENDATORY SECTION (Amending Order PL 588, filed 4/24/86)

WAC 308-171-200 DEFINITION OF "COMMONLY ACCEPTED STANDARDS FOR THE PROFESSION" "Commonly accepted standards for the profession" in RCW 18.59.040 (5)(b) and 18.59.070 shall mean having passed the American Occupational Therapy Association certification examination, not having engaged in unprofessional conduct or gross incompetency as established by the board in WAC 308-171-300 for conduct occurring prior to June 11, 1986 and as established in RCW 18.130.180 for conduct occurring on or after June 11, 1986, and not having been convicted of a crime of moral turpitude or a felony which relates to the profession of occupational therapy.

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

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

WAC 308-171-300 UNPROFESSIONAL CONDUCT OR GROSS INCOMPETENCY. The following conduct, acts, or conditions constitute unprofessional conduct or gross incompetency for any license holder or applicant if the conduct, acts, or conditions occurred or existed prior to June 11, 1986:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or actions in the practice of the profession which result in, or have a significant likelihood of resulting in, harm to the patient or public;

(5) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, addiction to, prescription for use, diversion, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, or violation of any drug law;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority; or

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Willful or repeated violations of rules established by any health agency or authority of the state or a political subdivision thereof;

(12) Practice beyond the scope of practice as defined by law;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(19) Violation of chapter 19.68 RCW;

(20) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(21) Any mental or physical condition which results in, or has a significant likelihood of resulting in, an inability to practice with reasonable skill and safety to consumers.

(22) Abuse of a client or patient or sexual contact resulting from abuse of the client-practitioner relationship.

AMENDATORY SECTION (Amending Order PL 529, filed 5/23/85)

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

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

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

(4) Occupational therapists and occupational therapy assistants shall recommend termination of services when established goals have been met or when further services would not produce improved client performance.

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

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

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

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

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

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

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

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

(i) there is an absence of pathology; or

(ii) if a pathology exists, the pathology has stabilized; and

(iii) the occupational therapist is only treating the client's functional deficits.

NEW SECTION

WAC 308-171-302 MANDATORY REPORTING. (1) All persons, including licensees, corporations, organizations, health care facilities, and state or local governmental agencies shall report to the board any conviction, determination, or finding that an occupational therapist or an occupational therapy assistant has committed an act which constitutes unprofessional conduct as established in RCW 18.130.180 and shall report information which indicates that an occupational therapist or occupational therapy assistant may not be able to practice occupational therapy with reasonable skill and safety to consumers as a result of a mental or physical condition.

(2) All required reports shall be submitted to the board as soon as possible, but no later than sixty days after a conviction, determination, or finding is made or information is received.

(3) A report shall contain the following information if known:

(a) The name, address, and telephone number of the person making the report.

(b) The name, address, and telephone numbers of the occupational therapist or occupational therapy assistant being reported.

(c) The case number of any patient or the name of the patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and cause number.

(f) Any further information which would aid in the evaluation of the report.

WSR 86-14-019

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order ET 86-13—Filed June 24, 1986]

I, Gary O'Neil, assistant director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd	WAC 458-20-240	Manufacturers, tax credits.
Amd	WAC 458-20-24001	Sales and use tax deferral—Manufacturing and research/development facilities in distressed areas.
Amd	WAC 458-20-24002	Sales and use tax deferral—Manufacturing and research/development facilities.

This action is taken pursuant to Notice Nos. WSR 86-10-050 and 86-13-061 filed with the code reviser on May 7, 1986, and June 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 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 June 24, 1986.

By Gary O'Neil
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-240 ((MANUFACTURING))
MANUFACTURERS, TAX CREDITS. ((GENERAL
RULE. RCW 82.04.435 provides for a credit against the
business and occupation tax otherwise payable by quali-
fied 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.)~~ (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.

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;

(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 state-wide 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 hirees 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 hirees 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 "lookahead" 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 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. No tax refunds will be made for any tax credits which exceed actual tax liability during the life of this program. Under no circumstances may tax credits exceed tax liability.

(20) If tax credits derived from qualified hiring exceed the recipients' business and occupation tax liability in any one calendar year under this program, they may be carried forward to the next calendar year.

(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 25 of the following year.

(23) CREDIT AND PROGRAM LIMITATIONS. This is essentially a two year tax credit program. Unless it is extended by law, the credit application and approval provision will expire on July 1, 1988. However, credits which become available under approved applications may be used after July 1, 1988, as actual hiring is done.

(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 carry over 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 subsection (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 reporting their employment activities through December 31 of each credit computation year. This report must be submitted by January 31 of the following 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.

AMENDATORY SECTION (Amending Order ET 85-5, filed 10/7/85)

✓ WAC 458-20-24001 SALES AND USE TAX DEFERRAL—MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES IN DISTRESSED AREAS. ((H-)) (1) INTRODUCTION. Chapter ((232, Laws of 1985)) 82.60 RCW establishes a sales and use tax deferral program. The purpose of the program is to promote economic stimulation, create employment opportunities, and reduce poverty in certain distressed areas of the state. Thus, the legislature established this tax deferral program to be effective solely in those distressed areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified minimum number of jobs. In general, the deferral applies to sales and use taxes on materials, labor, and services rendered in the construction of qualified buildings, machinery, and equipment.

((H-)) (2) In addition to the tax deferral benefits of this program, the department of employment security administers economic incentives and funding programs which encourage "first source contract" hiring of unemployed persons and state public assistance recipients. The employment security department should be contacted directly for information concerning such nontax-related programs.

(3) DEFINITION OF TERMS. For purposes of this ((rule)) section:

(a) "Applicant" means a person applying for a tax deferral under chapter ((232, Laws of 1985)) 82.60 RCW.

(b) "Person" has the meaning given in RCW 82.04-.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this ((rule)) section the relationship of landlord and tenant between separate persons, at arms length, shall not be considered as any of the types of relationships which are identified above as "persons."

(c) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

(d) "Recipient" means a person who has been granted a tax deferral under this program.

(e) "Department" means the department of revenue.

(f) "Eligible area" means a county in which the average level of unemployment for the three calendar years preceding the year in which an application is filed exceeds the average state unemployment for those years by twenty percent; i.e., the average unemployment rate for the county must be twenty percent above the average unemployment rate for the state in the preceding three calendar years. In determining an eligible area the department may compare the county's average unemployment rate in the prior three years to one hundred twenty percent of the state's average unemployment rate based on official unemployment figures published by the department of employment security.

(g) "Eligible investment project" means that portion of an investment project which:

((±)) (i) Is directly utilized to create at least one new full time qualified employment position for each ((two)) three hundred thousand dollars of investment on which a deferral is requested; and

((±)) (ii) Either initiates a new operation or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to the improvement((; and

~~3. Does not exceed twenty million dollars in value).~~

(h) For the purposes of the above paragraph the following definitions will apply:

(i) "Qualified employment position" means a permanent, full time employee employed in the eligible investment project during the entire tax year following the operational completion of the project. In the event an employee is either voluntarily or involuntarily separated from employment the employment position will be considered filled if the employer is either training or actively recruiting a replacement employee so long as the position is not actually vacant for any period in excess of thirty consecutive days.

(ii) The requirement for employment during the "entire tax year," for purposes of this tax deferral program, will be satisfied if the full time position is filled for a period of twelve consecutive months.

(iii) An "improvement" shall mean the physical alteration by expansion, modernization, or renovation of an existing building where the cost exceeds 25 percent of the true and fair value of the existing plant complex prior to the initiation of construction. The term "improvement" is further defined to include those portions of an existing building which do not increase the usable floor space, but is limited to the renovation, modernization, or any other form of alteration or addition and the equipment and machinery installed therein during the course of construction.

(iv) "True and fair value" means((;-)) the value listed on the assessment rolls as determined by the county assessor for the land, buildings, or equipment for ad valorem property tax purposes at the time of application.

(v) "Plant complex" shall mean land, machinery, and buildings adapted to industrial, computer, warehouse, or research and development use as a single functional or

operational unit for the designing, assembling, processing, or manufacturing of finished or partially finished products from raw materials or fabricated parts.

(vi) "Eligible investment project" does not include((;-)) either an investment project undertaken by a light and power business as defined in RCW 82.16.010(5), or

((±)) investment projects which have already received deferrals under chapter ((232, Laws of 1985)) 82.60, RCW.

(i) "Investment project" means an investment in qualified buildings and qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. A person who does not build or remodel its own building, but leases from a third party, is eligible for sales and use tax deferral provided that an investment in qualified machinery and equipment is made by such person and a new structure used to house the manufacturing activities is constructed. The lessor/owner of the structure is not eligible for deferral unless the underlying ownership of the buildings, machinery, and equipment vests in the same persons.

(j) "Manufacturing" has the meaning given in RCW 82.04.110 and WAC 458-20-136 now and as hereafter amended. Manufacturing, for purposes of this ((rule only)) section, shall also include computer programming, the production of computer-related service, and the activities performed by research and development laboratories and commercial testing laboratories.

(k) "Qualified buildings" means new structures used to house manufacturing activities as defined above and includes plant offices, warehouses, or other facilities for the storage of raw material and finished goods if such facilities are essential or an integral part of a manufacturing operation. The term also includes parking lots, landscaping, sewage disposal systems, cafeterias, and the like, which are attendant to the initial construction of an eligible investment project. The term "new structures" means either a newly constructed building or a building newly purchased by the certificate holder. A preowned or existing building is eligible for deferral provided that the certificate holder expands, modernizes, renovates, or remodels the preowned or existing building by physical alteration thereof.

(l) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation, as defined above. "Qualified machinery and equipment" includes, but is not limited to, computers, software, data processing equipment, laboratory equipment; manufacturing components such as belts, pulleys, shafts and moving parts; molds, tools and dies; operating structures and all equipment used to control or operate machinery. It also includes machinery and equipment acquired under the terms of a long or short term lease by the recipient. The tax deferral applies to equipment purchased outright by the recipient (or the transfer of machinery and equipment into the state of Washington) and leased equipment. Acquisition of spare parts for machinery, equipment, etc., in excess of normal operating levels shall not be eligible for deferral.

(m) "New machinery and equipment" means either new to the taxing jurisdiction of the state or new to the certificate holder. Used equipment is eligible for deferral provided that the certificate holder either brings the machinery or equipment into Washington for the first time or purchases it at retail in Washington.

(n) "Initiation of construction," for purposes of applying for the investment tax deferral relating to the construction of new buildings, shall mean the date upon which on-site construction work commences.

(o) "Initiation of construction," for purposes of applying for the investment tax deferral relating to a major improvement of existing buildings, shall mean the date upon which the new construction by renovation, modernization, or expansion, by physical alteration, begins.

(p) "Operationally complete" means the eligible investment project is constructed or improved to the point of being fully and functionally useable for its intended purpose as described in the application.

~~((H.))~~ (4) APPLICATION PROCEDURE. An application for sales and use tax deferral under ~~((chapter 232, Laws of 1985))~~ this program must be made prior to the initiation of construction, as defined above. Application forms will be supplied to the applicant by the department upon request. The completed application is to be sent in duplicate to the following address:

State of Washington
Department of Revenue
Audit Procedures & Review
Olympia, WA 98504
Mail Stop AX-02

(5) The department will verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate shall be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s) for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100, within twenty days from the date of notice of the department's refusal, or within any extension of such time granted by the department.

~~((In the event an application is submitted prior to the publication of state-wide and county unemployment statistics for the year preceding the year in which application is made, the department will take no action on the application until the statistics are published even though this period may extend beyond the sixty-day approval period. If, after publication of the statistics, it is determined that the applicant is eligible for tax deferral the department, within ten days of publication, shall issue the tax deferral certificate effective on the date the application was received by the department.~~

~~IV.))~~ (6) For purposes of making application for tax deferral and of approving such applications, the state-wide and county unemployment statistics last published by the department will be used to determine eligible areas. The department will publish a list of eligible areas by county, on May 1 of each year.

(7) USE OF THE CERTIFICATE. A tax deferral certificate issued ~~((pursuant to chapter 232, Laws of 1985))~~ under this program shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings and qualified machinery and equipment as defined in this ~~((rule))~~ section. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

(8) The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all tax deferral sales.

~~((V.))~~ (9) AUDIT PROCEDURE. An applicant must provide the department with the estimated cost of the investment project at the time the application is made. ~~((A certificate holder is eligible for deferral of sales and use taxes on any eligible investment project up to twenty million dollars in project value.))~~ Following approval of the application and issuance of a sales and use tax deferral certificate, a certificate holder must notify the department, in writing, when the value of the investment project reaches the estimated cost as stated on the tax deferral certificate. At that time the certificate holder may not utilize the certificate further. If a certificate holder has reached its level of estimated costs ~~((, which level is less than twenty million dollars))~~ and the project is not operationally complete, the certificate holder may apply for a supplemental certificate stating a revised amount upon which the deferral of sales and use taxes is requested. The certificate holder shall amend the original application to account for the additional costs. The department ~~((may))~~ will grant or deny the amended application ~~((depending on the total biennial tabulation of deferred taxes))~~ on the same basis as original applications.

(10) The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The department may request reasonable supporting documentation and other proof to justify the final cost of the project.

(11) Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s)

upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sales and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100, within twenty days from the date of the notice of disallowance.

(12) The department shall keep a running total of all deferral certificates granted during each fiscal biennium. ~~((The department will not allow any deferral certificates to be issued which would cause the tabulation for a biennium to exceed twenty million dollars in deferred taxes. If the department has granted a total of nineteen million dollars in deferrals during any fiscal biennium and there is a reasonable expectation that the total of all deferrals shall reach or exceed twenty million dollars in the current biennium, the department shall notify each new applicant of the department's tabulation and of the fact that the applicant's deferred taxes may carry over into the next biennium in accordance with the guidelines set forth in the following paragraph:~~

An application for deferral of taxes shall be prioritized based upon the time of receipt by the department of the original application. ~~For purposes of this regulation, the term "time of receipt" shall mean the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the date of receipt if hand delivered to an office of the department. If more than one application is received on the same day and, under the provisions of this paragraph, only a portion of the taxes may be deferred, the amount of taxes to be deferred by each applicant shall be determined on a pro rata basis:~~

~~If all or part of an application for deferral is disallowed because the total tabulation for the biennium exceeds twenty million dollars in deferred taxes the disallowed portion shall be carried over for approval into the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed all or part of the application.))~~

(13) The deferral is allowable only in respect to investment in the construction of a new plant complex or the enlargement or improvement of an existing plant complex directly used in manufacturing activities, as defined above. Where a plant complex is used partly for manufacturing and partly for purposes which do not qualify for deferral under this ~~((rule))~~ section and it is not possible to identify the nonqualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

(14) The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

~~((+))~~ (a) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

~~((2))~~ (b) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

(15) After that date the lessee/recipient shall pay the appropriate sales taxes to the lessor for the remaining term of the lease.

(16) No taxes may be deferred under this ~~((rule))~~ section prior to July 1, 1985. No applications for deferral of taxes will be accepted after May 1, 1991 nor will sales or use tax deferral certificates be issued on or after July 1, 1991. In tabulating the total amount of deferrals granted under this law there shall be considered a total of three fiscal biennia within which applications shall be accepted.

~~((+))~~ (17) REPORTING AND MONITORING PROCEDURE. Each recipient of sales and use tax deferral shall submit a report to the department on December 31st of each year during the repayment period until all taxes are repaid. The first report shall be submitted in the third year after the date on which the construction project has been operationally complete to coincide with the first payment of deferred taxes. The report shall contain information from which the department may determine whether the recipient is meeting the requirements of the deferral law.

(18) The report shall be made to the department in a form and manner prescribed by the department. The report shall contain information regarding the recipient's average employment in the state for the prior three years, the actual employment related to the project, and any other information required by the department. If the recipient fails to submit a report or submits an inadequate or falsified report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable. An inadequate or falsified report is one that contains material omissions or contains knowingly false statements and information.

(19) The department shall notify the department of employment security of the names of all recipients of tax deferrals under ~~((chapter 232, Laws of 1985))~~ this program. On or before December 31st of each year a deferral is in effect, the department shall request information on each recipient's employment in the state for that year, including employment related to the deferral project, and the wages of such employees. The department of employment security shall make, and certify to the department, all determinations of employment and wages required under this ~~((paragraph))~~ subsection.

(20) If, on the basis of the recipient's annual report or other information including that submitted by the department of employment security, the department finds that an investment project is not eligible for tax deferral, the department will ~~((+))~~ (a) declare the amount of deferred taxes outstanding to be immediately due or

~~((2))~~ (b) assess interest on the deferred taxes for the project ~~(under the following guidelines):~~.

~~((1))~~ (21) If the department finds that an investment project has been operationally complete for three years and has failed to create the required number of qualified employment positions, the department shall assess interest, but not penalties, on the deferred taxes. The interest shall be assessed at the rate of nine percent per annum, shall be assessed retroactively to the date of deferral, and shall accrue until the deferred taxes are paid. A recipient of deferred taxes shall have from the date on which the construction project was certified as operationally complete to December 31st of the first year of repayment in which to create the required number of employment positions under this law.

~~((2))~~ (22) If the department finds that the investment project is not eligible for tax deferral for reasons other than failure to create the required number of qualified employment positions, the amount of deferred taxes outstanding for the project shall be immediately due. The reasons for disqualification include, but are not limited to, the following:

(a) The facility is not used for a manufacturing, warehouse, computer, or research and development operations;

(b) The recipient has not made an investment in qualified buildings, machinery, and equipment.

(23) Any action taken by the department ~~(under paragraph (1) or (2) above)~~ to assess interest or disqualify a recipient for tax deferral shall be subject to administrative review pursuant to the provisions of WAC 458-20-100.

~~((VII))~~ (24) The law expressly excuses the obligation for repayment of sales or use tax upon the value of labor directly applied in the construction of an investment project for which deferral has been granted, PROVIDED:

(a) That deferral has been granted after June 11, 1986; and

(b) That eligibility for the granted tax deferral has been perfected by actually meeting all of the eligibility requirements, based upon the recipient's annual December 31 reports and any other information available to the department.

(25) The recipient must establish, by clear and convincing evidence, the value of all construction and installation labor for which repayment of sales tax is sought to be excused. Such evidence must include, but is not limited to: A written, signed, and dated itemized billing from construction/installation contractors or independent third party labor providers which states the value of labor charged separately from the value of materials.

(26) The above information must be maintained in the recipient's permanent records for the department's review and verification at the time of the final audit of the investment project.

(27) In the absence of such itemized billings in its permanent records, no recipient may be excused from repayment of sales tax on the value of labor in an amount exceeding thirty percent of its gross construction or installation contract charges.

(28) The value of labor for which an excuse from repayment of sales or use tax may be received will not exceed the value which is subject to such taxes under the general provisions of chapters 82.08 and 82.12 RCW.

(29) PAYMENT PROCEDURES. The recipient of sales and use tax deferral under this ~~(regulation)~~ program shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

Repayment Year	Percentage of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(30) The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this rule during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

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 ET 85-5, filed 10/7/85)

✓ WAC 458-20-24002 SALES AND USE TAX DEFERRAL—NEW MANUFACTURING AND RESEARCH/DEVELOPMENT FACILITIES. ~~((1))~~ (1) INTRODUCTION. Chapter ~~((2, Laws of 1985 1st ex. sess.))~~ 82.61 RCW, as amended, establishes a sales and use tax deferral program for certain manufacturing or research and development investment projects. The deferral will be granted only to persons not currently engaged in manufacturing or research and development activities in the state of Washington on June 14, 1985, the effective date of the deferral program. Applications for the tax deferral may be accepted up through June 30, ~~((1986))~~ 1988; a holder of a tax deferral certificate must initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral

certificate. In general, the deferral applies to the construction of new buildings and the acquisition of related machinery and equipment.

(2) In addition to the tax deferral benefits of this program, the department of employment security administers economic incentives and funding programs which encourage "first source contract" hiring of unemployed persons and state public assistance recipients. The employment security department should be contacted directly for information concerning such nontax-related programs.

~~((H:))~~ (3) DEFINITION OF TERMS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this rule.

(4) "Applicant" means a person applying for a tax deferral under this rule.

(5) "Person" has the meaning given in RCW 82.04.030. It means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. For purposes of this rule the relationship of landlord and tenant between separate persons, at arms length, shall not be considered as any of the types of relationships which are identified above as "persons".

(6) "Eligible investment project" means construction of new buildings and the acquisition of related machinery and equipment when the buildings, machinery, and equipment are to be used for either manufacturing or research and development activities, which construction is commenced prior to December 31, ~~((1986))~~ 1988.

(7) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and includes the production or fabrication of specially made or custom-made articles.

(8) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun.

(9) "Buildings" means only those new structures used for either manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw materials or finished goods if such facilities are an essential or integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development purposes. If a building is used partly for manufacturing or research and development purposes and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under this rule.

(10) "Machinery and equipment" means all new industrial and research fixtures, equipment, and support

facilities that are an integral and necessary part of a manufacturing or research and development operation.

(11) "Qualified machinery and equipment" includes computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery. For purposes of this definition, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment are eligible for deferral if the certificate holder either brings the machinery and equipment into Washington for the first time or makes a retail purchase of the machinery and equipment in Washington.

(12) "Acquisition of equipment and machinery" shall have the meaning given to the term "sale" in RCW 82.04.040. It means any transfer of the ownership of, title to, or possession of, tangible personal property for a valuable consideration. A sale takes place when the goods sold are actually or constructively delivered to the buyer in this state.

(13) "Recipient" means a person receiving a tax deferral under this chapter.

(14) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

(15) "Operationally complete" means that the eligible investment project is constructed or improved to the point of being fully and functionally useable for the intended purpose as described in the application.

(16) "Initiation of construction" means that date upon which on-site construction commences.

(17) "Plant complex" shall mean land, machinery, and buildings adapted to commercial, industrial, or research and development use as a single functional or operational unit for the designing, assembling, processing or manufacturing of finished or partially finished products from raw materials or fabricated parts.

(18) "Investment project" means an investment in qualified buildings and qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. A person who does not build ~~((or remodel))~~ its own building, but leases from a third party, is eligible for sales and use tax deferral provided that an investment in qualified machinery and equipment is made by such person and a new structure used to house the manufacturing activities is constructed. The lessor/owner of the structure is not eligible for deferral unless the underlying ownership of the buildings, machinery, and equipment vests in the same persons. An eligible investment project does not include any project which or person who have previously been the recipient of a tax deferral under Washington law.

~~((H:))~~ (19) APPLICATION PROCEDURES. An application for sales and use tax deferral under ~~((chapter 2, Laws of 1985 1st ex. sess.))~~ this program must be made prior to either the initiation of construction or the acquisition of equipment or machinery, as defined above, whichever occurs first. Application forms will be supplied to the applicant by the department upon request.

The completed application is to be sent in duplicate to the following address:

State of Washington
Department of Revenue
Audit Procedures & Review
Olympia, WA 98504
Mail Stop AX-02

(20) The application shall contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department, including information relating to employment at the investment project.

(21) The department will examine and verify the information contained in the application and either approve or disapprove the application within sixty days. If approved, a tax deferral certificate will be issued effective as of the date the application was received by the department. If disapproved, the department shall notify the applicant as to the reason(s) for disapproval. The applicant may seek administrative review of the department's refusal to issue a certificate pursuant to the provisions of WAC 458-20-100 within twenty days from the date of notice of the department's refusal, or within any extension of such time granted by the department. A certificate holder shall initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate.

(22) A tax deferral certificate shall only be issued to persons who, on June 14, 1985, are not engaged in manufacturing or research and development activities within this state. For purposes of this section, a person shall not be considered to be engaged in manufacturing or research and development activities where the only activities performed by such person in this state are sales, installation, repair, or promotional activities in respect to products manufactured outside this state. Any person who has succeeded by merger, consolidation, incorporation, or any other form or change of identity to the business of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 and any person who is a subsidiary of a person engaged in manufacturing or research and development activities in this state on June 14, 1985 shall also be ineligible to receive a tax deferral certificate.

(23) No application for deferral of taxes shall be accepted after June 30, ~~((+1986))~~ 1988. For purposes of this regulation, the time of receipt of an application shall be determined by the date shown by the post office cancellation mark stamped upon the envelope containing the application if transmitted by the United States Postal Service, the date stamped on the envelope if transmitted by another carrier, or the date of receipt if hand delivered to an office of the department.

~~((HV-))~~ (24) USE OF THE CERTIFICATE. A tax deferral certificate issued ~~((pursuant to chapter 2, Laws of 1985 1st ex. sess.))~~ under this program shall be for the use of the recipient thereof for deferral of sales and use taxes due on each eligible investment project. Deferral is limited only to investment in qualified buildings, machinery,

and equipment as defined in this ~~((rate))~~ section. Thus, sales and use taxes cannot be deferred on items which do not become part of the qualified buildings, machinery, and equipment.

(25) The tax deferral certificate shall be used in a manner similar to that of a resale certificate as set forth in WAC 458-20-102. The certificate holder shall provide its vendors with a copy of the tax deferral certificate at the time goods or services are purchased. The seller or vendor shall be relieved of the responsibility for collection of the sales or use tax upon presentation of the certificate. The seller or vendor shall retain a copy of the certificate as part of its permanent records. A blanket certificate may be provided by the certificate holder and accepted by the seller covering all such purchases relative to the eligible project. The seller or vendor is liable for reporting business and occupation tax on all deferral sales.

~~((V-))~~ (26) AUDIT PROCEDURES. The certificate holder shall notify the department in writing when the construction project is operationally complete. Upon receipt of such notification or other information, the department shall conduct a final audit of the investment project. The certificate holder shall open its books and records to the department and make available the final cost figures for the investment project. The department may request reasonable supporting documentation and other proof to justify the final cost of the project.

(27) Upon completion of the audit the department shall certify the amount of sales and use taxes subject to deferral and the date on which the project was operationally complete. The recipient shall be notified in writing of the total amount of deferred taxes, the date(s) upon which the deferred taxes shall be paid, and any reports required to be submitted in the subsequent years. If the department disallows all or any portion of the amount of sale and use taxes requested for deferral, the recipient may seek administrative review of the department's action pursuant to the provisions of WAC 458-20-100, within twenty days from the date of the notice of disallowance.

(28) The deferral is allowable only in respect to investment in the construction of a new plant complex used in manufacturing or research and development activities, as defined above. Where a plant complex is used partly for manufacturing or research and development purposes and partly for purposes which do not qualify for deferral under this ~~((rate))~~ section and it is not possible to identify the nonqualifying items through separate accounting, the applicable tax deferral shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the plant complex directly used for manufacturing purposes bears to the construction cost per square foot of the total plant complex.

(29) The amount of tax deferral allowable for leased equipment shall be calculated upon that amount of the consideration paid by the lessee/recipient to the lessor:

~~((+))~~ (a) Over the initial term of the lease, excluding any period of extension or option to renew, where the lease term ends on or before the last date for repayment of the deferred taxes; or

~~((2))~~ (b) Over that portion of the lease term to the last date for repayment of deferred taxes as provided hereinafter, where the lease term, excluding any period of extension or option to renew extends beyond such repayment date.

(30) After that date the lessee/recipient shall pay the appropriate sales tax to the lessor for the remaining term of the lease.

(31) No taxes may be deferred under this ~~((rule))~~ section prior to June 14, 1985. No applications for deferral of taxes will be accepted after June 30, ~~((1986))~~ 1988, nor will sales or use tax deferral certificates be issued after August 29, ~~((1986))~~ 1988. A certificate holder must commence construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate but no later than December 31, ~~((1986))~~ 1988.

~~((VI))~~ (32) REPORTING AND MONITORING PROCEDURE. An applicant must provide the department with the estimated cost of the investment project at the time the application is made. The applicant shall also provide information relative to the number of jobs contemplated to be created by the project.

(33) The department and the department of trade and economic development shall jointly make two reports to the legislature about the effect of this deferral law on new manufacturing and research and development activities and projects in Washington. The report shall contain information concerning the number of deferral certificates granted, the amount of state and local sales and use taxes deferred, the number of jobs created, and other information useful in measuring such effects. The departments shall submit their joint reports to the legislature by January 1, 1986 and by January 1, ~~((1987))~~ of each year through 1989.

(34) Any recipient of a sales and use tax deferral may be asked to submit reports to the department or department of trade and economic development during any period of time the recipient is receiving benefits under this deferral law. The report shall be made to the department in a form and manner prescribed by the department. The recipient may be asked to report information regarding the actual average employment related to the project, the actual wages of the employees related to the project, and any other information required by the department. If the recipient fails to submit a report, the department may not impose any penalties or sanctions against the recipient.

~~((VII))~~ (35) PAYMENT PROCEDURES. The recipient of sales and use tax deferral under this ~~((regulation))~~ program shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project was operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years, with amounts of payment scheduled as follows:

Repayment Year	Percentage of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(36) The department may authorize an accelerated repayment schedule upon request of the recipient. Interest shall not be charged on any taxes deferred under this program during the period of deferral, although other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for any delinquent payments during the repayment period pursuant to chapter 82.32 RCW. The debt for deferred taxes shall not be extinguished by insolvency or other failure of the recipient nor shall the debt for the deferred taxes be extinguished by the sale, exchange, or other disposition of the recipient's business. Any person who becomes a successor (see WAC 458-20-216) to such investment project shall be liable for the full amount of any unpaid, deferred taxes under the same terms and conditions as the original recipient.

WSR 86-14-020
REVIEW OF RULES
DEPARTMENT OF REVENUE
 [Filed June 24, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Revenue intends to review the following rules: Public utility tax, WAC 458-20-179.

The agency will at 9:00 a.m., Tuesday, August 19, 1986, in the Main Conference Room, First Floor, General Administration Building, conduct a public hearing on the rules.

The rules review committee's findings and the reasons for the findings were stated to this agency as follows: At its meeting on May 20, 1986, the Joint Administrative Rules Review Committee, by a majority vote upon formal review, determined that your recently adopted rule relating to the application of the utility tax to sewerage collection (WAC 458-20-179; WSR 85-22-041) fails to meet the legislative intent of RCW 82.16.020, chapter 471, Laws of 1985.

The statute imposes the utility tax on the business of "sewerage collection." By its rule the department has defined "sewerage collection" to include not only the "collection" but also the "transfer, treatment, and ultimate disposition of sewage." It is the consensus of the committee that this definition is overbroad and lacks foundation in both the language and history of the statute. In the committee's view, considering together both the language and history of the statute, it is clear that the legislature intended to tax two separate activities and their respective incomes as follows: Collection under the utility tax and sewage treatment under the business and occupation tax.

Under RCW 34.04.230, the Department of Revenue must file a notice of hearing on the rule within 30 days of its receipt of this notice. The department must fully consider all written and oral submissions and notify the Joint Administrative Rules Review Committee of its action on the rule within seven days of the hearing. Further committee action will be required if the department fails to hold the required hearing and refuses to modify, amend, or repeal the rule.

Dated: June 24, 1986
By: Gary O'Neil
Assistant Director

PROPOSED INTERIM POLICY ON TAXATION OF
SEWERAGE AND REFUSE COLLECTION

In accordance with Department of Revenue Administrative Policy number 5.7.2 the following is the interim formal policy regarding the taxation of sewerage and refuse collection services. This policy will remain in effect until such time as WAC 458-20-179 is revised to parallel the findings of the Joint Administrative Rules Review Committee.

The public utility tax, as referred to in WAC 458-20-179, will apply only to the collection portion of the total charge for sewerage and refuse collection services. The remainder of the total charge will be subject to the Service and Other Activities classification of the business and occupation tax. Previously, all income was subject to the public utility tax including collection and ancillary (treatment, transfer, disposal, etc.) services.

Neither the public utility tax nor the business and occupation tax are intended to pyramid in this instance. Each entity involved in providing any part of the refuse or sewerage services will report tax only on its own share of the income derived.

This change in Departmental policy will be retroactive to July 1, 1985 for sewerage collection service and from July 1, 1985 to June 10, 1986 for refuse collection services. On and after June 11, 1986 the refuse collection business is governed by WAC 458-20-250, not WAC 458-20-179.

The Department of Revenue will honor all requests for credits and refunds because of any overpayment of tax after July 1, 1985, but will not take any action on such requests until such time as Washington Administrative Code 458-20-179 is revised to set down guidelines for determining and processing such refunds and credits.

All affected parties will be notified of this change as well as the proposed amendments to WAC 458-20-179. A public hearing has been scheduled for August 19, 1986 to consider the proposed amendment.

WSR 86-14-021
PROPOSED RULES
CORRECTIONS STANDARDS BOARD
[Filed June 24, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning modification of physical plant standards for local jails (chapter 289-12 WAC) and the definition of "day room" (WAC 289-02-020(5)) to expand the types of space included in the calculation of the requirement for 95 square feet of living space per prisoner in jail dormitory areas; modification of physical plant standards (chapter 289-10 WAC) and custodial care standards (chapter 289-26 WAC) for local jail special detention and work release facilities and the definition of "day room" (WAC 289-02-020(5)) to expand the types of space included in the calculation of the requirement for 95 square feet of living space per prisoner in special detention and work release facility dormitory areas, and to reduce the requirement to 85 square feet per prisoner; and adoption of a procedure for granting variances allowing for 85 square feet of living space per prisoner in jail dormitory areas, and 75 square feet per prisoner in special detention and work release facilities;

that the agency will at 9:00 a.m. or later, Friday, August 8, 1986, in the Red Lion Motel, 221 North Lincoln, Port Angeles, 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 70.48.050.

The specific statute these rules are intended to implement is RCW 70.48.050.

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

Dated: June 19, 1986
By: Robert W. Cote
Executive Secretary

STATEMENT OF PURPOSE

Title: Square footage requirements for jail, special detention and work release dormitory areas.

Description of Purpose: To allow jails to increase their maximum capacity by expanding the types of space included in the calculation of the per-prisoner square footage requirements for jail, special detention and work release facility dormitory areas. To reduce the requirement in special detention and work release facilities to 85 square feet per prisoner. To adopt a procedure for granting variances allowing for 85 square feet of living space per prisoner in jail dormitory areas, and 75 square feet per prisoner in special detention and work release facilities.

Statutory Authority: RCW 70.48.050.

Summary of Rule: Would combine the requirement for 65 square feet of sleeping space and 35 square feet of day room space per prisoner in jail dormitory areas and

special detention and work release facilities to a requirement of 95 square feet of living space. It would include as "day room space" hallways, dining areas, hygiene areas and leisure time activity space provided that prisoners had unrestricted access to these areas during all or part of the day. It would reduce the requirement for special detention and work release facilities, from 95 square feet to 85 square feet per prisoner. It would adjust the requirements for sinks, toilets and showers to allow for the capacity increases allowed under these rules. It would set out a procedure for granting variances that allow reduction of these square footage requirements by up to 10 square feet, provided that the facility can demonstrate that such a variance would not adversely impact the health, safety or welfare of prisoners, staff or the public.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Corrections Standards Board.

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: None.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 86-02, filed 8/27/85)

WAC 289-26-300 CAPACITY. (1) The director of the local department of corrections or chief law enforcement officer shall propose a maximum capacity for each special detention facility, except where such facility's capacity is already included within a jail facility with an established capacity under WAC 289-15-225. Notice of such proposed maximum capacity shall be delivered to the corrections standards board at least sixty days prior to the opening of a facility.

(2) The board shall establish a maximum capacity at its next regularly-scheduled public meeting. It shall be the responsibility of the board to establish cause for revising the maximum capacities proposed by the governing unit in question. One year special detention and work release facilities will be deemed adequate to house up to the number of prisoners which would result in ~~((sixty)) an average net living space of eighty-five square feet per prisoner in each ((single room, multiple occupancy room and dormitory and a minimum of thirty-five square feet per prisoner for leisure time activity space))~~ of the living areas of the facility, except for board-approved variances as provided in WAC 289-12-045. Seventy-two hour special detention facilities will be deemed adequate to house up to the number of prisoners which would result in sixty square feet per prisoner in each single room, multiple occupancy room and dormitory.

AMENDATORY SECTION (Amending Resolution No. 84-51, filed 12/12/84)

WAC 289-02-020 DEFINITIONS. The following words and phrases shall have the meaning indicated whenever used in this title unless a different meaning is specifically indicated.

(1) "Clear floor space" means floor area which is unobstructed by any permanent fixture.

(2) "Contraband" means any substance or item not specifically permitted by a jail administration.

(3) "Commission" or "state jail commission" refers to the commission established pursuant to RCW 70.48.030.

(4) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed and used for housing of adult persons

serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(5) "Day room" means ~~((a multipurpose area separate and distinct from a sleeping area, but adjacent thereto, designed primarily for prisoner-leisure time activity exclusive of physical exercise activity))~~ an area to which prisoners have unrestricted access during all or part of a day for leisure, dining, hygiene, or similar activities.

(6) "Detention facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(7) "Dormitory" means a secured sleeping and ~~((living))~~ day room area occupied by more than one prisoner, provided, that the term "dormitory" shall not include a single cell presently operated as a cell and originally designed for single occupancy.

(8) "Governing unit" means the city and/or county or any combination of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(9) "Holding facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(10) "Jail" means any holding, detention, or correctional facility as defined herein, or any farm, camp, or work release facility established and operated in conjunction with a jail.

(11) "Living area" includes single cells, dormitories, day room area and leisure time activity space.

(12) "Major urban" refers to a county or combination of counties which contains a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

(13) "Medium urban" refers to a county or combination of counties which contains a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

(14) "Public records" include any writing or recording which contains information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or returned by any state or local agency regardless of its physical form or characteristics.

(15) "Rural" refers to a county or combination of counties which does not contain a city having a population of more than ten thousand based on the 1978 projections of the office of financial management.

(16) "Single cell" means a secured sleeping area occupied by only one prisoner, and which is physically and visually separated from other prisoner sleeping areas on three of its four sides.

(17) "Communicable disease" means micro-organisms that are easily transferable from one body to another creating a condition which must be reported to the health department.

(18) "Work release program" means a program of scheduled release from the physical confines of a city or county jail, special detention facility or work release center for the purpose of employment, seeking employment or school.

(19) "Work release facility" means any building or designated portion of a building primarily designed, staffed, and used for the housing of persons participating in a work release program.

(20) ~~(("Leisure time activity space" means day room area, program area and exercise area:~~

~~((21))~~ "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

~~((22))~~ ~~((21))~~ "Substantially remodeled" means significant alterations made to the physical plant of a jail to conform with the physical plant standards.

~~((23))~~ ~~((22))~~ "Strip search" means having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitals, buttocks, anus or undergarments of a person or breasts of a female person.

AMENDATORY SECTION (Amending Order 84-51, filed 10/12/84)

WAC 289-10-310 ((FUNCTIONAL AREAS)) LIVING SPACE. ((Rooms/dormitories. Sleeping areas shall be designed to provide reasonable privacy, necessary furnishings, and closet/locker space for the storage of personal items, and shall be located separate and distinct from other living areas.

Each single room, multiple occupancy room and dormitory shall provide a minimum of sixty square feet per prisoner not including leisure time activity space.)) (1) One year special detention and work release facilities shall provide living space which meets the following requirements:

(a) Sleeping areas shall be designed to provide reasonable privacy, necessary furnishings, and closet/locker space for the storage of personal items.

(b) A day room area as defined in WAC 289-02-020(5), which shall be provided with necessary furnishings.

(c) The combined space of the sleeping and day room areas shall not be less than eighty-five square feet per prisoner, except for corrections standards board approved variances as provided in WAC 289-12-045.

(2) Seventy-two hour special detention facilities shall provide sleeping areas designed to provide reasonable privacy, necessary furnishings, and closed/locker space for the storage of personal items. Each single room, multiple occupancy room, and dormitory shall provide no less than sixty square feet per prisoner.

AMENDATORY SECTION (Amending Order 84-51, filed 10/12/84)

WAC 289-10-520 TOILET—WASH BASIN. Special detention and work release facilities shall provide one toilet which should be enclosed with partitions and doors, and one wash basin with hot and cold running water for every ((eight)) twelve prisoners.

AMENDATORY SECTION (Amending Order 84-51, filed 10/12/84)

WAC 289-10-530 SHOWER/BATHING. Special detention and work release facilities shall provide one shower or bathing facility with hot and cold running water for every ((ten)) fifteen prisoners. (Not applicable - 72 hours.)

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 289-10-320 LEISURE TIME ACTIVITY SPACE.

WAC 289-10-330 VARIANCES ROOM/DORMITORIES AND LEISURE TIME ACTIVITY SPACE.

AMENDATORY SECTION (Amending Resolution No. 85-02, filed 7/3/85)

WAC 289-12-030 NEW FACILITIES. (1) Initial planning for new facilities. The design planning of all new detention and correctional facilities shall include:

(a) Obtaining the participation of the community and surrounding governing units in site selection and planning; and

(b) Analyzing the present and future qualitative function and quantitative workload of the proposed facility, giving optimum consideration to alternatives to confinement.

(2) Specific physical plant standards. (Detention and correctional facilities except as otherwise noted.)

(a) Functional areas.

(i) Sleeping and living areas shall be designed to provide adequate confinement, reasonable prisoner to prisoner privacy, sight and sound surveillance and protection for prisoners and staff. For such purposes, the following are the design criteria for state funding of new construction or renovation of detention and correctional facilities. Modifications thereto shall be considered under the provisions of WAC 289-12-035.

(A) Single occupancy cells((:)) shall be seventy-two square feet or larger with not less than eight foot ceilings. A single occupancy cell should contain not less than fifty square feet of clear floor space. Each single occupancy cell or group of single occupancy cells shall provide an adjacent day room which shall provide a minimum of thirty-five

square feet per prisoner, but not less than a total of one hundred forty-four square feet.

(B) ((Day room areas: A minimum of thirty-five square feet per prisoner, but not less than a total of one hundred forty-four square feet:

(C)) Dormitories, when included((:)) shall have a minimum and maximum capacity of eight to ((ten)) fourteen males or four to ((ten)) fourteen females ((and sixty square feet of floor space per prisoner in semi-private sleeping areas. The dormitory shall also include day room space, as provided in (2)(a)(i)(B) above, and)). Each dormitory shall provide a sleeping and day room area. The combined space of a dormitory sleeping and day room area shall provide a minimum of ninety-five square feet per prisoner, except for board-approved variances as provided in WAC 289-12-045. The day room portion shall be not less than one hundred forty-four square feet. The sleeping area shall have not less than ((ten)) nine foot ceilings if double bunks are used.

(ii) Program, recreation and exercise areas. Detention and correctional facilities shall provide adequate indoor program and recreation area(s) and a multipurpose outdoor exercise and activity area with toilet facilities.

(iii) Kitchen and dining facilities.

(A) When kitchen facilities are included, such facilities shall be adequate for the sanitary preparation of three nutritionally balanced meals per day and shall meet the requirements of chapter 248-84 WAC.

(B) Dining area(s) shall allow conversational opportunities in adequate surroundings. Meals shall not be served in cells, except where necessary for the health, security and/or well-being of prisoners and staff.

(iv) Examining room, infirmary and medical isolation.

(A) Detention and correctional facilities shall provide space to be used as a medical examining room. This space may be multipurpose, but when used as an examining room it shall provide sight and sound privacy and be equipped with natural spectrum fluorescent lighting, a handwashing lavatory with a gooseneck spout, either foot, knee, push plate, electric eye beam, or equivalent faucet controls, and sufficient lockable storage for medical equipment and supplies.

(B) When an infirmary is located within the facility, infirmary space shall allow a minimum of three feet between the perimeter of each bed and walls, beds, and any fixed obstruction: PROVIDED, That this three foot requirement does not apply to the distance between the head of a bed and the wall. The infirmary shall be equipped with its own lavatory, toilet, shower and bathtub.

(C) If medical isolation facilities are located within the jail such facilities shall conform to applicable standards of WAC 248-18-530 and 248-18-718.

(v) Visitation and confidential consultation.

(A) Space for visitation shall be included in detention and correctional facilities. Such space shall allow surveillance and the degree of control over physical contact deemed necessary by jail management for visible control, and shall simultaneously provide adequate seating for prisoners and their visitor(s).

(B) Detention and correctional facilities shall provide adequate facilities for confidential consultation(s).

(vi) Laundry. If laundry facilities are provided within the jail, such facilities shall be adequate for sanitary washing and drying of the jail laundry. Separate areas should be arranged for storage and sorting of soiled laundry and for the sorting, folding and storage of clean laundry.

(vii) Storage. Detention and correctional facilities shall include one or more secure storage area(s) for the storage of prisoner personal clothing and property and for necessary jail equipment and supplies.

(viii) Supervisory stations.

(A) Sufficient space and equipment for the facility supervisor shall be provided in an area secure from prisoner access. An adequate control room shall be secure from any unauthorized access and it shall be capable of controlling access to the facility by the general public.

(B) Sight and sound surveillance equipment, where used, shall be monitored in the control room and remote control operating devices shall also be in the control room. The control room shall be equipped with a sink and toilet.

(ix) Booking and reception areas. The booking area(s) shall include, but not be limited to, restroom facilities with shower, a "strip search" room, holding cell(s) (may be multiple occupancy), telephone, and space for photographing, fingerprinting, delousing, intoxication determinations and health screening.

(b) Structural criteria. Subject to appropriate modifications on a case-by-case basis under the provisions of WAC 289-12-035, the following structural criteria shall apply to all state funded new construction or remodeling of detention and correctional facilities:

(i) Building codes. All standards contained in the current Washington state building code established by RCW 19.27.030, the electrical wiring provisions of chapter 19.28 RCW, and more restrictive local standards shall be followed in all new jail construction.

(ii) Materials for walls, floors and ceilings. In all jail facilities, walls, floors and ceilings shall be constructed with materials adequate to attain the degree of security required for each area of the facility. Such materials shall be easily cleanable, provide minimum sound transmission and fire protection. Polyurethane, neoprene or similar type materials shall not be used in padded cells. All paint used in a jail facility shall be fire resistant and nontoxic.

(iii) Entrances and exits.

(A) Detention and correctional facilities shall have two secure vestibules for ingress and egress.

(B) Elevators shall have no less than six feet by eight feet inside dimensions.

(C) A secure area shall be provided for loading and unloading prisoners.

(iv) Windows and/or skylights. Windows and/or skylights shall be sufficient to provide natural light to all living areas, yet locations shall assure security from escape and introduction of contraband.

(v) Noise level. Noise level shall conform to the requirements of chapter 173-60 WAC (Maximum environmental noise levels).

(c) Utilities. Subject to the appropriate modifications on a case-by-case basis under the provisions of WAC 289-12-035, the following criteria for utilities will apply to all state funded new construction or remodeling of detention and correctional facilities:

(i) Prisoner living areas, inspection corridors, and vestibules shall have secure lights with outside switch control. No electrical conduit shall be accessible from any cell, though each living unit may contain outlets and switches, provided they are unilaterally controllable by staff.

(ii) Lighting. Illumination at all times shall be adequate for security and surveillance, and daytime and evening illumination shall be sufficient to permit prisoners to read in their cells (thirty foot candles at thirty inches minimum, one hundred foot candles at thirty inches for medical examining areas, fifty foot candles at thirty inches for work areas).

(iii) Water supply. There shall be an adequate supply of sanitary hot and cold water available at all times to prisoners. Hot water for general use shall be adequate.

(iv) Plumbing—Toilets, lavatories, showers and floor drains.

(A) There shall be at least one toilet and lavatory for every ~~((eight))~~ ten prisoners. Separate facilities shall be provided for each sex.

(B) A minimum of one shower head shall be provided for every ~~((ten))~~ fourteen prisoners.

(C) Floor drains shall be constructed to serve all cells, dormitories and other areas where necessary to facilitate cleaning. Floor drains shall be located outside the cell space to reduce the incidence of tampering and flooding. Plumbing connection and pipes shall be secure from uncontrolled access by prisoners.

(v) Heating, ventilation and air conditioning.

(A) The systems shall maintain mean temperatures between sixty-five and eighty-five degrees F.

(B) The ventilating system shall provide for the number of air changes per hour as specified in the Uniform Building Code.

(d) Support systems.

(i) Fire detection and suppression. All jails shall have smoke and fire detection and alarm equipment. Fire alarm systems shall conform to all state and local fire regulations. Sprinklers shall not be required within cells and conflicting requirements of local code provisions are preempted, when all other applicable code provisions relating to fire safety are met and an effective smoke control system is incorporated in the facility design.

(ii) Emergency power. All detention and correctional facilities shall be equipped with emergency power sources with sufficient capacity to maintain communications and alarm systems, to move one jail elevator, where one exists, to provide minimum lighting within the facility and perimeter and for the preparation of a light meal.

(3) Minimum security facilities. Jail facilities shall be constructed to totally separate areas for housing prisoners who are allowed to go outside the jail regularly from all other prisoner areas.

(4) Holding facilities. Holding facilities shall be secure. Such facilities shall have adequate lighting, heat, ventilation and fire detection and suppression equipment. Each holding facility cell shall be equipped with a bed, toilet, lavatory and a drinking fountain. A telephone shall be accessible.

NEW SECTION

WAC 289-12-045 VARIANCES FROM SPACE REQUIREMENTS. (1) Purpose. It is the purpose of this section to establish guidelines for local jurisdictions to apply for a variance from the square footage requirements as set forth in WAC 289-12-030 (2)(a)(i)(B) and (C) relating to square footage per prisoner in day rooms and dormitories in detention and correctional facilities and WAC 289-10-310 relating to square footage per prisoner in living space in special detention and work release facilities. RCW 70.48.070(2) authorizes the corrections standards board to grant variances from the physical plant standards consistent with the intent of the city and county jails act. The rule set forth in this section are consistent with the act's legislative declaration that states "It is the policy of this state that all city and county jails provide a humane and safe environment."

(2) Guidelines. Approval or disapproval of variances and increased capacity will be considered on a case-by-case basis, considering those applications elements cited under subsection (3)(a) through (k) of this section and the following guidelines:

(a) Expansion of capacity and the granting of a variance under this section should be the final reasonable option available to the local jurisdiction for handling the increase in jail population.

(b) The local jurisdiction must provide assurance that all other options, including the use of alternatives to incarceration, completion of state-funded jail expansion space, decreasing the number of out-of-jurisdiction prisoners (e.g., state and federal contract prisoners) and opening a new special detention facility have been satisfactorily considered.

(c) Variances will be approved pursuant to this section in response to overcrowing of local prisoners, not to permit jurisdictions to generate revenue through contacts to house state or federal prisoners.

(3) Application. Application for a variance for the purpose of increasing the capacity in a detention, correctional, or special detention facility beyond that allowed by the physical plant standards shall be made jointly by the chief law enforcement officer or director of the local department of corrections and local governing unit. The application shall address, but not be limited to, the following elements:

(a) The specific area or areas of a facility for which a capacity increase is proposed.

(b) The impact on compliance with physical plant standards, e.g., day room space, number of showers and toilets per prisoner, adequacy of ancillary services such as exercise (outdoor and indoor), recreation, visiting, dining, food services, laundry, and program areas.

(c) The anticipated length-of-stay for prisoners to be placed in an area for which capacity has been increased, and the reasons for placing this population in this increased-capacity area.

(d) The amount of time the prisoner would have away from the sleeping area.

(e) The availability of access to day rooms, visiting, exercise areas, and other programs.

(f) The impact on compliance with custodial standards, with particular focus on:

(i) Prisoner monitoring and surveillance, i.e., continual surveillance, observation every hour, and three-minute response time;

(ii) Delivery of medical services;

(iii) Quality and quantity of food;

(iv) Ability to classify properly;

(v) Sanitation, including a specific plan as to how sanitation will be maintained despite the increased population;

(vi) Visiting;

(vii) Indoor and outdoor exercise; and

(viii) Other programs and services.

(g) The impact on incidents and violence, including a specific plan as to how violence will be controlled despite the increased population and the increased potential for hostility and tension.

(h) Assurances from the jurisdiction that increasing capacity would not cause the staff-to-prisoner ratio to be insufficient for purposes of providing a safe, secure, healthful environment.

(i) certification from local fire officials that the safety of inmates is not being compromised by adding or increasing capacity in all or a portion of the jail.

(j) The impact on transport services, e.g., to court, the hospital, and clinics.

(k) Written policies and procedures on classification and segregation, specifying which area(s) of the jail for which increased capacity is approved, which types of inmates may be placed in an area for which capacity has been increased, who will make this decision, and the length of time an inmate may be held in an area for which capacity has been increased.

(4) Limitations. Variance requests for the combined dormitory day room and sleeping areas shall not be less than eighty-five square feet per prisoner in detention and correctional facilities and seventy-five square feet per prisoner in special detention/work release facilities. Variance requests are limited to dormitories and will not be considered for single occupancy cells.

(5) Procedures for review. Requests for approval of variances and increased capacity will be scheduled for public meeting review and approval or disapproval by the corrections standards board.

(6) Conditions on approved variances. The corrections standards board, on approval of a variance, may impose such conditions as it deems appropriate. These may include, but are not limited to, any or all of the following conditions:

(a) Quarterly reports on the impact of the increased capacity which may include, but not be limited to:

(i) Number of inmates placed in an area for which capacity has been increased;

(ii) Average length of stay;

(iii) Number and nature of incidents that have occurred;

(iv) Noncompliance with custodial care standards;

(v) Certification that the staff-to-prisoner ratio is or is not sufficient for purposes of providing a safe, secure, healthful environment.

(b) Specific conditions to ensure that the health, welfare and security of persons confined in the jail is maintained.

(7) Prior variances. Variances previously granted by the board shall remain in effect unless specifically modified or terminated by the board at the time a variance pursuant to this section is granted.

(8) Termination. A variance may be terminated by the board if increased capacity is determined to cause an adverse impact on the health, welfare, and security of persons confined in the jail. In the event of a variance termination, the board may enter such orders as it deems appropriate to safeguard the health and safety of prisoners and the public, including but not limited to any combination of the following:

(a) Requiring submission of a plan to either release excess prisoners or provide another adequate facility for the housing of excess prisoners, or both;

(b) Requiring the removal of beds from the affected dormitory area; and

(c) Requiring the jurisdiction to provide other alternative means to ensure a reduction of the population.

WSR 86-14-022
PROPOSED RULES
CORRECTIONS STANDARDS BOARD
 [Filed June 24, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning maximum capacities, amending WAC 289-15-225;

that the agency will at 9:00 a.m. or later, Friday, August 8, 1986, in the Red Lion Motel, 221 North Lincoln, Port Angeles, 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 70.48.050.

The specific statute these rules are intended to implement is RCW 70.48.050.

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

Dated: June 19, 1986

By: Robert W. Cote
 Executive Secretary

STATEMENT OF PURPOSE

Title: Maximum capacities.

Description of Purpose: The purpose of WAC 289-15-225, which was originally adopted by the State Jail Commission on May 14, 1983, is to incorporate within the custodial care standards specific maximum jail capacity figures for purposes of applying the crowding standard set forth in WAC 289-15-220. The purpose of these amendments is to change several of those capacities.

Statutory Authority: RCW 70.48.050.

Summary of Rule: Change the capacity figures for Snohomish County, Spokane County and Thurston County.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Corrections Standards Board.

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: None.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Resolution No. 86-05, filed 4/18/86)

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	Correctional Facilities
Auburn (22)	Asotin County (16)
Bremerton (23)	Benton County (109)
Issaquah (10)	Chelan County (132)
Olympia (temporary) (19)	Clallam County (102)
Stevens County (22)	Clark County (300)
	Cowlitz County(91)
	Ferry County (22)
	Forks (11)
	Franklin County (76)
	Grant County (85)
	Grays Harbor County (82)
	Island County (50)
	Jefferson County (20)
	Kent (56)
	King County (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)

Detention Facilities

Correctional Facilities

Skamania County (17)
 Snohomish County (~~((+6))~~) (277)
 Snohomish County Work
 Release (60)
 Spokane County (~~((352))~~) (461)
 Thurston County (~~((94))~~) (145)
 Walla Walla County (44)
 Whatcom County (82)
 Whitman County (34)
 Yakima County (274)

WSR 86-14-023

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 24, 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 blueberry quarantine, chapter 16-488 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 15, 1986.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 24, 1986

By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapter 16-488 WAC.

Description of Purpose: To amend the rules relating to blueberry quarantine.

Statutory Authority: Chapter 17.24 RCW.

Summary of Rules: Prohibit the shipment or movement of fresh fruit of blueberry from certain eastern states where blueberry maggot is known to infest blueberries, and receipt of blueberries from those areas would constitute a threat to blueberry production in Washington state.

Reasons for Supporting Proposed Actions: Would allow the department to issue special permits for shipment of blueberries from quarantined areas subject to provisions established by the director, and allow shipment of blueberries that have been fumigated under certain requirements. These rules have not been amended since 1973 and some housekeeping changes are also proposed.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Robert O. Rebhan, Plant Services Supervisor, Chemical and Plant Division, 406 General Administration Building, AX-41, Olympia, Washington, (206) 753-5062.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

NEW SECTION

WAC 16-488-002 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of this state, or a duly authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Interior quarantine" means a quarantine within the state of Washington established against the movement of designated plant pests, life stages, their hosts, and possible carriers from areas identified by the Washington state department of agriculture.

(4) "Exterior quarantine" means a quarantine established against the movement into Washington state of designated plant pests, life stages, their hosts, and possible carriers from areas identified by the Washington state department of agriculture.

(5) "Commercial orchard" means an orchard in which fruit is grown for commercial purposes and with the use of approved and accepted integrated pest management programs pursuant to statutes, guidelines or rules approved by the agricultural extension service or regulatory officials of the state of origin.

(6) "Commercial fruit" means fruit that is:

(a) Grown in a commercial orchard and commercially packed and labeled;

(b) Fruit grown in a commercial orchard and destined to a commercial processing plant or packing plant.

NEW SECTION

WAC 16-488-006 BLUEBERRY MAGGOT—ESTABLISHING QUARANTINE. Blueberry maggot (*Rhagoletis mendax*) is known to infest blueberries in various states situated in the eastern part of the United States, and blueberries produced in this state are susceptible to infestation by blueberry maggot (*Rhagoletis mendax*); therefore, a quarantine is established to prevent shipments or receipt of blueberries from such eastern states which may constitute a direct threat or hazard to blueberry production in Washington state.

AMENDATORY SECTION (Amending Order 1327, filed 10/10/73)

WAC 16-488-010 BLUEBERRY QUARANTINE—COMMODITY COVERED. The movement or shipment into Washington state of all fresh fruit of blueberry from areas under quarantine (see WAC 16-488-015) shall be prohibited except as provided for in WAC 16-488-025.

AMENDATORY SECTION (Amending Order 1327, filed 10/10/73)

WAC 16-488-015 BLUEBERRY QUARANTINE—AREAS UNDER QUARANTINE. The following areas are declared by the director to be under quarantine for blueberry maggot: All states and districts of the United States east of and including the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

AMENDATORY SECTION (Amending Order 1327, filed 10/10/73)

WAC 16-488-025 BLUEBERRY QUARANTINE EXEMPTIONS. Fresh fruit of blueberry may be moved or shipped from quarantined areas into Washington state under the following conditions:

(1) No restrictions are placed by this (~~(regulation)~~) section on the entry into this state of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state.

(2) Commodities covered which are held in cold storage for a continuous period of forty days or more, during which period the temperature within the storage room is maintained at thirty-two degrees fahrenheit or less, may be admitted (~~(provided)~~): PROVIDED, That a lot or shipment is accompanied by (~~(an official)~~) a certificate issued by an official governmental agency from the state of origin evidencing compliance with the minimum requirements of this section.

(3) Each shipment of blueberries that have been fumigated with methyl bromide at atmospheric pressure by one of the following schedules may be permitted entry into Washington state: PROVIDED, That residues on fresh fruit of blueberries do not exceed the Federal Food and Drug Administration's allowable tolerances.

32 g/m³ (2 lbs./1,000 ft.³) for 2 hours at 27.7°C (82°F) or above;
 or

32 g/m³ (2 lbs./1,000 ft.³) for 2 1/2 hours at 22.2°C-27.2°C (72°F-81°F); or

32 g/m³ (2 lbs./1,000 ft.³) for 3 hours at 16.6°C-21.6°C (62°F-71°F); or

32 g/m³ (2 lbs./1,000 ft.³) for 3 1/2 hours at 10°C-16.1°C (50°F-61°F).

(a) The fumigation shall be done by applicators who are registered or certified in fumigation pest control in the state of origin.

(b) Each fumigation shall be monitored and supervised by an authorized representative of the origin state department of agriculture.

(c) Each shipment of blueberries shall be accompanied by a phytosanitary certificate issued by an authorized representative of the origin state department of agriculture evidencing compliance with the fumigation requirements. The certificate shall state the number of cartons in the shipment and the name and address of the consignee.

AMENDATORY SECTION (Amending Order 1327, filed 10/10/73)

WAC 16-488-030 **BLUEBERRY QUARANTINE DISPOSITION OF MATERIAL SHIPPED IN VIOLATION OF THIS QUARANTINE.** (~~Regulated commodities~~) All fresh fruit of blueberry not meeting the requirements of this (~~quarantine~~) chapter shall be returned to the point of origin, or destroyed at the option and expense of the owner(s) or (~~owners, his or their~~) the owner(s) responsible agent(s) (~~or agents~~).

NEW SECTION

WAC 16-488-990 **PERMITS.** The director may issue special permits admitting commodities under quarantine not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions which the director may prescribe to prevent introduction, escape, or spread of the quarantined pests.

NEW SECTION

WAC 16-488-995 **PENALTY AND VIOLATION.** All violations of this chapter shall be dealt with according to the provisions of RCW 17.24.100.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-488-001 **PROMULGATION. ESTABLISHING QUARANTINE.**
- WAC 16-488-005 **PEST.**
- WAC 16-488-020 **AREAS NOT INFESTED.**
- WAC 16-488-035 **VIOLATION AND PENALTY.**
- WAC 16-488-040 **EFFECTIVE DATE.**

WSR 86-14-024
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 86-51—Filed June 24, 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 and these rules are adopted at the recommendation of the Pacific Fisheries Management Council.

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 June 23, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-56-19000A **SALTWATER SEASONS AND BAG LIMITS—SALMON.** Notwithstanding the provisions of WAC 220-56-190, effective immediately until further notice, it is unlawful to fish for or possess salmon taken for personal use from all waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, all waters west of the Buoy 10 Line and Strait of Juan de Fuca waters westerly of a line projected true north from the mouth of the Sekiu River except as provided for in this section:

(1) Those waters westerly of the mouth of the Sekiu River and northerly of a line projected true west from the mouth of the Queets River: open to salmon fishing 12:01 a.m. June 29 until further notice, except closed from 12:01 a.m. Friday through 11:59 p.m. Saturday each week during the open period.

(2) Those waters southerly of a line projected true west from the mouth of the Queets River, northerly of a line projected true west from Klipsan Beach (46 degrees 28 minutes 12 seconds North Latitude) and westerly of the territorial sea boundary referenced on Chart number 18500, 21st Ed., Department of Commerce, NOAA, National Ocean Survey (outside three miles): open to salmon fishing 12:01 a.m. June 29 until further notice except closed from 12:01 a.m. Friday through 11:59 p.m. Saturday each week during the open period.

(3) Minimum size limit 16 inches for coho and 24 inches for chinook salmon.

(4) Bag limit F.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-56-16000Z **COLUMBIA RIVER (86-15)**
- WAC 220-56-10000B **DEFINITIONS—PERSONAL USE (86-16)**
- WAC 220-56-15000A **UNLAWFUL TO TAKE ANOTHER'S LIMIT (86-16)**
- WAC 220-56-18000S **BAG LIMIT CODES (86-16)**
- WAC 220-56-19000Z **SALTWATER SEASONS AND BAG LIMITS (86-16)**
- WAC 220-56-19500D **CLOSED AREA—SALTWATER SALMON ANGLING (86-16)**

- WAC 220-56-20500A FRESH WATER HOOK REGULATIONS (86-16)
- WAC 220-56-24000C DAILY BAG LIMITS—OTHER FOOD FISH (86-16)
- WAC 220-56-29500B STURGEON UNLAWFUL ACTS (86-16)
- WAC 220-56-30500B STURGEON—SNAKE RIVER (86-16)
- WAC 220-56-31200A SHELLFISH POSSESSION LIMITS (86-16)
- WAC 220-56-38200A OYSTERS AND CLAMS ON PRIVATE TIDELANDS (86-16)
- WAC 220-56-40000B ABALONE (86-16)
- WAC 220-57-17500P COWLITZ RIVER (86-16)
- WAC 220-57-31900B LEWIS RIVER (86-16)
- WAC 220-57A-00100C LAKES—SEASONS AND BAG LIMITS (86-16)
- WAC 220-57-31500E KLICKITAT RIVER (86-20)
- WAC 220-57-51500A WIND RIVER (86-20)
- WAC 220-57-38500I QUILLAYUTE RIVER (86-33)

WSR 86-14-025

ADOPTED RULES

PARKS AND RECREATION COMMISSION

[Order 95—Filed June 24, 1986]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Chelan, Washington, that it does adopt the annexed rules relating to consumption of alcohol in state parks areas, WAC 352-32-210.

This action is taken pursuant to Notice No. WSR 86-10-058 filed with the code reviser on May 7, 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 Parks and Recreation Commission as authorized in RCW 43.51.040 and 43.51.060.

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

APPROVED AND ADOPTED June 20, 1986.

By Margaret S. Williams
Chair

AMENDATORY SECTION (Amending Order 91, filed 2/25/86)

WAC 352-32-210 CONSUMPTION OF ALCOHOL IN STATE PARK AREAS. (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park

area shall be prohibited except in the following designated areas and under the following circumstances:

(a) In designated campgrounds, by registered campers or their guests;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas; and

(c) In any building operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) Dispensing alcoholic beverages from kegs or containers larger than two gallons is prohibited in state park areas except when authorized in writing (group use permit) by the park manager.

(3) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 43.51.655.

(4) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park shall be prohibited.

WSR 86-14-026

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1892—Filed June 25, 1986]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards for apples marketed within Washington, chapter 16-403 WAC.

This action is taken pursuant to Notice No. WSR 86-10-057 filed with the code reviser on May 7, 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 chapter 15.17 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 25, 1986.

By C. Alan Pettibone
Director

NEW SECTION

WAC 16-403-141 RED DELICIOUS, DELICIOUS, GOLDEN DELICIOUS—MINIMUM SOLUBLE SOLIDS. Prior to the general release date for harvest of the crop of the current growing season, as established by the delicious maturity committee of the Washington state horticultural association, shipment

shall not be allowed of apples of the red delicious and delicious varieties having less than ten percent soluble solids and apples of the golden delicious variety having less than ten and one-half percent soluble solids as determined by refractometer.

AMENDATORY SECTION (Amending Order 1374, filed 7/26/74, effective 9/1/74)

✓ WAC 16-403-160 GREEN OR YELLOW VARIETIES—WASHINGTON EXTRA FANCY. (((+))) Washington extra fancy consists of apples of one variety which are mature but not overripe, carefully hand picked, clean, well formed: PROVIDED, That the golden delicious variety shall be fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible watercore, broken skins and bruises except those which are slight and incident to proper handling and packing. The apples are also free from slightly rough or rough russetting, provided, russetting other than rough or bark-like russetting materially affecting the appearance of the apple shall be permitted in the stem cavity or calyx basin if it cannot be seen when the apple is placed stem end or calyx end down on a flat surface. The apples are also free from injury caused by smooth net-like russetting, smooth solid russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, stem or calyx cracks, or other means; and free from damage by invisible watercore after January 31st of the year following the year of production. Each apple of this grade has the amount of color specified in WAC 16-403-175 for the variety.

WSR 86-14-027

NOTICE OF PUBLIC MEETINGS WHATCOM COMMUNITY COLLEGE [Memorandum—June 24, 1986]

The July 8, 1986, WCC board of trustees meeting will be held at the college's Lynden facility, 1700 Grover, Building B, rather than at the northwest location.

The date and time for this July meeting are unchanged.

WSR 86-14-028

EMERGENCY RULES DEPARTMENT OF FISHERIES [Order 86-52—Filed June 25, 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 the management staff of the department has determined that receipt within four working days will provide timeliness, adequate for management purposes. This temporary regulation continues implementation until a permanent regulation can be adopted.

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 June 25, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-69-26000B DISTRIBUTION OF FISH RECEIVING TICKETS. Notwithstanding the provisions of WAC 220-69-260, 220-69-262, 220-69-264 and 220-69-26401, effective immediately until further notice in order for the Department to make timely use of catch data for purposes of allocation and management, it is required that the state copy (green) of all fish receiving tickets be received by the Department, or, in the case of treaty Indian fish receiving tickets, that they be received by the Northwest Indian Fisheries Commission, no later than the fourth working day after the day the ticket was completed by the original receiver, for purposes of this section, a working day is defined as Monday through Friday, exclusive of a Washington state holiday.

WSR 86-14-029

ATTORNEY GENERAL OPINION Cite as: AGO 1986 No. 9 [June 25, 1986]

CITIES AND TOWNS—POLICE—CIVIL SERVICE COMMISSION—AUTHORITY TO INVESTIGATE PERFORMANCE OF INDIVIDUAL OFFICER

A police civil service commission does not have statutory authority under chapter 41.12 RCW to investigate allegations of misconduct in the performance of police duties made by a citizen against an individual police officer.

Requested by:

Honorable Robert K. Leick
Prosecuting Attorney
County of Skamania

Courthouse Building
Stevenson, Washington 98648

WSR 86-14-030
RULES OF COURT
STATE SUPREME COURT
[June 24, 1986]

In the Matter of the Adoption
of CAR 26 and the AMENDMENTS
to CAR 21

NO. 25700-A-383
ORDER

The Court having determined it necessary to adopt CAR 26 and amend CAR 21 to assist the appellate courts in disposing of the burgeoning backlog of courts of appeal cases and having determined that the referenced Rule and amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the Rule and Amendment as attached hereto are adopted.

(b) That pursuant to GR 9(i) the Rule and Amendment will be expeditiously published in the Washington Reports Advance Sheets and shall become effective on the date of publication.

DATED at Olympia, Washington, this 24th day of June, 1986.

James M. Dolliver

Robert F. Utter

James A. Andersen

Robert F. Brachtenbach

Keith M. Callow

Fred H. Dore

Wm. C. Goodloe

Vernon R. Pearson

B. Durham

RULE 21

(c) Judges Pro Tempore. When a member of the court is disqualified or unable to function on a case for good cause, or whenever necessary for the prompt and orderly administration of justice, the Chief Judge of any division may by written order designate an active or retired judge of a court of general jurisdiction, or any active or retired justice of the Supreme Court or judge of the Court of Appeals as a judge pro tempore to sit with the court to hear and determine the case one or more cases. The designating order shall set forth the period of service.

RULE 26

SPECIAL PANEL OF JUDGES PRO TEMPORE

(a) Purpose. As a result of the high number of appeals filed with the court in recent years which have created an excessive case backlog, special panels of the Court of Appeals will be created as provided for in these emergency rules for the purpose of reducing case backlogs to acceptable levels.

(b) Generally. When it is determined by a majority of the judges in any division that the assistance of pro tempore judges is necessary to relieve excessive case backlog, the Chief Judge of any division may by written order appoint as judges pro tempore active or retired justices of the Supreme Court or judges of the Court of Appeals or active or retired judges of the superior court or any attorney at law in this state meeting the qualifications hereinafter stated.

(c) Attorney Qualification and Compensation. To be qualified for appointment, attorneys at law must be members of the Washington State Bar Association in good standing and have at least six years' experience in the active practice of law with substantial litigation experience. Attorneys at law will not be compensated for their services as judges pro tempore, but travel expenses will be reimbursed at rates approved by the Administrator for the Courts.

(d) Conditions of Appointment. Attorneys at law will not be used as judges pro tempore when active or retired judges are available in sufficient numbers to support a three-judge panel sitting one day each week. Attorneys at law will be used as judges pro tempore only upon stipulation by all parties in the case, and no more than one attorney shall sit as a judge pro tempore on a panel. All parties shall receive written notice of the intent to use an attorney as a judge pro tempore and shall have at least 10 days from the receipt of said notice for filing written objection to the use of said attorney as a judge pro tempore. Failure to file a written objection to the attorney pro tempore within the 10-day period will be deemed a stipulation approving the use of said attorney as a judge pro tempore in said case.

In the event an objection to an attorney pro tempore is made, the case shall be removed from the special calendar and returned to its place on the regular hearing calendar.

(e) Termination. Authority extended under this rule will automatically terminate 12 months from date of adoption or on July 1, 1987, whichever is later, except for cases under consideration on the termination date.

WSR 86-14-031

ADOPTED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Order 2-86—Filed June 26, 1986]

I, Ernest F. LaPalm, deputy commissioner of the Employment Security Department, do promulgate and adopt at Olympia, Washington, the annexed rules relating to requirements of corporations electing coverage of corporate officers, WAC 192-12-025.

This action is taken pursuant to Notice No. WSR 86-11-044 filed with the code reviser on May 16, 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 50.04.165 and chapter 110, Laws of 1986, and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Employment Security Department as authorized in RCW 50.12.010 and 50.12.040.

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

APPROVED AND ADOPTED June 24, 1986.

By Ernest F. LaPalm
Deputy Commissioner

AMENDATORY SECTION (Amending Order 3-83, filed 11/9/83)

✓ WAC 192-12-025 REQUIREMENTS OF CORPORATIONS ELECTING COVERAGE OF CORPORATE OFFICERS. RCW 50.04.165 provides: "Services performed (~~after September 30, 1983, in the capacity of~~) by corporate officers, as defined in RCW 23A.08.470, other than those covered by chapter 50.44 RCW, shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under RCW 50.24.160. If an employer does not elect to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. If the employer fails to notify any corporate officer, then that person shall not be considered to be a corporate officer for the purposes of this section."

In order for the employment security department to make timely and accurate employer liability determinations and unemployment insurance payments, the commissioner prescribes:

(1) The term "corporate officer" is defined the same as in RCW 23A.08.470, which states "The officers of a corporation shall consist of a president, one or more vice presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary, except that when all of the issued and outstanding stock of the corporation is owned of record by one shareholder, one person may hold all or any combination of offices."

(2) All services of corporate officers are deemed exempt until the effective date of approval of election of coverage by the commissioner.

(3) A written request for voluntary coverage must be submitted by the employer and be signed by someone authorized to legally bind the corporation. The request must be received by the department no later than thirty days prior to the end of the quarter in which the change of coverage is to begin. (~~However, if an employer wishes to voluntarily cover the services of corporate officers beginning with the fourth quarter of 1983, written notice must be received by the department no later than October 31, 1983.~~)

(4) All changes in elected coverage of services of corporate officers can be effective from the beginning of any calendar quarter, and will remain in effect for not less than two calendar years. Coverage can be terminated only at the end of a calendar year, provided a written request for termination is submitted to the agency by the employer, on or before the 15th of January immediately following the end of the last calendar year of desired coverage.

(5) Wages or salary paid for services of corporate officers exempt under RCW 50.04.165 will not be used to determine liability of agricultural employers. However, if a corporation voluntarily covers its officers, the wages or ~~((salary))~~ salaries paid for such services (~~(of those officers))~~ shall be used to determine the liability of agricultural employers.

(6) A corporation exempt from covering the services of its officers under RCW 50.04.165 should not include those officers' names, social security numbers, wages or hours on any employment security quarterly wage and tax reports submitted for any calendar quarters which fall during the period of exemption.

(7) For wages paid on or after July 1, 1986, corporate officers are exempt under RCW 50.04.165 only if their employer has notified them in writing that they are ineligible for unemployment benefits, with the exemption becoming effective as of the date of the written notice.

WSR 86-14-032
BOARD OF PRISON
TERMS AND PAROLES

[Filed June 26, 1986]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

- 1.140 ADOPTED PROCEDURES - IMPLEMENTATION OF SHB 1400 Effective July 1, 1986, the Indeterminate Sentence Review Board staff shall score an offender's indeterminate convictions under the SRA and the Board shall consider the purposes, standards and sentencing ranges adopted pursuant to RCW 9.94A.040 and the minimum term recommendations of the sentencing judge and prosecuting attorney, and shall attempt to be reasonably consistent with those ranges, standards, purposes and recommendations when making decisions at:
- (a) admission meetings to set a new minimum duration of confinement for parolees whose parole was revoked pursuant to RCW 9.95.123, or any remaining admissions meetings to establish a minimum duration of confinement;
 - (b) administrative or in-person progress meetings;

- (c) disciplinary hearings pursuant to RCW 9.95.080;
- (d) parole eligibility review meetings pursuant to RCW 9.95.110; and
- (e) parolability hearings pursuant to RCW 9.95.100.

The above decisions shall also take into consideration the different charging and disposition practices under the indeterminate sentencing system.

The above decisions will be made in accordance with the inmate's current schedule and will not be expedited unless the Board, in its discretion, feels such action is appropriate pursuant to RCW 9.95.052.

In the event the Board makes a decision affecting an inmate's duration of confinement or a parole release decision which is outside the sentencing ranges pursuant to RCW 9.94A.040, the Board shall provide adequate written reasons to the inmate.

At a disciplinary hearing, the Board shall only determine whether the inmate violated a rule of the institution or furlough condition and whether time should be added to his/her minimum term in a manner consistent with the above paragraph. A disciplinary hearing is not intended to serve as a forum for the reduction of an inmate's duration of confinement or to circumvent a regularly scheduled administrative progress or parole eligibility review meeting.

If at the time of the progress review meeting the inmate has already served in excess of his/her SRA range, the Board will consider the purposes, standards, and sentencing ranges adopted pursuant to RCW 9.94A.040, the minimum term recommendations of the sentencing judge and prosecuting attorney, and the different charging and disposition practices under the indeterminate sentencing system and shall request the superintendent of the correctional institution to conduct a full review of such person's prospects for rehabilitation to allow the Board to consider a reduction of the inmate's minimum duration of confinement reasonably consistent with the SRA.

Adopted June 23, 1986

REQUIRED DOCUMENTS - PAROLE MEETING AND ADMINISTRATIVE PAROLE DECISION In order for an inmate to be approved for a parole meeting or an administrative parole decision, the Board must first be satisfied that he (she) is ready to be considered for release. In addition, the

following documents pertaining to the inmate shall be provided by the Department of Corrections and shall be present in the official Board file prior to the meeting or the decision:

- (a) The institution progress report covering his (her) adjustment, achievement, infractions, and program participation since the last meeting with the Board.
- (b) The institution pre-parole referral report.
- (c) A current pre-parole investigation report prepared by a Community Corrections Officer.
- (d) The institution superintendent's statement and certification of good time credits, earned or denied. In the case of administrative parole, the good time shall be certified through the date of the submission of the pre-parole referral. The Board will assume that all good time is earned from that date until the date of parole. The Department of Corrections shall notify the Board of any and all infractions and/or loss of good time which occurs between the date the pre-parole referral is sent and the date of parole.
- (e) A current psychological or psychiatric report, if requested by the Board.
- (f) A full review and report from the superintendent pertaining to the inmate's prospects for rehabilitation pursuant to RCW 9.95.052.

Amended June 23, 1986

WSR 86-14-033
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
 [Filed June 26, 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 construction standards for factory-built housing to conform to State Building Code Council energy requirements, WAC 296-150A-300;

that the agency will at 9:00 a.m., Friday, August 8, 1986, in the First Floor Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.22.475 and 43.22.480.

The specific statute these rules are intended to implement is RCW 43.22.475 and 43.22.480.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 26, 1986
By: Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter: WAC 296-150A-300 State Building Code Council requirements.

Statutory Authority: RCW 43.22.475 and 43.22.480.

Specific Statutes that Rules are Intended to Implement: RCW 43.22.455 and 43.22.480.

Summary of the Rules: To bring factory-built structures in compliance with the update of April 1, 1986, by the Building Code Council requirement. WAC 296-150A-300 Construction standards for factory-built housing, to conform with the State Building Code Council energy requirements.

Reasons Supporting the Proposed Rules: The rules are necessary for the factory-built housing industry to conform to the State Building Code Council energy requirements.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: James E. Arvan, Chief of Construction Compliance, Department of Labor and Industries, 520 South Water Street, Post Office Box 9689, Olympia, WA 98504-9689, phone (206) 586-0215.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

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

A small business impact statement is not required since these rules do not impose any fiscal requirements other than those contained in the statute the proposed rules are intended to implement.

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

WAC 296-150A-300 CONSTRUCTION STANDARDS FOR FACTORY-BUILT STRUCTURES. Factory-built structures (~~must~~) shall comply with the following codes as adopted by the state building code council in chapters 51-12 and 51-16 WAC and as thereafter amended, except where a state law supersedes a code provision.

(1)(a) The design and fabrication of factory-built structures must comply with the Uniform Building Code, Appendix (except for chapter 35), and Standards (~~((1982-editions))~~). The "building official" mentioned in the Uniform Building Code means the assistant director of the department's building and construction safety inspection services division or his or her authorized representative.

(b) Live loading designs must comply with the Uniform Building Code. Live loading for roofs must comply with Section 2305(d), Snow Loads, and may not be less than 25 pounds per square foot.

(2) Electrical equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the National Electrical Code (~~((1984-edition))~~) published by the National Fire Protection Association, as amended by chapter 19.28 RCW and the rules adopted under that chapter.

(3) Mechanical equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the Uniform Mechanical Code (~~((1982-edition))~~) published by the International Association of Plumbing and Mechanical Officials, including Appendix B of chapter 22 and the standards.

(4)(a) Plumbing equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the Uniform Plumbing Code (~~((1982-edition))~~) published by the International Association of Plumbing and Mechanical Officials. The code, however, shall not apply to gas piping, water heaters, or vents for water heaters.

(b) A manufacturer may not use plastic drain, waste, or vent pipe for laundries, laundromats, cleaners, service stations, repair garages, restaurants, snack bars, hospitals, nursing homes, medical clinics, manufacturing plants, factories, assembly buildings, theatres, or schools, or other buildings used for education, unless the pipes will carry only domestic sewage.

(5) All factory-built structures that are not residential dwellings must comply with the rules adopted pursuant to RCW 19.27.030(5), which requires manufacturers to make buildings and facilities accessible to and usable by the physically handicapped and elderly persons.

(6) All factory-built structures must comply with the Washington State Energy Code set by chapter 51-12 WAC (~~as of March 1, 1982~~).

WSR 86-14-034

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 26, 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 plumbers, chapter 296-400 WAC. Proposed rules include definitions, fees, reciprocity, plumbers trainee certification, penalties, enforcement of trainee regulations, and issuance of temporary certificates. In addition, computation of years of employment, Governor's Advisory Board meetings, inactive journeyman status and previous years' credit are provided;

that the agency will at 1:00 p.m., Friday, August 8, 1986, in the First Floor Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 18.106 RCW.

The specific statute these rules are intended to implement is chapter 18.106 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 26, 1986
By: Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter: Chapter 296-400 WAC, Plumbers, which includes WAC 296-400-005 Definitions; 296-400-030 Issuing of temporary certificate; 296-400-035 Inactive journeyman status; 296-400-045 Fees; 296-400-050 Meetings of Governor's Advisory Board; 296-400-070 Journeyman reciprocity; 296-400-100 Computation of years of employment; 296-400-110 Previous years' credit; 296-400-120 Plumbers trainee certification; 296-400-130 Penalties; and 296-400-140 Enforcement of trainee.

Statutory Authority: Chapter 18.106 RCW.

Specific Statutes that Rules are Intended to Implement: Chapter 18.106 RCW.

Summary of the Rules: WAC 296-400-005 defines trainee plumber; 296-400-030 contains procedures for issuance of temporary journeyman plumbing certificate to a person who has a valid license from any other state until our state administers the next journeyman plumber examination; 296-400-035 inactive status for any person over 62 years of age who would like to leave the plumbing trade for any amount of time. If the person desires to go back to plumbing, he would not be required to retake the plumbers' examination; 296-400-045 sets the fee for plumber trainee certificates; 296-400-050 changes the meeting place from 300 West Harrison Street in Seattle, Washington to a location designated by the department; 296-400-070 proposes to grant a person holding a current plumbers' certificate in a state that has a reciprocal agreement with the state of Washington a certificate without taking the plumbers' examination; 296-400-100 contains required hours a trainee must have to be eligible to take the specialty plumbers or journeyman plumbers examination; 296-400-110 provides that a person who is applying for a plumber trainee certificate who has already worked in plumbing construction shall receive credit for all verifiable hours work submitted on a form approved by and available from the department; 296-400-120 contains requirements for trainees to follow while working as trainees; and 296-400-130 provides penalties for false statements or material misrepresentation. This notice proposes to set penalties for false statements on hours of employment.

Reasons Supporting the Proposed Rules: To help the trainee in verifying his work experience to be eligible to take the specialty or journeyman examination.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: James E. Arvan, Chief of Construction Compliance, Department of Labor and Industries, 520 South Water Street, Post Office Box 9689, Olympia, WA 98504-9689, phone (206) 586-0215.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

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

A small business impact statement is not required since these rules do not impose any fiscal requirements other than those contained in the statute the proposed rules are intended to implement.

NEW SECTION

WAC 296-400-005 DEFINITIONS. Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the following meaning:

- (1) "Advisory board" means the state advisory board of plumbers;
- (2) "Department" means the department of labor and industries;
- (3) "Director" means the director of department of labor and industries;
- (4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;
- (5) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;
- (6) "Plumbing" means that craft involved in installing, altering, repairing, and renovating potable water systems and liquid waste systems within a building: PROVIDED, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter;
- (7) "Trainee plumber" means any person being trained in the plumbing construction industry under the direct supervision of a journeyman plumber or specialty plumber working in his or her specialty.

AMENDATORY SECTION (Amending Order 83-26, filed 9/16/83)

WAC 296-400-030 ISSUING OF ((PERMITS)) TEMPORARY CERTIFICATE. The department ((will)) may issue to an applicant one out-of-state temporary ((permit)) certificate before the examination of the applicant for a period of ninety days or less.

The applicant shall surrender the ((permit)) temporary certificate to the person conducting the examination when the applicant appears for the examination. If the applicant with a temporary ((permit)) certificate does not appear for the examination the permit will expire on the expiration date specified on the permit.

NEW SECTION

WAC 296-400-035 INACTIVE STATUS. Persons requesting to be placed on inactive status shall be sixty-two years of age or older and shall not be employed in the trade of plumbing. They may request such status provided they are currently registered. They may return to active status upon payment of fee to the department without reexamination.

AMENDATORY SECTION (Amending Order 83-26, filed 9/16/83)

WAC 296-400-045 PLUMBER EXAMINATION, CERTIFICATION, REINSTATEMENT, AND TEMPORARY PERMIT FEES.

Examination fee:	\$30.00
<u>Trainee certificate fee</u>	
<u>(1 year):</u>	<u>\$20.00</u>
<u>Issuance of trainee certificate</u>	
<u>for less than 1 year:</u>	<u>\$ 2.00 for each month</u>
	<u>of certificate period</u>
	<u>with a minimum fee</u>
	<u>of \$10.00</u>

The trainee certificate shall expire one year from the date of issuance, and shall be renewed on or before the date of expiration.

Temporary permit fee:	\$10.00
Issuance or renewal of journeyman or specialty certificate fee (2 year):	\$48.00

Issuance of certificate for less than two years:	\$ 2.00 for each month of certificate period with a minimum fee of \$10.00
Reinstatement of journeyman or specialty certificate:	\$48.00
<u>Replacement of all certificates:</u>	<u>\$20.00</u>

Each person who has passed the examination for the plumbers certificate of competency and has paid the certificate fee shall be issued a certificate of competency that will expire on his or her birthdate. If the person was born in an even-numbered year, the certificate shall expire on the person's birthdate in the next even-numbered year. If the person was born in an odd-numbered year, the certificate shall expire on the person's birthdate in the next odd-numbered year.

AMENDATORY SECTION (Amending Order 73-20, filed 10/29/73)

WAC 296-400-050 MEETINGS OF GOVERNOR'S ADVISORY BOARD. The governor's advisory board meetings will be regularly scheduled quarterly starting the third Tuesday of January (~~(1974, at 300 West Harrison, Seattle, Washington)~~).

NEW SECTION

WAC 296-400-070 RECIPROCITY. Persons applying for a journeyman or specialty plumbers certificate of competency who permanently reside in a state signatory to a reciprocal agreement with the state of Washington shall have a valid certificate of competency from the state in which they permanently reside.

Such persons shall not make application to take the journeyman or specialty plumbers examination in the state of Washington in lieu of taking an examination in their home state.

NEW SECTION

WAC 296-400-100 COMPUTATION OF YEARS OF EMPLOYMENT. (1) For the purposes of RCW 18.106.070(2), one thousand five hundred hours of employment shall be considered one year of employment.

(2) At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing industry for the previous year and the number of hours worked for each employer on a form approved by and available from the department.

(3) A person who has completed a one, two, three, or four year trainee program in plumbing construction, shall be considered to have completed the necessary hours of training for the year in which they are registered.

NEW SECTION

WAC 296-400-110 PREVIOUS EXPERIENCE CREDIT. A person who is applying for a plumber trainee certificate who has already worked in plumbing construction shall receive credit for all verifiable hours worked submitted on a form approved by and available from the department.

NEW SECTION

WAC 296-400-120 PLUMBER TRAINEE CERTIFICATES. (1) The department shall issue separate plumbing trainee certificates for the first, second, third, and fourth years of training. If a person has less than one thousand five hundred hours of employment as a plumber trainee in construction, the department shall give the individual a first year certificate; if more than one thousand four hundred ninety-nine but less than three thousand hours a second year certificate; if more than two thousand nine hundred ninety-nine but less than four thousand five hundred hours, a third year certificate; and if more than four thousand four hundred ninety-nine hours a fourth year certificate.

(2) A holder of a plumber trainee certificate may apply for the next year's certificate whenever he or she has sufficient documented hours of employment as a plumber trainee.

(3) A holder of a plumber trainee certificate may take the specialty plumber examination after completing four thousand five hundred

hours of documented training and the journeyman examination after completing six thousand hours of documented training.

(4) A trainee making application for a journeyman certificate shall have completed a minimum of two years, of the required four years, as a trainee engaged in commercial plumbing.

(5) No person shall be issued a training certificate for more than eight years, except the department may consider extenuating circumstances.

(6) Journeyman plumber trainee. No trainee shall work without being under the direct supervision of a journeyman plumber, until such time as they have completed fifty-five hundred hours of training, and may continue to work without supervision until they achieve six thousand hours of training, at which time they shall be required to take the journeyman examination.

(7) A trainee who has failed the journeyman plumbers examination shall not be eligible to retake the examination for six months, and shall not be eligible to work without being under the direct supervision of a journeyman plumber until such time as they have passed the journeyman plumbers examination.

(8) Specialty plumber trainee. A specialty trainee shall have completed three thousand hours of training under the direct supervision of a certified specialty or journeyman plumber to be eligible to take the specialty plumbers examination. A trainee who has failed the examination shall not be eligible to retake the examination for six months, and shall be required to work under the direct supervision of a certified plumber until such time as they have passed the specialty plumbers examination.

NEW SECTION

WAC 296-400-130 PENALTIES FOR FALSE STATEMENTS OR MATERIAL MISREPRESENTATION. (1) All applications required under chapter 18.106 RCW and the annual statement of hours of employment required under RCW 18.106.070(2) shall be made under oath. A person who knowingly makes a false statement or material misrepresentation on an application or statement or misrepresentation of trainee certificate may be referred to the county prosecutor for criminal prosecution under RCW 9A.72.020, 9A.72.030, and 9A.72.040. The department may also subtract up to one thousand eight hundred hours of employment from a trainee's acceptable total hours, if the department determines the trainee has made a false statement or material misrepresentation.

(2) Decisions of the department under this section are subject to appeal to the advisory board. The hearing shall be conducted in accordance with the provisions of chapter 34.04 RCW.

NEW SECTION

WAC 296-400-140 ENFORCEMENT. (1) The department shall ensure that persons subject to chapter 18.106 RCW comply with that chapter by inspecting the job sites. The inspections shall be made by the department's compliance inspectors.

(2) The compliance inspector shall determine whether:

(a) Each person doing plumbing work on the job site has a proper journeyman, specialty, or trainee certificate on their person;

(b) The ratio of the certified journeyman plumbers to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual with a journeyman or specialty certificate of competency.

(3) If the compliance inspector determines a person has violated chapter 18.106 RCW, the department shall issue a notice of infraction that describes the reason the person has violated chapter 18.106 RCW.

(4) A person wishing to appeal a notice of infraction shall do so by complying to the requirement of RCW 18.106.220.

WSR 86-14-035

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 26, 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 contractor compliance infractions, chapter

296-200 WAC. Proposed rules include definitions, filing suit, procedures for issuance of infraction, mailing infraction, issuance of infraction, right to contest infraction, hearings, representation by counsel, contested hearings, case evidence, appeals and fines;

that the agency will at 10:00 a.m., Friday, August 8, 1986, in the First Floor Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 18.27 RCW.

The specific statute these rules are intended to implement is chapter 18.27 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 26, 1986

By: Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter: Chapter 296-200 WAC, Contractor registration, which includes WAC 296-200-015 Definitions; 296-200-080 Filing suit against a contractor; 296-200-300 Procedures for issuance of notices of infraction; 296-200-320 Mailing notice of infraction; 296-200-330 Issuance of infraction; 296-200-340 Right to contested hearing; 296-200-350 Conducting of contested hearing; 296-200-360 Representation by counsel; 296-200-370 Contested hearing in accordance with chapter 34.04 RCW; 296-200-380 Contested case evidence; 296-200-390 Administration of appeals; and 296-200-400 Fines.

Statutory Authority: Chapter 18.27 RCW.

Specific Statutes that Rules are Intended to Implement: Chapter 18.27 RCW.

Summary of the Rules: WAC 296-200-015 defines bonded contractor, department, section, secured contractor, security, administrative law judge, contested case, director, infraction, and chief construction compliance inspector; 296-200-080 contains steps in filing suit against a secured contractor; 296-200-300 gives information needed by compliance inspectors before issuing notices of infraction; 296-200-320 contains requirements for mailing of infraction to contractor who has been found in noncompliance to chapter 18.27 RCW; 296-200-330 sets up procedures and guidelines for new procedures in handling infractions issued to contractors that are not in compliance with chapter 18.27 RCW; 296-200-340 sets up procedures for filing an appeal for a contractor who has been issued a notice of infraction; 296-200-350 states that an administrative law judge shall preside in contested hearings; 296-200-360 informs contractors that they may be represented by counsel or may represent themselves. The department shall be represented by the attorney general; 296-200-370 gives information and procedures for contested hearings under chapter 34.04 RCW; 296-200-380 deals

with admissible evidence in contested hearings; 296-200-390 the department shall record and forward all appeals of notices of infractions received to the Office of Administrative Hearings; and 296-200-400 gives information regarding the amounts of fines for notices of infraction under RCW 18.27.200.

Reasons Supporting the Proposed Rules: To update the infraction process passed by the 1983 legislature.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: James E. Arvan, Chief of Construction Compliance, Department of Labor and Industries, 520 South Water Street, Post Office Box 9689, Olympia, WA 98504-9689, phone (206) 586-0215.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

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

A small business impact statement is not required since these rules do not impose any fiscal requirements other than those contained in the statute the proposed rules are intended to implement.

AMENDATORY SECTION (Amending Order 81-25, filed 10/8/81)

WAC 296-200-015 DEFINITIONS. For the purposes of this chapter:

(1) "Bonded contractor" means a contractor who has obtained a surety bond in order to comply with RCW 18.27.040;

(2) "Department" means the department of labor and industries, and the division of building and construction safety inspection services;

(3) "Section" means the contractors registration section of the department;

(4) "Secured contractor" means a contractor who has assigned a savings account to the department or deposited cash or other security with the section in order to comply with RCW 18.27.040; and

(5) "Security" means a savings account assigned to the department or cash or other security deposited with the section;

(6) "Administrative law judge" means any person appointed by the chief administrative law judge, as defined in RCW 34.12.020(2) to preside at contested cases convened under RCW 18.27.100 or 18.27.200;

(7) "Contested case" means any proceeding coming before the department where an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director;

(8) "Director" means the director of the department of labor and industries or the designee of the director to act in place of the director;

(9) "Infraction" means an alleged violation of RCW 18.27.100 or 18.27.200 as cited by the chief construction compliance inspector, or the department's construction compliance inspectors at the direction of the chief construction compliance inspector;

(10) "Chief construction compliance inspector" means the person designated by the director to administer the activities of all personnel responsible for enforcement and administration of chapter 18.27 RCW.

AMENDATORY SECTION (Amending Order 81-25, filed 10/8/81)

WAC 296-200-080 FILING SUIT AGAINST A CONTRACTOR. (1) All civil suits against a contractor for claims under chapter 18.27 RCW must be brought in superior court. In particular, if a secured contractor is sued, the section will be unable to pay an unsatisfied final judgment from the securities if the suit is not brought in superior court.

(2) If a claimant sues a contractor, the claimant shall serve the summons and complaint on the contractor and its bonding company by serving three copies of the summons and complaint by registered or certified mail on the section. The section shall not accept personal service of the summons and complaint.

(3) The section may be unable to process a summons and complaint if the summons and complaint do not contain the following information:

- (a) The name of the contractor, exactly as it appears in the contractor's registration file;
 - (b) The contractor's business address;
 - (c) The names of the owners, partners, or officers of the contractor; and
 - (d) The contractor's license number.
- If the suit joins a bonding company, the summons and complaint should also include:
- (e) The name of the bonding company that issued the contractor's bond;
 - (f) The bond number; and
 - (g) The effective date of the bond.

If the information is insufficient for the section to identify that contractor or bonding company that is being sued, the section will not attempt to serve the summons and complaint and will return them to the claimant.

AMENDATORY SECTION (Amending Order 84-08, filed 5/25/84)

WAC 296-200-300 PROCEDURES FOR ISSUANCE OF NOTICES OF INFRACTION. ((+)) The department may issue a notice of infraction to a contractor that violates RCW 18.27.100 or 18.27.200. ((The notice of infraction by law must be on the same basic form as that prescribed for traffic infractions. The supreme court has adopted the justice court traffic infraction rules (JTIR) as the rules of procedure for traffic infractions. To ensure that court procedures are the same for contractor notices of infraction as for traffic notices of infraction, the department shall comply with all JTIR rules except for rules 1.1, 1.2, 2.1, and 2.4(a). Rules 1.1, 1.2, and 2.1 do not directly apply to notices of violation for contractors. Rule 2.4(a) does not apply because RCW 18.27.270 provides that a defendant must respond to a notice of violation within fourteen days, not within seven days as for a traffic infraction.

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

- (a) "Department" means the department of labor and industries, not the department of licensing.
- (b) "Notice of traffic infraction" means notice of infraction.
- (c) "Traffic case" means a contractor infraction case.
- (d) "Law enforcement officer" means a representative of the department.) The chief construction compliance inspector shall direct that notices of infraction contain the following when issued:

(1) A statement that the notice represents a determination that the infraction has been committed by the contractor named in the notice and that the determination shall be final unless contested;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific violation which necessitated issuance of the infraction;

(4) A statement of the penalty involved if the infraction is established;

(5) A statement informing the contractor of the right to a contested hearing conducted pursuant to chapter 34.04 RCW if requested within twenty days of receipt of the infraction;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the contractor may subpoena witnesses including the compliance inspector that issued the notice of infraction;

(7) A statement notifying the party issued or served the notice of infraction that he is required to sign the notice of infraction which has the effect of establishing that the contractor promises to respond to the notice of infraction as provided in chapter 18.27 RCW;

(8) A statement notifying the contractor that a refusal to sign the notice of infraction is a misdemeanor and may be punishable by fine or imprisonment in jail, and that failure to respond to a notice of infraction as promised by the contractor may be punished by a fine or imprisonment in jail.

AMENDATORY SECTION (Amending Order 84-08, filed 5/25/84)

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

AFFIDAVIT OF MAILING

STATE OF WASHINGTON }
COUNTY OF _____ } ss.

I, (name of Representative), being first duly sworn, on oath depone and say:

That on _____, 19____, pursuant to RCW 18.27.230, I caused a copy of the notice of infraction, with serial number _____, dated _____, to be mailed by certified mail, return receipt requested, via the United States Postal Service, postage prepaid, and a second copy of the notice of infraction to be mailed by ordinary mail, via the United States Postal Service, postage prepaid, at _____, Washington, to:

(Name of Contractor)
Address of Contractor)

(Signature of representative)
(Name of representative)

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

NOTARY PUBLIC for the state of
Washington, residing at _____))

NEW SECTION

WAC 296-200-330 ISSUANCE OF NOTICES OF INFRACTION UNDER RCW 18.27.100 OR 18.27.200. The department may issue a notice of infraction if the department reasonably believes that the contractor required to be registered has failed to do so.

(1) A notice of infraction issued under this section shall be served personally on the contractor named in the notice by the department's compliance inspectors.

(2) If a notice of infraction is personally served upon an employee of a firm or corporation, the department shall within four days of service send a copy of the notice by certified mail to the contractor if the department is able to obtain the contractor's address.

(3) Constructive service may be made by certified mail directed to the contractor named in the notice of infraction.

NEW SECTION

WAC 296-200-340 RIGHT TO CONTESTED HEARING—PLACE TO FILE. If a contractor desires to contest the notice of infraction issued, the contractor shall file two copies of a notice of appeal with the department at the office designated on the notice of infraction, within twenty days of issuance of the infraction. The contractor shall also be required to post an appeal bond of two hundred dollars with the notice of appeal payable to the office of administrative hearings. The appeal bond shall be applied to the administrative costs of conducting the appeals of notices of infractions. If the appealing contractor prevails at a contested hearing, then the appeal bond shall be returned to the contractor.

NEW SECTION

WAC 296-200-350 ADMINISTRATIVE LAW JUDGE SHALL PRESIDE IN CONTESTED HEARINGS. A notice of infraction when contested, shall be heard before and determined by an administrative law judge from the office of administrative hearings.

The administrative law judge shall conduct hearings in these cases at locations in the county where the infraction occurred. The parties shall have the right to apply to the chief administrative law judge for a change of venue where the interests of justice would be served.

NEW SECTION

WAC 296-200-360 REPRESENTATION BY COUNSEL. Contractors may appear before the administrative law judge through counsel, or may represent themselves. The department shall be represented by the attorney general.

NEW SECTION

WAC 296-200-370 CONTESTED CASES—NOTICE—HEARING—SUMMARY ORDERS—FORMAL DISPOSITION—RECORD—FINDINGS OF FACT. The hearings shall be conducted in accordance with chapter 34.04 RCW.

(1) In any contested case all parties shall be afforded an opportunity for hearing after not less than twenty days' notice; but no hearing shall be required until the hearing is demanded unless other statutory provisions or agency rules provide otherwise. The notice shall include:

(a) A statement of the time, place, and nature of the proceeding;
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(3) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(4) The record in a contested case shall include:

(a) All pleadings, motion, intermediate rulings;
(b) Evidence received or considered;
(c) A statement of matters officially noticed;
(d) Questions and offers of proof, objections, and ruling thereon;
(e) Proposed findings and exceptions;
(f) Any decision, opinion, or report by the officer presiding at the hearing.

(5) Oral proceedings shall be tape recorded for the purposes of agency decision pursuant to RCW 34.04.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) The administrative law judge shall:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas as provided in RCW 34.04.105;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Take or cause depositions to be taken pursuant to superior court rules, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(e) Regulate the course of the hearing;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(g) Dispose of procedural requests or similar matters;

(h) Issue summary orders;

(i) Make proposed decisions and orders pursuant to RCW 34.04.110;

(j) Take any other action authorized by the department rule consistent with this chapter.

(8) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence.

(9) The administrative law judge shall issue findings of fact and conclusions of law in the judge's decision and order determining whether the infraction was committed.

(10) The director shall review the proposed decision and order of the administrative law judge and determine whether the order is correct. The director shall have twenty days in which to issue a final decision and order. If the director does not act to modify or change the proposed decision and order of the administrative law judge then the proposed decision and order of the administrative law judge shall become the final appealable order of the department.

(11) The department's final order shall be appealable to the superior court pursuant to chapter 34.04 RCW.

NEW SECTION

WAC 296-200-380 CONTESTED CASES—EVIDENCE. All relevant evidence shall be admissible in contested hearings convened pursuant to RCW 18.27.100 and 18.27.200. Admission of evidence is further subject to RCW 34.04.100 and 34.04.105 of the administrative procedure act of Washington.

NEW SECTION

WAC 296-200-390 ADMINISTRATION OF APPEALS. The department shall record and forward all appeals of notices of infraction received to the office of administrative hearings.

NEW SECTION

WAC 296-200-400 FINES. A contractor found to have committed an infraction under RCW 18.27.200 shall be assessed the minimum penalty of a fine of two hundred dollars for the first noncompliance violation. A cited unregistered contractor that continues to do work as a contractor, and is cited for same, shall be subject to twice the amount of the last issued infraction, up to the maximum fine of three thousand dollars as provided in chapter 18.27 RCW.

WSR 86-14-036

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 26, 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 chapter 296-150B WAC, construction standards for mobile homes, commercial coaches and recreational vehicles to conform to the State Building Code Council as adopted;

that the agency will at 11:00 a.m., Friday, August 8, 1986, in the First Floor Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.22.430 through 43.22.445.

The specific statute these rules are intended to implement is RCW 43.22.430 through 43.22.445.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 26, 1986

By: Joseph A. Dear

Deputy Director

for Richard A. Davis

Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter: Chapter 296-150B WAC, Construction standards for mobile homes, commercial coaches and recreational vehicles which includes WAC 296-150B-015 Definitions; 296-150B-300 Construction requirements for mobile homes; 296-150B-305 Standards for recreational vehicles; 296-150B-307 Standards for park trailers; 296-150B-508 Insulation standards; 296-150B-550 Electrical—General; 296-150B-553 Definitions; 296-150B-797 Plumbing—Definitions; and 296-150B-800 Plumbing—General.

Statutory Authority: Chapter 43.22 RCW.

Specific Statutes that Rules are Intended to Implement: Chapter 43.22 RCW.

Summary of the Rules: Defines general language used in the mobile home, commercial coach and recreational vehicle industries. WAC 296-150B-015 defines general language used in the mobile home, commercial coach and recreational vehicle industries; 296-150B-300 brings mobile homes in compliance with the current edition of the National Fire Protection Association (NFPA) as approved by the American National Standards Institute (ANSI) in ANSI/NFPA 501B current edition; 296-150B-305 brings recreational vehicles in compliance with the current edition of ANSI/NFPA 501C; 296-150B-307 fills a void in the rules. HUD law states that a mobile home must have 400 square feet of living space to be called a mobile home. ANSI states that a recreational vehicle can have no more than 220 square feet of living space; 296-150B-508 insulation standards will have to comply with the Washington State Energy Code; 296-150B-550 states that electrical equipment and installations on or in a commercial coach shall be installed in accordance with the National Electrical Code as adopted by the State Building Code Council; 296-150B-553 modifies the existing rule, WAC 296-15A-553 [296-150B-553], for commercial coaches for electrical installation. Installations will not comply with the Washington Building Code Council's current adopted edition of the National Electrical Code; 296-150B-797 updates the edition of the Uniform Plumbing Code to conform to the State Building Code Council current edition for use in commercial coaches; and 296-150B-800 plumbing fixtures, equipment and installations in commercial coaches shall conform to the provisions of the Uniform Plumbing Code, as adopted by the State Building Code Council.

Reasons Supporting the Proposed Rules: To keep the mobile home, commercial coach and recreational vehicle industries in compliance with the current edition of building codes adopted by the Washington State Building Code Council.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: James E. Arvan, Chief of Construction Compliance, 520 South Water Street, Post Office Box 9689, Olympia, WA 98504-9689, phone (206) 586-0215.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

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

A small business impact statement is not required since these rules do not impose any fiscal requirements other than those contained in the statute the proposed rules are intended to implement.

AMENDATORY SECTION (Amending Order 82-13, filed 4/16/82)

WAC 296-150B-015 DEFINITIONS. For the purposes of this chapter:

(1) "Alteration" means the replacement, addition, modification, or removal of any equipment or installations that affect the construction, structural members, fire safety, or occupancy classification, or the plumbing, heating, or electrical systems, of a structure or component.

The following are not alterations unless they are made to repair damage caused by fires, floods, or damage in transit or during installation.

(a) Repairs with approved parts;

(b) Modification of a listed fuel-burning appliance in accordance with the terms of its listing;

(c) Replacement of equipment with similar equipment; and

(d) Adjustment and maintenance of equipment.

(2) "Approved" means approved by the department.

(3) "Anchoring system" means a system of straps, cables, turnbuckles, bolts, fasteners, or other approved components that secures a mobile home to ground anchors or to other approved fastening devices.

(4) "Audit" means an inspection to examine for compliance a manufacturer's production and quality control procedures.

(5) "Building site" means a tract, parcel, or subdivision of land, including a mobile home park, on which a structure other than a recreational vehicle is or will be installed.

(6) "Component" means a discrete element that is:

(a) Designed to be installed in a structure;

(b) Manufactured as a unit; and

(c) Designed for a particular function or group of functions. "Component" includes service cores.

(7) "Consumer" means a person, firm, corporation, agency, or governmental body, other than a manufacturer or dealer, that buys or leases a structure for his, her, or its own use.

(8) "Custom structure" means a one-of-a-kind structure.

(9) "Dealer" means a person, company, or corporation authorized to engage in the business of leasing, selling, offering for sale or lease, buying, or trading structures.

(10) "Department" means the department of labor and industries.

(11) "Design option" means a design that a manufacturer may use as an option to its design plan.

(12) "Design plan" means a plan for construction of a structure or component.

(13) "Equipment" means all materials, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of structures and components.

(14) "Footing" means the portion of a foundation system that transmits loads from a mobile home to the soil.

(15) "Foundation facia" means the materials that enclose the entire perimeter of a mobile home and form a plane between the exterior wall of the mobile home and the ground.

(16) "Foundation system" means the footings, piers, caps, and shims that support a mobile home.

(17) "HUD" means the federal Department of Housing and Urban Development.

(18) "Independent inspection agency" means an organization that is in the business of inspecting structures, components, or equipment.

(19) "Insignia" means a label, stamp, or tag issued by the department to indicate that the structure or component bearing the insignia complies with this chapter or the HUD mobile home standards.

(20) "Install" means to erect, construct, assemble, or set in place a structure, component, or piece of equipment at a building site or in another structure or building.

(21) "Labeled" means bearing the department's insignia, HUD's insignia, or a label of approval from a testing or listing agency.

(22) "Lease" means an oral or written contract for the use, possession, or occupancy of property. It includes rent.

(23) "Listed" means that a piece of equipment, a component, or an installation appears in a list published by an approved testing or listing agency.

(24) "Listing agency" means an organization that is in the business of approving equipment or installations.

(25) "Local enforcement agency" means a city or county agency that enforces laws or ordinances governing the construction and installation of structures and components.

(26) "Main frame" means the structural component on which the structure may be mounted.

(27) "Manufacturing" means making, fabricating, forming, or assembling a structure, service core, component, equipment, or installation.

(28) "Mobile home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or thirty-two body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. "Mobile home" shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by HUD and complies with the standards established by HUD.

(29) "Ordinance" means the part of a code adopted by this chapter that prescribes an item other than a method of construction, such as room sizes, floor plans, lighting, ventilation, ceiling heights, and exits.

(30) "Pier" means the part of the mobile home foundation system between the footing and the floor frame or floor joist, excluding caps and shims.

(31) "Quality control" means the plan and method for ensuring that the manufacture, fabrication, assembly, or erection of structures, components, and installations, and the storing, handling, and use of materials, complies with this chapter.

(32) "Recreational vehicle" means a ((motor home, travel trailer, truck camper, or camping trailer that is:

(a) With or without motive power;

(b) built on a single chassis;

(c) designed for human habitation in an emergency or for recreation; and

(d) has a living area of less than 220 square feet.

The living area excludes built-in spaces such as wardrobes, closets, cabinets, kitchen units and fixtures, and bath or toilet rooms)) vehicular type unit primarily designed for recreational camping, travel, or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: Travel trailer, folding camping trailer, park trailer, truck camper, motor home, and multi-use vehicles.

(33) "Structure" means a mobile home, commercial coach, or recreational vehicle that is entirely or substantially prefabricated or assembled at a factory or a place other than the building site on which the structure will be installed.

(34) "System" means a part of a structure or component that is designed to serve a particular function, such as a structural, plumbing, electrical, heating, or mechanical system.

(35) "Testing agency" means an organization that is in the business of testing equipment, installations, or systems.

(36) "Commercial coach" means a structure transportable in one or more sections that is built on permanent chassis and designed to be used for commercial purposes with or without a permanent foundation when connected to the required outlets and may include plumbing, heating, air conditioning, and electrical systems contained therein. A commercial coach shall not be used as a single family dwelling.

(37) "Park trailer" means a vehicular unit which meets the following criteria:

(a) Built on a single chassis, mounted on wheels.

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances.

(c) A gross trailer area not exceeding four hundred square feet when in the setup mode.

(d) Of such a construction as to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices.

(e) Exceeds the size restrictions specified in ANSI 119.2.

AMENDATORY SECTION (Amending Order 85-5, filed 2/15/85)

WAC 296-150B-300 CONSTRUCTION REQUIREMENTS FOR MOBILE HOMES. Alterations and repairs to mobile homes made after sale to a dealer shall comply with this section.

(1) Subject to the exceptions in subsections (2) and (3) of this section, mobile homes must comply with the ~~((1982))~~ current edition of the Standard for Mobile Homes, as adopted by the National Fire Protection Association (NFPA) and approved by the American National Standards Institute (ANSI) in ANSI/NFPA 501B ~~((1982))~~ current edition.

(2) Mobile homes need not comply with Chapter 1, 1-2 Definitions Common to Chapters 1-5 (see WAC 296-150-015).

(3) Mobile homes must comply with the following provisions of ANSI/NFPA 501B 1982, as amended. Chapter 4, Section 4-6.3.5 Installation of Solid Fuel-Burning Fireplaces and Fireplace Stoves. Subsection (A)1. is amended to read: "A listed factory-built chimney designed to be attached directly to the fireplace or fireplace stove shall be used. The listed factory-built chimney shall be equipped with and contain as part of its listing a termination device and a spark arrester." Subsection (A)3. is amended to read: "The combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping into the area beneath the mobile home."

AMENDATORY SECTION (Amending Order 85-5, filed 2/15/85)

WAC 296-150B-305 STANDARDS FOR RECREATIONAL VEHICLES. (1) Subject to the exceptions in subsection (2) of this section, recreational vehicles must comply with the ~~((1982))~~ current edition of the Standard for Recreational Vehicles, as adopted by the National Fire Protection Association (NFPA) and approved by the American National Standards Institute (ANSI) ANSI/NFPA 501C ~~((1982))~~ current edition.

(2) Recreational vehicles need not comply with the following provision of ANSI/NFPA 501C 1982.

(a) Delete Section 4-7.6.4 and exceptions No. 1 and No. 2 of Chapter 4, Electrical Systems. See WAC 296-150B-310.

(b) Delete the note in Section 3-6.2.2 in Chapter 3, Heating/Air Conditioning, and add the following exception:

A fuel-burning refrigerator may be installed to meet the above requirements using panels provided by the recreational vehicle manufacturer if the refrigerator manufacturer furnishes the necessary vents and grills as specified by the listing requirements and the refrigerator is equipped with the necessary means to ensure the integrity of the separation of the combustion system when the refrigerator is removed for field service and reinstalled.

(c) Delete Section 4-4.1 from Chapter 4, Electrical Systems. See WAC 296-150B-315.

NEW SECTION

WAC 296-150B-307 STANDARDS FOR PARK TRAILERS.

(1) Subject to the exceptions in subsection (2) of this section, park trailers shall comply with the current edition of Standards for Park Trailers approved by the American National Standards Institute (ANSI) A119.5.

(2) Park models need not comply with the following provisions of ANSI 119.5, 1-2 definitions park trailer items (c) and (e).

NEW SECTION

WAC 296-150B-508 INSULATION STANDARDS. Insulation standards for commercial coaches shall comply with the State Energy Code as adopted by the state building code council in chapters 51-12 and 51-16 WAC and is therefore adopted except where a state law supersedes a code provision.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-550 ELECTRICAL—GENERAL. Electrical equipment and installations in or on a commercial coach shall be installed in accordance with requirements of the National Electrical Code, ~~((1981 Edition))~~ as adopted by chapter 19.28 RCW and the

rules adopted under that chapter, unless otherwise specifically exempted or required by these rules. The provisions of this section are also applicable to the alteration or conversion of electrical equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-553 **DEFINITIONS.** Definitions contained in the National Electrical Code, (~~(1981)~~ current edition, and the following definitions shall apply to the commercial coach standards.

(1) Converter means a device that changes electrical energy from one form to another, as from alternating current to direct current.

(2) Feeder assembly means the overhead or under-chassis feeder conductor, including the grounding conductor, together with the necessary fittings and equipment or a power-supply cord approved for mobile home use, designed to deliver energy from the source of electrical supply to the distribution panelboard within a commercial coach.

(3) Low voltage means an electromotive force rated at 24 volts or less, supplied from a transformer, converter, or battery.

(4) N.E.C. means the National Electrical Code, (~~(1981 Edition)~~) as adopted by chapter 19.28 RCW and the rules adopted under that chapter.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-797 **PLUMBING—DEFINITIONS.** Definitions contained in the Uniform Plumbing Code, (~~(1979 Edition)~~) as adopted by the state building code council, and the following definitions shall apply to this chapter:

(1) Drain outlet means the discharge end of the commercial coach main drain to which a drain connector may be attached.

(2) Main drain means the principal artery of the commercial coach drainage system to which drainage branches may be connected.

(3) Uniform Plumbing Code (UPC) means the (~~(1979)~~ current edition, as published by the International Association of Plumbing and Mechanical Officials, and adopted by the state building code council.

(4) Water-supply connection means the fitting or point of connection of the commercial coach water distribution system designed for connection to a water connector.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-800 **PLUMBING—GENERAL.** Plumbing fixtures, equipment, and installations in commercial coaches shall conform to the provisions of the Uniform Plumbing Code, (~~(1979 Edition)~~) as adopted by the state building code council, except part 1, unless specifically exempted or required by this section. The provisions of this chapter are also applicable to the alteration or conversion of plumbing equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

WSR 86-14-037

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-21—Filed June 26, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to construction standards for factory-built housing to conform to State Building Code Council energy requirements, WAC 296-150A-300.

I, Richard A. Davis, 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 state energy code becomes effective

April 1, 1986. This conforms factory-built structures with the current state energy code.

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

This rule is promulgated pursuant to RCW 43.22.475 and 43.22.480 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 26, 1986.

By Joseph A. Dear
Deputy Director
for [Richard A. Davis]
Director

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

WAC 296-150A-300 **CONSTRUCTION STANDARDS FOR FACTORY-BUILT STRUCTURES.** Factory-built structures (~~(must)~~) shall comply with the following codes as adopted by the state building code council in chapters 51-12 and 51-16 WAC and as thereafter amended, except where a state law supersedes a code provision.

(1)(a) The design and fabrication of factory-built structures must comply with the Uniform Building Code, Appendix (except for chapter 35), and Standards (~~(1982 editions)~~)). The "building official" mentioned in the Uniform Building Code means the assistant director of the department's building and construction safety inspection services division or his or her authorized representative.

(b) Live loading designs must comply with the Uniform Building Code. Live loading for roofs must comply with Section 2305(d), Snow Loads, and may not be less than 25 pounds per square foot.

(2) Electrical equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the National Electrical Code (~~(1984 edition)~~)) published by the National Fire Protection Association, as amended by chapter 19.28 RCW and the rules adopted under that chapter.

(3) Mechanical equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the Uniform Mechanical Code (~~(1982 edition)~~)) published by the International Association of Plumbing and Mechanical Officials, including Appendix B of chapter 22 and the standards.

(4)(a) Plumbing equipment, installations, and systems in or on factory-built housing and commercial structures must comply with the Uniform Plumbing Code (~~(1982 edition)~~)) published by the International Association of Plumbing and Mechanical Officials. The code, however, shall not apply to gas piping, water heaters, or vents for water heaters.

(b) A manufacturer may not use plastic drain, waste, or vent pipe for laundries, laundromats, cleaners, service stations, repair garages, restaurants, snack bars, hospitals, nursing homes, medical clinics, manufacturing

plants, factories, assembly buildings, theatres, or schools, or other buildings used for education, unless the pipes will carry only domestic sewage.

(5) All factory-built structures that are not residential dwellings must comply with the rules adopted pursuant to RCW 19.27.030(5), which requires manufacturers to make buildings and facilities accessible to and usable by the physically handicapped and elderly persons.

(6) All factory-built structures must comply with the Washington State Energy Code set by chapter 51-12 WAC ((as of March 1, 1982)).

WSR 86-14-038

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-30—Filed June 26, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to plumbers, chapter 296-400 WAC. Proposed rules include definitions, fees, reciprocity, plumbers trainee certification, penalties, enforcement of trainee regulations, and issuance of temporary certificates. In addition, computation of years of employment, Governor's Advisory Board meetings, inactive journeyman status, and previous years' credit are provided.

I, Richard A. Davis, 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 18.106 RCW was modified and passed by the 1985 legislature without funding for implementation. The 1986 legislature provided the funding with which to implement. The law is needed to protect the consumer from unqualified people doing plumbing work without proper training.

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

This rule is promulgated pursuant to chapter 18.106 RCW and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in chapter 18.106 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 June 26, 1986.

By Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

NEW SECTION

WAC 296-400-005 DEFINITIONS. Unless a different meaning is plainly required by the context, the following words and phrases as used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of plumbers;

(2) "Department" means the department of labor and industries;

(3) "Director" means the director of department of labor and industries;

(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;

(6) "Plumbing" means that craft involved in installing, altering, repairing, and renovating potable water systems and liquid waste systems within a building: **PROVIDED**, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter;

(7) "Trainee plumber" means any person being trained in the plumbing construction industry under the direct supervision of a journeyman plumber or specialty plumber working in his or her specialty.

AMENDATORY SECTION (Amending Order 83-26, filed 9/16/83)

WAC 296-400-030 ISSUING OF ((PERMITS)) TEMPORARY CERTIFICATE. The department ((with)) may issue to an applicant one out-of-state temporary ((permit)) certificate before the examination of the applicant for a period of ninety days or less.

The applicant shall surrender the ((permit)) temporary certificate to the person conducting the examination when the applicant appears for the examination. If the applicant with a temporary ((permit)) certificate does not appear for the examination the permit will expire on the expiration date specified on the permit.

NEW SECTION

WAC 296-400-035 INACTIVE STATUS. Persons requesting to be placed on inactive status shall be sixty-two years of age or older and shall not be employed in the trade of plumbing. They may request such status provided they are currently registered. They may return to active status upon payment of fee to the department without reexamination.

AMENDATORY SECTION (Amending Order 83-26, filed 9/16/83)

WAC 296-400-045 PLUMBER EXAMINATION, CERTIFICATION, REINSTATEMENT, AND TEMPORARY PERMIT FEES.

Examination fee:	\$30.00
<u>Trainee certificate fee</u> <u>(1 year):</u>	<u>\$20.00</u>
<u>Issuance of trainee certificate</u> <u>for less than 1 year:</u>	<u>\$ 2.00 for each month</u> <u>of certificate period</u> <u>with a minimum fee</u> <u>of \$10.00</u>

The trainee certificate shall expire one year from the date of issuance, and shall be renewed on or before the date of expiration.

Temporary permit fee:	\$10.00
Issuance or renewal of journeyman or specialty certificate fee (2 year):	\$48.00
Issuance of certificate for less than two years:	\$ 2.00 for each month of certificate period with a minimum fee of \$10.00

Reinstatement of journeyman or specialty certificate: \$48.00

Replacement of all certificates: \$20.00

Each person who has passed the examination for the plumbers certificate of competency and has paid the certificate fee shall be issued a certificate of competency that will expire on his or her birthdate. If the person was born in an even-numbered year, the certificate shall expire on the person's birthdate in the next even-numbered year. If the person was born in an odd-numbered year, the certificate shall expire on the person's birthdate in the next odd-numbered year.

AMENDATORY SECTION (Amending Order 73-20, filed 10/29/73)

WAC 296-400-050 MEETINGS OF GOVERNOR'S ADVISORY BOARD. The governor's advisory board meetings will be regularly scheduled quarterly starting the third Tuesday of January(~~(, 1974, at 300 West Harrison, Seattle, Washington)~~).

NEW SECTION

WAC 296-400-070 RECIPROCITY. Persons applying for a journeyman or specialty plumbers certificate of competency who permanently reside in a state signatory to a reciprocal agreement with the state of Washington shall have a valid certificate of competency from the state in which they permanently reside.

Such persons shall not make application to take the journeyman or specialty plumbers examination in the

state of Washington in lieu of taking an examination in their home state.

NEW SECTION

WAC 296-400-100 COMPUTATION OF YEARS OF EMPLOYMENT. (1) For the purposes of RCW 18.106.070(2), one thousand five hundred hours of employment shall be considered one year of employment.

(2) At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing industry for the previous year and the number of hours worked for each employer on a form approved by and available from the department.

(3) A person who has completed a one, two, three, or four year trainee program in plumbing construction, shall be considered to have completed the necessary hours of training for the year in which they are registered.

NEW SECTION

WAC 296-400-110 PREVIOUS EXPERIENCE CREDIT. A person who is applying for a plumber trainee certificate who has already worked in plumbing construction shall receive credit for all verifiable hours worked submitted on a form approved by and available from the department.

NEW SECTION

WAC 296-400-120 PLUMBER TRAINEE CERTIFICATES. (1) The department shall issue separate plumbing trainee certificates for the first, second, third, and fourth years of training. If a person has less than one thousand five hundred hours of employment as a plumber trainee in construction, the department shall give the individual a first year certificate; if more than one thousand four hundred ninety-nine but less than three thousand hours a second year certificate; if more than two thousand nine hundred ninety-nine but less than four thousand five hundred hours, a third year certificate; and if more than four thousand four hundred ninety-nine hours a fourth year certificate.

(2) A holder of a plumber trainee certificate may apply for the next year's certificate whenever he or she has sufficient documented hours of employment as a plumber trainee.

(3) A holder of a plumber trainee certificate may take the specialty plumber examination after completing four thousand five hundred hours of documented training and the journeyman examination after completing six thousand hours of documented training.

(4) A trainee making application for a journeyman certificate shall have completed a minimum of two years, of the required four years, as a trainee engaged in commercial plumbing.

(5) No person shall be issued a training certificate for more than eight years, except the department may consider extenuating circumstances.

(6) Journeyman plumber trainee. No trainee shall work without being under the direct supervision of a

journeyman plumber, until such time as they have completed fifty-five hundred hours of training, and may continue to work without supervision until they achieve six thousand hours of training, at which time they shall be required to take the journeyman examination.

(7) A trainee who has failed the journeyman plumbers examination shall not be eligible to retake the examination for six months, and shall not be eligible to work without being under the direct supervision of a journeyman plumber until such time as they have passed the journeyman plumbers examination.

(8) Specialty plumber trainee. A specialty trainee shall have completed three thousand hours of training under the direct supervision of a certified specialty or journeyman plumber to be eligible to take the specialty plumbers examination. A trainee who has failed the examination shall not be eligible to retake the examination for six months, and shall be required to work under the direct supervision of a certified plumber until such time as they have passed the specialty plumbers examination.

NEW SECTION

WAC 296-400-130 PENALTIES FOR FALSE STATEMENTS OR MATERIAL MISREPRESENTATION. (1) All applications required under chapter 18.106 RCW and the annual statement of hours of employment required under RCW 18.106.070(2) shall be made under oath. A person who knowingly makes a false statement or material misrepresentation on an application or statement or misrepresentation of trainee certificate may be referred to the county prosecutor for criminal prosecution under RCW 9A.72.020, 9A.72.030, and 9A.72.040. The department may also subtract up to one thousand eight hundred hours of employment from a trainee's acceptable total hours, if the department determines the trainee has made a false statement or material misrepresentation.

(2) Decisions of the department under this section are subject to appeal to the advisory board. The hearing shall be conducted in accordance with the provisions of chapter 34.04 RCW.

NEW SECTION

WAC 296-400-140 ENFORCEMENT. (1) The department shall ensure that persons subject to chapter 18.106 RCW comply with that chapter by inspecting the job sites. The inspections shall be made by the department's compliance inspectors.

(2) The compliance inspector shall determine whether:

(a) Each person doing plumbing work on the job site has a proper journeyman, specialty, or trainee certificate on their person;

(b) The ratio of the certified journeyman plumbers to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual with a journeyman or specialty certificate of competency.

(3) If the compliance inspector determines a person has violated chapter 18.106 RCW, the department shall issue a notice of infraction that describes the reason the person has violated chapter 18.106 RCW.

(4) A person wishing to appeal a notice of infraction shall do so by complying to the requirement of RCW 18.106.220.

WSR 86-14-039

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-31—Filed June 26, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to contractor compliance infractions, chapter 296-200 WAC. Proposed rules include definitions, filing suit, procedures for issuance of infraction, mailing infraction, issuance of infraction, right to contest infraction, hearings, representation by counsel, contested hearings, case evidence, appeals and fines.

I, Richard A. Davis, 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 Senate Bill 4722, modifying chapter 18.27 RCW, was passed by the 1986 legislature with an emergency clause.

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

This rule is promulgated pursuant to chapter 18.27 RCW and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in chapter 18.27 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 June 26, 1986.

By Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 81-25, filed 10/8/81)

WAC 296-200-015 DEFINITIONS. For the purposes of this chapter:

(1) "Bonded contractor" means a contractor who has obtained a surety bond in order to comply with RCW 18.27.040;

(2) "Department" means the department of labor and industries, and the division of building and construction safety inspection services;

(3) "Section" means the contractors registration section of the department;

(4) "Secured contractor" means a contractor who has assigned a savings account to the department or deposited cash or other security with the section in order to comply with RCW 18.27.040; and

(5) "Security" means a savings account assigned to the department or cash or other security deposited with the section;

(6) "Administrative law judge" means any person appointed by the chief administrative law judge, as defined in RCW 34.12.020(2) to preside at contested cases convened under RCW 18.27.100 or 18.27.200;

(7) "Contested case" means any proceeding coming before the department where an administrative law judge is empowered to determine legal rights, duties or privileges of specific parties on behalf of the director;

(8) "Director" means the director of the department of labor and industries or the designee of the director to act in place of the director;

(9) "Infraction" means an alleged violation of RCW 18.27.100 or 18.27.200 as cited by the chief construction compliance inspector, or the department's construction compliance inspectors at the direction of the chief construction compliance inspector;

(10) "Chief construction compliance inspector" means the person designated by the director to administer the activities of all personnel responsible for enforcement and administration of chapter 18.27 RCW.

AMENDATORY SECTION (Amending Order 81-25, filed 10/8/81)

WAC 296-200-080 FILING SUIT AGAINST A CONTRACTOR. (1) All civil suits against a contractor for claims under chapter 18.27 RCW must be brought in superior court. In particular, if a secured contractor is sued, the section will be unable to pay an unsatisfied final judgment from the securities if the suit is not brought in superior court.

(2) If a claimant sues a contractor, the claimant shall serve the summons and complaint on the contractor and its bonding company by serving three copies of the summons and complaint by registered or certified mail on the section. The section shall not accept personal service of the summons and complaint.

(3) The section may be unable to process a summons and complaint if the summons and complaint do not contain the following information:

(a) The name of the contractor, exactly as it appears in the contractor's registration file;

(b) The contractor's business address;

(c) The names of the owners, partners, or officers of the contractor, and

(d) The contractor's license number.

If the suit joins a bonding company, the summons and complaint should also include:

(e) The name of the bonding company that issued the contractor's bond;

(f) The bond number, and

(g) The effective date of the bond.

If the information is insufficient for the section to identify that contractor or bonding company that is being sued, the section will not attempt to serve the summons and complaint and will return them to the claimant.

AMENDATORY SECTION (Amending Order 84-08, filed 5/25/84)

WAC 296-200-300 PROCEDURES FOR ISSUANCE OF NOTICES OF INFRACTION. ~~((+))~~ The department may issue a notice of infraction to a contractor that violates RCW 18.27.100 or 18.27.200. ~~((The notice of infraction by law must be on the same basic form as that prescribed for traffic infractions. The supreme court has adopted the justice court traffic infraction rules (JTIR) as the rules of procedure for traffic infractions. To ensure that court procedures are the same for contractor notices of infraction as for traffic notices of infraction, the department shall comply with all JTIR rules except for rules 1.1, 1.2, 2.1, and 2.4(a). Rules 1.1, 1.2, and 2.1 do not directly apply to notices of violation for contractors. Rule 2.4(a) does not apply because RCW 18.27.270 provides that a defendant must respond to a notice of violation within fourteen days, not within seven days as for a traffic infraction.~~

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

(a) "Department" means the department of labor and industries, not the department of licensing;

(b) "Notice of traffic infraction" means notice of infraction;

(c) "Traffic case" means a contractor infraction case;

(d) "Law enforcement officer" means a representative of the department.) The chief construction compliance inspector shall direct that notices of infraction contain the following when issued:

(1) A statement that the notice represents a determination that the infraction has been committed by the contractor named in the notice and that the determination shall be final unless contested;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific violation which necessitated issuance of the infraction;

(4) A statement of the penalty involved if the infraction is established;

(5) A statement informing the contractor of the right to a contested hearing conducted pursuant to chapter 34.04 RCW if requested within twenty days of receipt of the infraction;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the contractor may subpoena witnesses including the compliance inspector that issued the notice of infraction;

(7) A statement notifying the party issued or served the notice of infraction that he is required to sign the notice of infraction which has the effect of establishing that the contractor promises to respond to the notice of infraction as provided in chapter 18.27 RCW;

(8) A statement notifying the contractor that a refusal to sign the notice of infraction is a misdemeanor and may be punishable by fine or imprisonment in jail, and

(d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(3) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default.

(4) The record in a contested case shall include:

(a) All pleadings, motion, intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and ruling thereon;

(e) Proposed findings and exceptions;

(f) Any decision, opinion, or report by the officer presiding at the hearing.

(5) Oral proceedings shall be tape recorded for the purposes of agency decision pursuant to RCW 34.04-.110, as now or hereafter amended, rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the reasonable costs thereof.

(6) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(7) The administrative law judge shall:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas as provided in RCW 34.04.105;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Take or cause depositions to be taken pursuant to superior court rules, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(e) Regulate the course of the hearing;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(g) Dispose of procedural requests or similar matters;

(h) Issue summary orders;

(i) Make proposed decisions and orders pursuant to RCW 34.04.110;

(j) Take any other action authorized by the department rule consistent with this chapter.

(8) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence.

(9) The administrative law judge shall issue findings of fact and conclusions of law in the judge's decision and order determining whether the infraction was committed.

(10) The director shall review the proposed decision and order of the administrative law judge and determine whether the order is correct. The director shall have

twenty days in which to issue a final decision and order. If the director does not act to modify or change the proposed decision and order of the administrative law judge then the proposed decision and order of the administrative law judge shall become the final appealable order of the department.

(11) The department's final order shall be appealable to the superior court pursuant to chapter 34.04 RCW.

NEW SECTION

WAC 296-200-380 CONTESTED CASES—EVIDENCE. All relevant evidence shall be admissible in contested hearings convened pursuant to RCW 18.27.100 and 18.27.200. Admission of evidence is further subject to RCW 34.04.100 and 34.04.105 of the administrative procedure act of Washington.

NEW SECTION

WAC 296-200-390 ADMINISTRATION OF APPEALS. The department shall record and forward all appeals of notices of infraction received to the office of administrative hearings.

NEW SECTION

WAC 296-200-400 FINES. A contractor found to have committed an infraction under RCW 18.27.200 shall be assessed the minimum penalty of a fine of two hundred dollars for the first noncompliance violation. A cited unregistered contractor that continues to do work as a contractor, and is cited for same, shall be subject to twice the amount of the last issued infraction, up to the maximum fine of three thousand dollars as provided in chapter 18.27 RCW.

WSR 86-14-040

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-32—Filed June 26, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chapter 296-150B WAC, construction standards for mobile homes, commercial coaches, and recreational vehicles to conform to the State Building Code Council as adopted.

I, Richard A. Davis, 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 modification to the rules will direct the mobile, commercial coach and recreational vehicle industry to comply with the state building code as adopted.

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

This rule is promulgated pursuant to RCW 43.22.340 through 43.22.445 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in RCW 43.22.340 through 43.22.445.

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

APPROVED AND ADOPTED June 26, 1986.

By Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 82-13, filed 4/16/82)

WAC 296-150B-015 DEFINITIONS. For the purposes of this chapter:

(1) "Alteration" means the replacement, addition, modification, or removal of any equipment or installations that affect the construction, structural members, fire safety, or occupancy classification, or the plumbing, heating, or electrical systems, of a structure or component.

The following are not alterations unless they are made to repair damage caused by fires, floods, or damage in transit or during installation.

- (a) Repairs with approved parts;
 - (b) Modification of a listed fuel-burning appliance in accordance with the terms of its listing;
 - (c) Replacement of equipment with similar equipment; and
 - (d) Adjustment and maintenance of equipment.
- (2) "Approved" means approved by the department.
- (3) "Anchoring system" means a system of straps, cables, turnbuckles, bolts, fasteners, or other approved components that secures a mobile home to ground anchors or to other approved fastening devices.

(4) "Audit" means an inspection to examine for compliance a manufacturer's production and quality control procedures.

(5) "Building site" means a tract, parcel, or subdivision of land, including a mobile home park, on which a structure other than a recreational vehicle is or will be installed.

- (6) "Component" means a discrete element that is:
- (a) Designed to be installed in a structure;
 - (b) Manufactured as a unit; and
 - (c) Designed for a particular function or group of functions. "Component" includes service cores.

(7) "Consumer" means a person, firm, corporation, agency, or governmental body, other than a manufacturer or dealer, that buys or leases a structure for his, her, or its own use.

(8) "Custom structure" means a one-of-a-kind structure.

(9) "Dealer" means a person, company, or corporation authorized to engage in the business of leasing, selling, offering for sale or lease, buying, or trading structures.

(10) "Department" means the department of labor and industries.

(11) "Design option" means a design that a manufacturer may use as an option to its design plan.

(12) "Design plan" means a plan for construction of a structure or component.

(13) "Equipment" means all materials, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of structures and components.

(14) "Footing" means the portion of a foundation system that transmits loads from a mobile home to the soil.

(15) "Foundation facia" means the materials that enclose the entire perimeter of a mobile home and form a plane between the exterior wall of the mobile home and the ground.

(16) "Foundation system" means the footings, piers, caps, and shims that support a mobile home.

(17) "HUD" means the federal Department of Housing and Urban Development.

(18) "Independent inspection agency" means an organization that is in the business of inspecting structures, components, or equipment.

(19) "Insignia" means a label, stamp, or tag issued by the department to indicate that the structure or component bearing the insignia complies with this chapter or the HUD mobile home standards.

(20) "Install" means to erect, construct, assemble, or set in place a structure, component, or piece of equipment at a building site or in another structure or building.

(21) "Labeled" means bearing the department's insignia, HUD's insignia, or a label of approval from a testing or listing agency.

(22) "Lease" means an oral or written contract for the use, possession, or occupancy of property. It includes rent.

(23) "Listed" means that a piece of equipment, a component, or an installation appears in a list published by an approved testing or listing agency.

(24) "Listing agency" means an organization that is in the business of approving equipment or installations.

(25) "Local enforcement agency" means a city or county agency that enforces laws or ordinances governing the construction and installation of structures and components.

(26) "Main frame" means the structural component on which the structure may be mounted.

(27) "Manufacturing" means making, fabricating, forming, or assembling a structure, service core, component, equipment, or installation.

(28) "Mobile home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or thirty-two body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected

to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. "Mobile home" shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by HUD and complies with the standards established by HUD.

(29) "Ordinance" means the part of a code adopted by this chapter that prescribes an item other than a method of construction, such as room sizes, floor plans, lighting, ventilation, ceiling heights, and exits.

(30) "Pier" means the part of the mobile home foundation system between the footing and the floor frame or floor joist, excluding caps and shims.

(31) "Quality control" means the plan and method for ensuring that the manufacture, fabrication, assembly, or erection of structures, components, and installations, and the storing, handling, and use of materials, complies with this chapter.

(32) "Recreational vehicle" means a ~~((motor home, travel trailer, truck camper, or camping trailer that is:~~

~~(a) With or without motive power,~~

~~(b) built on a single chassis,~~

~~(c) designed for human habitation in an emergency or for recreation, and~~

~~(d) has a living area of less than 220 square feet.~~

~~The living area excludes built-in spaces such as wardrobes, closets, cabinets, kitchen units and fixtures, and bath or toilet rooms)) vehicular type unit primarily designed for recreational camping, travel, or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: Travel trailer, folding camping trailer, park trailer, truck camper, motor home, and multi-use vehicles.~~

(33) "Structure" means a mobile home, commercial coach, or recreational vehicle that is entirely or substantially prefabricated or assembled at a factory or a place other than the building site on which the structure will be installed.

(34) "System" means a part of a structure or component that is designed to serve a particular function, such as a structural, plumbing, electrical, heating, or mechanical system.

(35) "Testing agency" means an organization that is in the business of testing equipment, installations, or systems.

(36) "Commercial coach" means a structure transportable in one or more sections that is built on permanent chassis and designed to be used for commercial purposes with or without a permanent foundation when connected to the required outlets and may include plumbing, heating, air conditioning, and electrical systems contained therein. A commercial coach shall not be used as a single family dwelling.

(37) "Park trailer" means a vehicular unit which meets the following criteria:

(a) Built on a single chassis, mounted on wheels.

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances.

(c) A gross trailer area not exceeding four hundred square feet when in the setup mode.

(d) Of such a construction as to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices.

(e) Exceeds the size restrictions specified in ANSI 119.2.

AMENDATORY SECTION (Amending Order 85-5, filed 2/15/85)

WAC 296-150B-300 CONSTRUCTION REQUIREMENTS FOR MOBILE HOMES. Alterations and repairs to mobile homes made after sale to a dealer shall comply with this section.

(1) Subject to the exceptions in subsections (2) and (3) of this section, mobile homes must comply with the ~~((1982))~~ current edition of the Standard for Mobile Homes, as adopted by the National Fire Protection Association (NFPA) and approved by the American National Standards Institute (ANSI) in ANSI/NFPA 501B ~~((1982))~~ current edition.

(2) Mobile homes need not comply with Chapter 1, 1-2 Definitions Common to Chapters 1-5 (see WAC 296-150-015).

(3) Mobile homes must comply with the following provisions of ANSI/NFPA 501B 1982, as amended. Chapter 4, Section 4-6.3.5 Installation of Solid Fuel-Burning Fireplaces and Fireplace Stoves. Subsection (A)1. is amended to read: "A listed factory-built chimney designed to be attached directly to the fireplace or fireplace stove shall be used. The listed factory-built chimney shall be equipped with and contain as part of its listing a termination device and a spark arrester." Subsection (A)3. is amended to read: "The combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping into the area beneath the mobile home."

AMENDATORY SECTION (Amending Order 85-5, filed 2/15/85)

WAC 296-150B-305 STANDARDS FOR RECREATIONAL VEHICLES. (1) Subject to the exceptions in subsection (2) of this section, recreational vehicles must comply with the ~~((1982))~~ current edition of the Standard for Recreational Vehicles, as adopted by the National Fire Protection Association (NFPA) and approved by the American National Standards Institute (ANSI) ANSI/NFPA 501C ~~((1982))~~ current edition.

(2) Recreational vehicles need not comply with the following provision of ANSI/NFPA 501C 1982.

(a) Delete Section 4-7.6.4 and exceptions No. 1 and No. 2 of Chapter 4, Electrical Systems. See WAC 296-150B-310.

(b) Delete the note in Section 3-6.2.2 in Chapter 3, Heating/Air Conditioning, and add the following exception:

A fuel-burning refrigerator may be installed to meet the above requirements using panels provided by the recreational vehicle manufacturer if the refrigerator manufacturer furnishes the necessary vents and grills as

specified by the listing requirements and the refrigerator is equipped with the necessary means to ensure the integrity of the separation of the combustion system when the refrigerator is removed for field service and reinstalled.

(c) Delete Section 4-4.1 from Chapter 4, Electrical Systems. See WAC 296-150B-315.

NEW SECTION

WAC 296-150B-307 STANDARDS FOR PARK TRAILERS. (1) Subject to the exceptions in subsection (2) of this section, park trailers shall comply with the current edition of Standards for Park Trailers approved by the American National Standards Institute (ANSI) A119.5.

(2) Park models need not comply with the following provisions of ANSI 119.5, 1-2 definitions park trailer items (c) and (e).

NEW SECTION

WAC 296-150B-508 INSULATION STANDARDS. Insulation standards for commercial coaches shall comply with the State Energy Code as adopted by the state building code council in chapters 51-12 and 51-16 WAC and is therefore adopted except where a state law supersedes a code provision.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-550 ELECTRICAL—GENERAL. Electrical equipment and installations in or on a commercial coach shall be installed in accordance with requirements of the National Electrical Code, ((1981 Edition)) as adopted by chapter 19.28 RCW and the rules adopted under that chapter, unless otherwise specifically exempted or required by these rules. The provisions of this section are also applicable to the alteration or conversion of electrical equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-553 DEFINITIONS. Definitions contained in the National Electrical Code, ((1981)) current edition, and the following definitions shall apply to the commercial coach standards.

(1) Converter means a device that changes electrical energy from one form to another, as from alternating current to direct current.

(2) Feeder assembly means the overhead or under-chassis feeder conductor, including the grounding conductor, together with the necessary fittings and equipment or a power-supply cord approved for mobile home use, designed to deliver energy from the source of electrical supply to the distribution panelboard within a commercial coach.

(3) Low voltage means an electromotive force rated at 24 volts or less, supplied from a transformer, converter, or battery.

(4) N.E.C. means the National Electrical Code, ((1981 Edition)) as adopted by chapter 19.28 RCW and the rules adopted under that chapter.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-797 PLUMBING—DEFINITIONS. Definitions contained in the Uniform Plumbing Code, ((1979 Edition)) as adopted by the state building code council, and the following definitions shall apply to this chapter:

(1) Drain outlet means the discharge end of the commercial coach main drain to which a drain connector may be attached.

(2) Main drain means the principal artery of the commercial coach drainage system to which drainage branches may be connected.

(3) Uniform Plumbing Code (UPC) means the ((1979)) current edition, as published by the International Association of Plumbing and Mechanical Officials, and adopted by the state building code council.

(4) Water-supply connection means the fitting or point of connection of the commercial coach water distribution system designed for connection to a water connector.

AMENDATORY SECTION (Amending Order 82-4, filed 2/2/82)

WAC 296-150B-800 PLUMBING—GENERAL. Plumbing fixtures, equipment, and installations in commercial coaches shall conform to the provisions of the Uniform Plumbing Code, ((1979 Edition)) as adopted by the state building code council, except part 1, unless specifically exempted or required by this section. The provisions of this chapter are also applicable to the alteration or conversion of plumbing equipment and installations in any commercial coach bearing or required to bear a department insignia of approval.

WSR 86-14-041

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 152—Filed June 26, 1986—Eff. August 1, 1986]

Be it resolved by the Higher Education Personnel Board, acting at the Washington State University, Pullman, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 251-10-025	Layoff seniority—General provisions.
New	WAC 251-25-010	State internship program—Purpose.
New	WAC 251-25-020	State internship program—Eligibility—Duration of internship.
New	WAC 251-25-030	State internship program—Rights of participants.
New	WAC 251-25-040	State internship program—Completion of internship.
New	WAC 251-25-050	State internship program—Application of rules.

This action is taken pursuant to Notice No. WSR 86-10-066 filed with the code reviser on May 7, 1986.

These rules shall take effect at a later date, such date being August 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 June 20, 1986.

By John A. Spitz
Director

Chapter 251-25 WAC
WASHINGTON STATE INTERNSHIP PROGRAM

WAC

- 251-25-010 State internship program—Purpose.
- 251-25-020 State internship program—Eligibility—Duration of internship.
- 251-25-030 State internship program—Rights of participants.
- 251-25-040 State internship program—Completion of internship.
- 251-25-050 State internship program—Application of rules.

NEW SECTION

✓ WAC 251-25-010 STATE INTERNSHIP PROGRAM—PURPOSE. The purpose of the state internship program is to assist students and state employees in gaining valuable work experience and knowledge in various areas of state government.

NEW SECTION

✓ WAC 251-25-020 STATE INTERNSHIP PROGRAM—ELIGIBILITY—DURATION OF INTERNSHIP. The state internship program shall consist of two individual internship programs:

(1) An undergraduate internship program for students working toward an undergraduate degree. Any state employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's department. Persons selected to participate in the undergraduate internship program shall serve internships of three to six months.

(2) An executive fellows program for students who have successfully completed at least one year of graduate-level work and have demonstrated a substantial interest in public sector management. Any state employee, whether working toward an advanced degree or not, shall be eligible for selection into the program upon the written recommendation of the head of the employee's department. Positions in this program shall be as assistants or analysts at the mid-management level or higher. Persons selected to participate in the executive fellows program shall serve internships of one to two years.

NEW SECTION

✓ WAC 251-25-030 STATE INTERNSHIP PROGRAM—RIGHTS OF PARTICIPANTS. (1) An employee leaving his/her position to participate in the state internship program shall:

(a) Continue to accrue layoff seniority and receive all fringe benefits as if he/she had never left the position.

(b) Have the right to return to his/her previous position or to a like position at any time during or upon completion of the internship.

(2) Participants in the undergraduate internship program who were not state employees prior to accepting a position in the program shall accrue sick leave credits commensurate with other state employees.

(3) Participants in the executive fellows program who were not state employees prior to accepting a position in the program shall accrue sick leave and vacation leave credits commensurate with other state employees.

NEW SECTION

✓ WAC 251-25-040 STATE INTERNSHIP PROGRAM—COMPLETION OF INTERNSHIP. Successful completion of an internship in the undergraduate internship program or the executive fellows program shall be considered as state employment experience at the level at which the intern was placed.

NEW SECTION

✓ WAC 251-25-050 STATE INTERNSHIP PROGRAM—APPLICATION OF RULES. Except for chapter 251-25 WAC and WAC 251-10-025(7), the higher education personnel board rules do not apply to positions or to the interns in the state internship program.

AMENDATORY SECTION (Amending Order 123, filed 1/30/85)

✓ WAC 251-10-025 LAYOFF SENIORITY—GENERAL PROVISIONS. (1) Layoff seniority is used to determine which employee(s) will be affected by a layoff.

(2) Layoff seniority is the number of calendar days an employee has been continuously employed in the classified service.

(3) Layoff seniority is based on the earliest date of continuous classified service. For the purposes of layoff seniority, classified service of less than full time shall be considered full-time service.

(4) Authorized leave of absence without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute or as stated in subsection (5) of this section.

(5) Leave of absence without pay scheduled for cyclic year positions does not constitute a break in service and shall be included when calculating layoff seniority for employees in cyclic year positions.

(6) Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken service the

veteran's active military service to a maximum of five years' credit.

(7) Participation of current state employees in the state internship program pursuant to WAC 251-25-050(1) shall be included in calculating an employee's layoff seniority.

WSR 86-14-042

ADOPTED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Order 153—Filed June 26, 1986—Eff. August 1, 1986]

Be it resolved by the Higher Education Personnel Board, acting at the Washington State University, Pullman, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 251-14-080	Unfair labor practices—Powers of board—Procedure.
New	WAC 251-14-082	Investigation of and disposition of unfair labor practice charges.
New	WAC 251-14-083	Unfair labor practice notice and complaint—Procedure.
New	WAC 251-14-085	Amendment of complaint or answer—Unfair labor practice.
New	WAC 251-14-086	Hearings and investigation—Unfair labor practice.
New	WAC 251-14-087	Enforcement—Unfair labor practice.

This action is taken pursuant to Notice No. WSR 86-10-064 filed with the code reviser on May 7, 1986. These rules shall take effect at a later date, such date being August 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 June 20, 1986.

By John A. Spitz
Director

AMENDATORY SECTION (Amending Order 67, filed 4/27/78, effective 6/1/78)

✓ WAC 251-14-080 UNFAIR LABOR PRACTICES—POWERS OF BOARD—PROCEDURE. (1) The board, or its designee, whose final decision is appealable to the board, is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

(2) Unfair labor practice charges shall be filed on a form provided by the director or designee, and shall be filed in the office of the director within sixty calendar days after the parties become aware of the alleged unfair labor practice(s). A copy shall simultaneously be sent to the charged party. The form shall be signed by the

charging party or an authorized representative and shall contain the following:

(a) The name and address of the institution.

(b) The name and address of the party or organization filing the charge.

(c) ~~((A statement as to the basis of the charge which shall be specific as to facts, names, addresses, dates, places and the unfair labor practice section relied upon in support of the charge.~~

~~(3) Upon receipt of an unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules.~~

~~(4) Whenever a charge has been made concerning any unfair labor practice, the board or its designee shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the board or its designee at a place therein fixed to be held not less than seven calendar days after the serving of said complaint. Any such complaint may be amended by the board or its designee any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five calendar days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the board or its designee, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the board or its designee shall not be bound by technical rules of evidence prevailing in the courts of law or equity.~~

~~(5) For the purpose of all hearings and investigations, which, in the opinion of the board or its designee are necessary and proper for the exercise of the powers vested in it by this act, the board or its designee shall at all reasonable times have access to for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or list of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board or its designee. The board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.~~

~~(6) The board or its designee whose final decision is appealable to the board, or any party to the proceedings, thirty days after the board or its designee has entered its findings of fact, shall have power to petition the superior court of the state, within the county wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair~~

~~labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee.)) A clear and concise statement of the facts constituting the alleged unfair labor practice(s), including times, dates, places, and participants in occurrences.~~

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

NEW SECTION

✓ WAC 251-14-082 INVESTIGATION OF AND DISPOSITION OF UNFAIR LABOR PRACTICE CHARGES. (1) Upon receipt of a properly completed unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules. If it is found that the charge(s) is frivolous or substantially without merit, the director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor. Dismissal of the charge is appealable to the higher education personnel board.

(2) If a charge does not contain all of the information required by WAC 251-14-080, the director or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

NEW SECTION

✓ WAC 251-14-083 UNFAIR LABOR PRACTICE NOTICE AND COMPLAINT—PROCEDURE. (1) Whenever a charge has been made concerning any unfair labor practice, the board or its designee shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the board or its designee at a place

therein fixed to be held not less than seven calendar days after the serving of said complaint. Any such complaint may be amended by the board or its designee any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five calendar days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint.

(2) In the discretion of the board or its designee, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the board or its designee shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

(3) The charging party shall prosecute the complaint and shall have the burden of proof.

(4) The hearing shall be limited to the issues and questions of fact raised by the complaint and answer of the parties.

NEW SECTION

✓ WAC 251-14-085 AMENDMENT OF COMPLAINT OR ANSWER—UNFAIR LABOR PRACTICE. The higher education personnel board may allow a complaint or answer to be amended at any time before the close of the hearing, upon motion of the party concerned, for good cause shown and upon such terms as the higher education personnel board may deem appropriate under the circumstances. Timeliness in making the motion shall be a factor in determining whether it will be granted.

NEW SECTION

✓ WAC 251-14-086 HEARINGS AND INVESTIGATION—UNFAIR LABOR PRACTICE. For the purpose of all hearings and investigations, which, in the opinion of the board or its designee are necessary and proper for the exercise of the powers vested in it by this act, the board or its designee shall at all reasonable times have access to for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or list of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board or its designee. The board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.

NEW SECTION

✓ WAC 251-14-087 ENFORCEMENT—UNFAIR LABOR PRACTICE. The board or its designee whose final decision is appealable to the board, or any party to the proceedings, thirty days after the board or its designee has entered its findings of fact, shall have power to petition the superior court of the state, within the county

wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee.

WSR 86-14-045
PROPOSED RULES
DEPARTMENT OF LICENSING
(Securities Division)
 [Filed June 26, 1986]

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

- Amd WAC 460-46A-090 Disclosure documents (to require the LOE-82 to be on file with the securities administrator at least ten business days prior to the commencement of the offering).
- New WAC 460-46A-115 Report of sales (requiring the issuer to file a report of sales within thirty days of the expiration of the offering).
- Amd WAC 460-46A-020 Availability of exemption (to make exemption available to issuers who have filed a registration statement, but sold no securities pursuant to said registration).
- Amd WAC 460-46A-150 Suitability of investors (to require IRA, Keogh and similar plans to independently meet suitability requirements of the rule);

that the agency will at 10:00 a.m., Monday, August 6, 1986, in the Securities Division Conference Room, 1300 Quince Street, 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 21.20.450.

The specific statute these rules are intended to implement is RCW 21.20.320(9), see also RCW 21.20.450.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 6, 1986.

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

The department may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact Jack L. Beyers, administrator of securities, whose address is set forth herein.

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

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

Jack L. Beyers
 Securities Administrator
 P.O. Box 648
 Olympia, Washington 98504
 (206) 753-6928

Dated: June 26, 1986
 By: Theresa Anna Aragon
 Director

WSR 86-14-043

NOTICE OF PUBLIC MEETINGS
HIGHER EDUCATION PERSONNEL BOARD

[Memorandum—June 26, 1986]

NOTICE OF MEETING DATE AND LOCATION CHANGES

<u>Former Date</u>	<u>New Date</u>	<u>Former Location</u>	<u>New Location</u>
July 17, 1986	Cancelled	Lower Columbia College Longview, WA	None
August 15, 1986	Cancelled	Shoreline Community College Seattle, WA	None
September 19, 1986	September 5, 1986	Spokane Community College District Spokane, WA	Highline Community College Midway, WA
November 21, 1986	Cancelled	Clark College Vancouver, WA	None
December 19, 1986	December 5, 1986	University of Washington Seattle, WA	No change

WSR 86-14-044

NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—June 26, 1986]

July 1, 1986
 Tuesday
 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.

STATEMENT OF PURPOSE

Name of Agency: Department of Licensing, Securities Division.

General Purpose of Rule: The attached rule is supplement chapter 460-46A WAC and to implement the provisions of RCW 21.20.320(9), which provides corporation, who have not previously sold registered securities, to raise up to five hundred thousand dollars in a twelve-month period.

Statutory Authority: Chapter 460-46A WAC was promulgated and now is being amended pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of the Securities Act.

Summary of the Rule: WAC 460-46A-020, exemption is available to an issuer who has filed a registration statement, but sold no securities pursuant to said registration; 460-46A-090, to allow the division ten business days in which to review LOE-82 filings; 460-46A-115, will require issuers to file a report of sales within thirty days of the expiration of the offering; and 460-46A-150, IRA's, Keogh accounts and similar plans must independently meet suitability requirements of the rule.

Reason Proposed: To codify current statements of policy concerning availability of exemption and investor suitability; to facilitate the division's ability to monitor issuer compliance with WAC 460-46A-020 and 460-46A-040, maximum offering amount and number of purchasers; and to provide the division adequate review time for filings.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following agency personnel have responsibility for drafting, implementing and enforcing these rules: Joan Baird, Assistant Director, Professional Licensing, 234-2241 scan, 753-2241; and Jack Beyers, Administrator, Securities Division, 234-6928 scan, 753-6928, 1st Floor, 1300 Quince Street, Olympia, WA 98504.

Proponents and Opponents: This rule is proposed by the Department of Licensing, Securities Division.

Agency Comments: These rules were promulgated pursuant to the authority contained in RCW 21.20.450.

Federal or State Laws: Not necessary to comply with any federal law or federal or state court decision.

Small Business Impact Statement: Not been prepared because the department does not believe that any economic impact is involved in creating an additional exemption from registration or adjusting an existing one. Any impact that the rules may have upon business is intended to fall equally on all businesses. Comments regarding the possible economic impact on small business regarding any possible economic impact on small business shall be directed to Jack L. Beyers, administrator of securities at the address or telephone number shown above.

AMENDATORY SECTION (Amending Order SDO-95-83, filed 7/15/83)

WAC 460-46A-020 AVAILABILITY OF EXEMPTION. Only corporations may use the limited offering exemption. The limited offering exemption may be used by an issuer more than once provided

that the aggregate amount raised by all offerings by the issuer and its affiliates under the limited offering exemption shall not exceed \$500,000. (The foregoing notwithstanding, offerings by affiliates of the issuer under the limited offering exemption with respect to business ventures unrelated to that of the issuer occurring twenty-four months prior to or twenty-four months after the offering of the issuer under consideration shall not be included in calculating the \$500,000 limitation as to the issuer.) The limited offering exemption is available only if one class of stock is outstanding after the offering provided however, that upon written request, this requirement may be waived by the administrator as not being necessary under the circumstances for the protection of investors. The limited offering exemption may not be used for the offer and sale of debt securities. The limited offering exemption is not available if the issuer or its affiliates have previously sold securities of such issuer or affiliate under the provisions of RCW 21.20.210 (registration by qualification) or RCW 21.20.180 (registration by coordination) or of similar provisions of the securities or blue sky laws of any other state. If an issuer has previously filed an application for registration of its securities in this or any state but no sales were made pursuant to that registration, the limited offering exemption remains available, but the issuer must advise the securities division of its prior applications for registration. The securities division may require disclosure of the reasons why no sales were made pursuant to the prior registration applications. The total amount of funds raised by the issuer and its affiliates under all exemptions, including the limited offering exemption, but excepting the statutory nonpublic offering exemption of RCW 21.20.320(1), may not exceed \$500,000 in any 12-month period during which the limited offering exemption is used.

AMENDATORY SECTION (Amending Order SDO-95-83, filed 7/15/83)

WAC 460-46A-090 DISCLOSURE DOCUMENT. Each offeree under the limited offering exemption must be furnished a disclosure document on a form provided by the securities administrator (called "Form LOE-82"). A copy of such disclosure document with all attachments must be furnished to prospective purchasers ((24)) twenty-four hours before either agreeing to purchase the shares or making any payment of consideration, whichever is earlier. A manually signed copy of the disclosure document and an additional copy must be filed with the securities administrator at least ((5)) ten business days prior to commencement of the offering. If the financial statements attached to the disclosure document are audited, subject to review or compilation by an accountant, a copy of the disclosure document and all attachments shall be forwarded to the accountant at the same time it is forwarded to the securities administrator. Certified mail, return receipt requested, is recommended. If during the course of an offering made under the limited offering exemption there shall occur an event which would materially affect the issuer, its prospects or properties, or otherwise materially affect the accuracy or completeness of the information contained in the disclosure document, the disclosure document shall be promptly revised to reflect such event, filed with the securities administrator as so revised, and used for all sales of shares in the offering thereafter.

NEW SECTION

WAC 460-46A-115 REPORT OF SALES. The issuer must file a report of sales on a form prescribed by the administrator no later than thirty days after the expiration of the offering.

AMENDATORY SECTION (Amending Order SDO-116-82, filed 10/5/82)

WAC 460-46A-150 SUITABILITY OF INVESTORS. No person may purchase shares under the limited offering exemption in excess of (a) \$15,000, (b) 25% of his or her annual income for the last calendar year, or (c) 25% of his or her net worth, exclusive of equity in residence, automobiles, furnishings, jewelry and personal effects, whichever amount is greater. The issuer must obtain and preserve for three years a signed statement from any purchaser who purchases more than \$15,000 worth of shares in the offering that the amount of his or her investment does not exceed 25% of his or her annual income or net worth. If shares are to be purchased by a pension fund, for an IRA account or for a Keogh plan, the pension fund, IRA account or Keogh plan must meet independently the suitability requirements of this section.

WSR 86-14-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2393—Filed June 26, 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 division of developmental disabilities services, amending chapter 275-27 WAC.

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 resolve a lawsuit (Case #86 20105 1).

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

This rule is promulgated pursuant to RCW 71.20.070 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 June 26, 1986.

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

Chapter 275-27 WAC

~~((BUREAU))~~ DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES ~~((AND HOME AID RESOURCES))~~ RULES

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-050 DETERMINATION FOR NECESSARY SERVICES. (1) Within sixty days from the date of the division's decision that an individual is developmentally disabled, the appropriate division field services office shall evaluate the individual's needs to determine which services, if any, are necessary to serve the client's best interest.

(2) Upon completion of the evaluation, an individual service plan with determination of necessary services shall be prepared pursuant to WAC 275-27-060 or other department forms as appropriate.

(3) Determination of necessary services shall not be regarded as a guarantee of service authorization or delivery. Service authorization and delivery of services shall be ~~((based on availability of services and/or funding))~~ pursuant to WAC 275-27-230.

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-060 INDIVIDUAL SERVICE PLAN. (1) The division shall develop a written individual service plan for each person determined eligible for division services within sixty days. Interim services may be provided if deemed necessary.

(2) ~~((The))~~ An individual service plan shall be based on an assessment of the individual's needs and will specify the services adjudged to be in the best interests of the client and meet the individual's habilitation needs. The individual service plan ~~((and authorization of services))~~ shall be in the form and manner specified by the director.

(3) A client, his or her parent or parents, or guardian may request review or modification of the service plan at any time based on changed circumstances.

(4) Development, review, and significant modifications of the individual service plan shall include, to the maximum extent possible, appropriate division staff, the client, his or her parent or parents or guardian, and personal representative or representatives of the agency or facility which is, or will be, primarily responsible for the implementation of specific provisions of the plan.

(5) An individual service plan is a planning document, and is not an authorization for services. A plan does not guarantee the authorization or delivery of services contained therein. The authorization of such services is pursuant to WAC 275-27-230.

NEW SECTION

WAC 275-27-220 FAMILY SUPPORT SERVICES. (1) The intent of family support services is to reduce or eliminate the need for out-of-home residential placements of clients wherein the in-home placement is in the client's best interest, to allow clients to live in the most independent setting possible, and to have access to services best suited to clients' needs.

(2) Family support services include, but are not limited to, the following services:

- (a) Emergency or planned respite care;
- (b) Attendant care;
- (c) Therapeutic services, including physical therapy, occupational therapy, behavior management therapy, and communication therapy;

(d) The purchase, rental, loan or refurbishment of specialized equipment, environmental modifications, and other adaptations;

(e) Other service pursuant to subsection (1) of this section approved by the director or designee.

(3) Family support services are time-limited. Services are authorized for a specified period. A service authorization shall state the type of, amount, and period (duration) of service. Each authorization constitutes a new service for a new period. If requested family support services are not authorized, such actions are deemed a denial of services. Family support services may be authorized below the level requested for the period. If during the authorized service period, family support services are

reduced or terminated below the levels specified in service authorizations, such actions are deemed a reduction or termination of services.

(4) The authorization of family support services shall be based on service priority criteria established by the director. Factors used to establish the criteria include, but are not limited to, the following:

(a) The client's need for assistance with personal care (bathing, dressing, feeding, mobility, toileting, etc.);

(b) The client's special medical support requirements (apnea monitor, gastrostomy, tracheotomy, gavage feeding, heart monitor, respirator, ventilator, etc.);

(c) The client's risk of behavioral episodes which may result in physical injury to the client or others, and/or in damage to property;

(d) The number of primary care givers available to assist the client and/or family;

(e) The availability to the client of private, local, other state, or federal resources; and

(f) The likelihood of out-of-home placement.

(5) Family support services shall be authorized in accordance with policies established by the director. Monthly service authorizations shall be based on the service priority criteria set forth in subsection (4) of this section and the following limitations:

(a) Service requests which are for family support services prescribed in subsection (2) of this section;

(b) Availability of requested family support services; and

(c) Monthly regional family support services funding allocations, except for emergencies as defined in WAC 275-27-020(11).

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-230 AUTHORIZATION OF SERVICES. (1) The division's field services section shall be responsible for authorizing services received by all eligible division clients ~~((from))~~ including, but not limited to:

(a) Placement to and from residential habilitation centers~~((;))~~;

(b) Other residential facilities, including, but not limited to, community IMR's, group homes, tenant support, and alternative living;

(c) Family support services; and

(d) Nonresidential programs.

(2) Authorization of services shall be based on the availability of funding and/or services.

(3) Determination of services to be authorized shall include, to the maximum extent feasible, the client, his or her parent or parents or guardian, and all other responsible parties.

~~((3))~~ (4) The emergency admission of any individual to a residential habilitation center shall not exceed thirty days.

~~((4))~~ (5) A temporary admission of any individual to a residential habilitation center for respite care or diagnostic services shall not exceed thirty days.

~~((5))~~ (6) Placement by the division in a county-funded service is limited as follows:

(a) The service must be included in a state-approved county plan;

(b) Placement and funding is limited to those cases where the local school district is not responsible for provision of county-funded services: PROVIDED, That:

(i) The division shall aid the client in obtaining required services from the local school district;

(ii) Exceptions may be granted by the division for county-funded services during nonschool months.

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-400 ~~((REASONABLE NOTICE))~~ NOTIFICATION AND CONSULTATION. (1) ~~((A))~~ Notification ~~((of department decision with respect to eligibility, development, or modification))~~ of the ~~((individual service plan, proposed services, termination of))~~ following decisions by the division ~~((services, placements, and admission or readmission to, or discharge from residential habilitation centers,))~~ shall be delivered to the client ~~((and the)),~~ applicant, parent ~~((or parents)),~~ guardian, or ~~((advocate of such individual))~~ other authorized representative of the client or applicant, by mail or in person:

(a) Denial or termination of the eligibility;

(b) Development or modification of the individual service plan;

(c) Proposed services;

(d) Authorization, denial, reduction, or termination of services;

(e) Placement; and

(f) Admission or readmission to, or discharge from a residential habilitation center or community services.

(2) A termination of ~~((the division))~~ eligibility or a reduction or termination of services, which is not due to the availability of funding, shall not be implemented for a period of thirty days after the notification ~~((of the department's decision to terminate services))~~ date.

(3) The department may implement a reduction or termination of services due to the nonavailability of funds ten days after the notification date.

(4) The department may implement an authorization of services below the level requested or a denial of services at the date of the decision to authorize or deny the services. A notice of authorization or denial shall be issued within thirty days of the decision to authorize or deny the services.

(5) Other decisions ~~((of the department))~~ may be acted upon ~~((by the department even though the thirty-day period in which to appeal pursuant to WAC 275-27-500(1) has not expired))~~ without delay provided the client, or parent of a client under age eighteen, or guardian authorized to determine residential placements for the client may, at any time, withdraw consent ~~((to))~~ for any division service.

~~((2))~~ (6) The notice shall set forth ~~((a statement of the reasons for the decision, and information pertaining to such person's or persons' right to))~~ appeal rights pursuant to WAC 275-27-500 and a statement that clients' case managers can be contacted for an explanation of the reasons for the decision.

~~((3))~~ (7) All parties affected by such department decision shall be consulted, whenever possible, during

the decision process by the responsible field services regional office in person and/or by telephone.

~~((4))~~ (8) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

AMENDATORY SECTION (Amending Order 2122, filed 7/13/84)

WAC 275-27-500 FAIR HEARINGS. (1) An applicant or recipient has the right to appeal a division decision regarding eligibility for, development of, or modification of an individual program plan; eligibility for or termination of services; placement and admission to, placement and readmission to, or discharge from a state school. The hearings are governed by the Administrative Procedure Act, the rules in this chapter, and by chapters 10-08 and 388-08 WAC. In case of conflict between this section and chapter 388-08 WAC, the provisions in this chapter take precedence over the rules in chapter 388-08 WAC.

~~((1))~~ (2) The request for a fair hearing must be in writing and filed with the DSHS Office of Hearings (~~P.O. Box 2465, Olympia, WA 98504~~) within thirty days of receipt of the decision the appellant wishes to appeal.

~~((2))~~ (3) A request for a fair hearing may be made by the applicant or recipient, his or her parent when the applicant or recipient is a minor, or by his or her guardian or other authorized representative.

~~((3))~~ (4) Except for ~~((a))~~ decisions to return a resident of a state residential school to the community, ~~((if the division has not implemented a decision before a written request for a hearing is properly filed and a request is properly filed))~~ authorize services at a level below the level requested, deny services, or to reduce or terminate services due to the nonavailability of funding, the division shall not implement the decision without the client's or his or her representative's written consent until the earlier of:

(a) The final administrative decision being made, or

(b) Until an administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

~~((4))~~ (5) Services may be authorized at a level below the level requested, denied, or reduced or terminated due to the nonavailability of funding, pending the final administrative decision.

(6) When the appellant requests a hearing to appeal a decision to return a resident of a state residential school to the community, the procedures specified in RCW 72-.33.161 shall govern the proceedings. These include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless:

(i) The client's or his or her representative gives written consent, or

(ii) The administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department.

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

(d) When a party files a petition for administrative review of an initial decision, the secretary shall rule on the petition and render the review decision. The secretary cannot delegate the authority to make the final decision. The secretary may get advice and assistance from agency employees who have not participated in the proceedings in any manner and whose duties do not include investigative or prosecutory functions and the secretary's review shall be confined to the record.

~~((5))~~ (7) The initial decision should be made within sixty days of the department's receipt of the request for a hearing. When a party files a petition for administrative review, the review decision should be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the hearing is continued on motion by, or with the assent of, the appellant.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-27-210 HOME AID RESOURCES.

WSR 86-14-047

**WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed June 27, 1986]

Withdrawal notice in WUTC Cause No. TV-1950, in the matter of amending WAC 480-12-210 relating to leasing, withdrawing the above-cited proposed rule. The rule was noticed under WSR Nos. 86-09-021 and 86-12-028, filed April 9, 1986, and May 29, 1986, respectively.

Paul Curl
Acting Secretary

WSR 86-14-048

**PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed June 27, 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 concerning WAC 480-80-240 relating to gas companies, Cause No. U-86-42;

that the agency will at 9:00 a.m., Wednesday, July 2, 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 80.04.160.

This notice is connected to and continues the matter in Notice Nos. WSR 86-10-018 and 86-13-040 filed with the code reviser's office on May 1, 1986, and June 12, 1986, respectively.

Dated: June 25, 1986
By: Paul Curl
Acting Secretary

WSR 86-14-049
ADOPTED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Order R-247, Cause No. U-86-31—Filed June 27, 1986]

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

This action is taken pursuant to Notice Nos. WSR 86-09-022 and 86-13-003 filed with the code reviser on April 9, 1986, and June 5, 1986, respectively. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 86-09-022 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, May 28, 1986, but was continued by Notice No. WSR 86-13-003 to June 25, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, before Chairman Sharon L. Nelson and Commissioners Robert W. Bratton and Richard D. Casad.

Under the terms of Notice No. WSR 86-09-022 interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to May 16, 1986. Under the terms of the notice continuing hearing until June 25, 1986, interested persons were afforded the opportunity to submit data, views, or arguments orally at 9:00 a.m., Wednesday, June 25, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington.

At the June 25, 1986, meeting the commission considered the rule change proposal. Written comments were received from MCI Telecommunications Company and AT&T Communications. No oral comments were presented.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-031 should be amended and WAC 480-120-033 should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-120-031 and 480-120-033 as amended and adopted will prescribe accounting and reporting requirements for telecommunications companies classified as competitive and will relieve such companies of accounting and reporting obligations that would otherwise be applicable.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-031 and 480-120-033 as set forth in Appendix A, be amended and adopted, respectively, as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 25th day of June, 1986.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Robert W. Bratton, Commissioner
Richard D. Casad, Commissioner

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 86-14-050

ADOPTED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Order R-262, Cause No. TV-1956—Filed June 27, 1986]

In the matter of amending WAC 480-12-033, 480-12-180, 480-12-195 and 480-12-340 relating to motor carriers.

This action is taken pursuant to Notice No. WSR 86-10-047 filed with the code reviser on May 6, 1986. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 86-10-047 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, June 25, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, before Chairman Sharon L. Nelson and Commissioners Robert W. Bratton and Richard D. Casad.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to June 20, 1986. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 9:00 a.m., Wednesday, June 25, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington.

At the June 25, 1986, meeting the commission considered the rule change proposal. No written comments were present. Oral comment was presented by Mr. Henry Ford.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-033, 480-12-180, 480-12-195 and 480-12-340 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-12-033, 480-12-180, 480-12-195 and 480-12-340 as amended will (1) broaden the authority of existing carriers to protest new applications for temporary authority, and extend the time for commission determination of whether temporary authority previously issued should be continued; (2) update motor carrier safety standards to coincide with those published by the United States Department of Transportation and in effect on January 1, 1986; (3) enlarge the time credit may be extended by carriers from seven to fifteen days; and (4) permit carriers of dump truck commodities to bill on a monthly basis.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-12-033, 480-12-180, 480-12-195 and 480-12-340 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for

filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 25th day of June, 1986.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Robert W. Bratton, Commissioner
Richard D. Casad, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-236, filed 8/30/85)

✓ WAC 480-12-033 TEMPORARY PERMITS. (1) The commission may issue temporary permits for authority to engage in common or contract carrier operations for a period of not to exceed one hundred eighty days, but only after it finds that the issuance of such temporary permit is consistent with the public interest.

(a) In determining whether or not the requested temporary authority is consistent with the public interest the commission will consider the following factors:

(i) A showing of an immediate and urgent need for the requested service;

(ii) The presence of lack of available service capable of meeting the need; and

(iii) Any other circumstances indicating that the grant of such temporary authority is consistent with the public interest.

(b) An application for a temporary permit shall be supported by a notarized statement from one or more shippers, consignees or others setting forth all pertinent facts relating to their need for the applied-for temporary service.

(c) Temporary authority issued under this subsection shall be published in the commission's weekly application docket along with a list of supporting shippers. Any interested carrier may, within ten days from the date of publication, ~~((submit))~~ protest the grant of authority by submitting a notarized statement that it has contacted the supporting shippers, consignees, or others supporting the application, that it has discussed their shipping problems with them, and that it is ready, willing and able and commits to provide service to their satisfaction on demand, or that the granting of temporary authority is not consistent with the public interest.

(2) The commission may also issue temporary permits pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of two or more common carriers or contract carriers or of a purchase or lease of one or more common or contract carriers.

In determining whether or not the requested temporary authority will be granted, the commission will consider whether the failure to grant such authority may result in the destruction of or injury to the motor carrier properties sought to be acquired, or whether the failure to grant such authority may interfere with the future usefulness of such properties in the performance of adequate and continuous service to the public.

(3) Any temporary permit granted under subsection (1) of this section (except a temporary permit which has

been canceled ~~((within twenty days after date of issuance))~~ as hereinafter provided) or subsection (2) of this section, shall be continued in force beyond the expiration date specified in such temporary permit, until the determination of an application for permanent permit authority to engage in operations authorized by such temporary permit, provided such application for permanent permit authority has been filed in accordance with the applicable laws, rules, and instructions not later than sixty days after issuance of the temporary permit.

(4) The commission may impose special terms and conditions in connection with granting of temporary permits. The commission will impose the following condition in connection with the granting of temporary permits issued pursuant to subsection (1) of this section:

"This permit is subject to cancellation any time within ~~((twenty))~~ forty-five days after date of issuance, if the commission ~~((receives evidence))~~ determines that no emergency exists or another carrier with authority is ready, willing and able to render satisfactory service to the shipper or evidence that this temporary permit was not issued in the public interest."

(5) Emergency temporary authority may be authorized for periods of thirty days or less to meet an immediate and urgent need for service due to emergencies, in which time or circumstances do not reasonably permit the filing and processing of an application for a temporary permit in the usual manner: PROVIDED, That emergency temporary authority may be issued for periods not to exceed ninety days for the hauling of agricultural commodities as defined by WAC 480-12-990, or Christmas trees.

Emergency temporary authority may be authorized upon application to the commission or any of its duly authorized agents upon payment of the fee set by WAC 480-12-030 and the furnishing of proof of possession of public liability and property damage insurance in limits provided in WAC 480-12-350. Such proof may consist of an insurance policy or a certificate of insurance.

(6) Temporary permits may be authorized only when the vehicles to be used in performance of the hauling under said temporary permit have passed a vehicle safety inspection by a commission agent.

AMENDATORY SECTION (Amending Order R-196, filed 2/23/83)

✓ WAC 480-12-180 EQUIPMENT-DRIVERS-SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part 393, excluding paragraph (b) of section 393.1; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are

found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on January 1, ((1983)) 1986, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) Safety chains or other load fastening devices. Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes.

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a) (iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock

blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

- (i) Excessively worn links on chains;
- (ii) Deformed or stretched chain links;
- (iii) Cracked chain links;

(iv) Frayed, stranded, knotted, or otherwise defective wire rope.

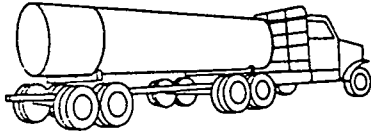
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

NOTE: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

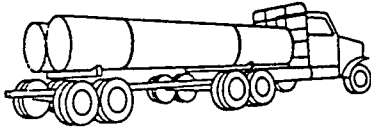
PLACEMENT AND NUMBER OF WRAPPERS

One log load



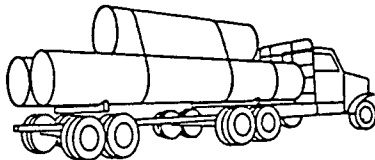
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



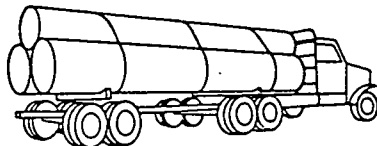
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



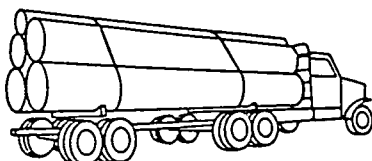
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



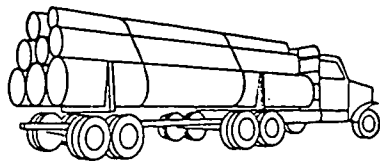
A minimum of three wrappers required.

Five or six log load all logs seventeen feet or less



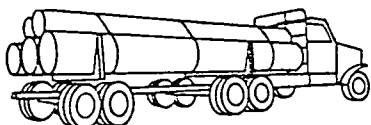
A minimum of two wrappers required.

Seven or more log load
all logs seventeen feet or less



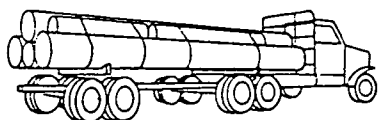
A minimum of two wrappers required.

Five or more log load
if any logs are more than seventeen feet



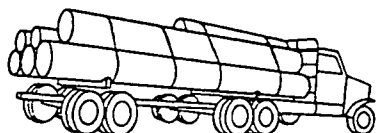
A minimum of three wrappers required.

Outside logs or top logs



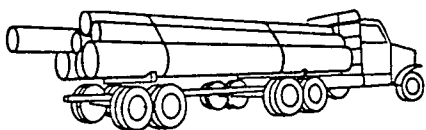
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



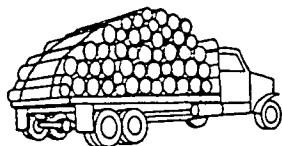
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Short logs loaded crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

NOTE: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with

stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) Approved load fastening devices. The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this section, provided that they meet a breaking strength of at least fifteen thousand pounds:

- (a) Three-eighths inch high-test steel chain;
- (b) One-half inch diameter steel cable; and
- (c) Steel strapping not less than two inches by fifty one-thousandths inches in dimension.

(5) Anti-spray devices. Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto in effect on January 1, (~~1983~~) 1986, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.

(d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(7) Whenever the designation "director, bureau of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities and transportation commission," located in Olympia, Washington.

(8) Whenever the term "lightweight vehicle" is used in this section or is used in rules adopted herein by reference, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross

weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

AMENDATORY SECTION (Amending Order R-186, filed 6/2/82)

✓ WAC 480-12-195 HAZARDOUS MATERIALS REGULATIONS. (1) The rules and regulations governing hazardous materials prescribed by the United States department of transportation in Title 49, Code of Federal Regulations, Parts 170-189, as well as and including all appendices and amendments thereto, in effect on January 1, (~~1982~~) 1986, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all common, contract, and registered carriers operating in this state.

(2) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every common, contract, and registered carrier operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

AMENDATORY SECTION (Amending Order R-174, filed 9/9/81)

✓ WAC 480-12-340 CREDIT, EXTENSION OF, BY COMMON CARRIERS. (1) In extending credit by common carriers to shippers and consignees for transportation charges, if such charges are not paid when due, the further extension of credit shall immediately cease and all necessary legal steps be taken at once to collect the outstanding amount. In all such cases the full circumstances shall be reported to the commission for such action as it may deem necessary.

(2) Upon taking precautions deemed by them to be sufficient to assure payment of the tariff charges within the credit period herein specified, common carriers by motor vehicles may relinquish possession of freight in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay them, such persons herein being called shippers, for a period of (~~(7)~~) fifteen days, excluding Sundays and legal holidays other than Saturday half-holidays. When the freight bill covering a shipment is presented to the shipper on or before the date of delivery, the credit period shall run from the first (~~(+2 o'clock)~~) 12:00 midnight following delivery of the freight. When the freight bill is not presented to the

shipper on or before the date of delivery, the credit period shall run from the first (~~(12 o'clock)~~) 12:00 midnight following the presentation of the freight bill.

(3) Where a common carrier by motor vehicle has relinquished possession of freight and collected the amount of tariff charges presented by it as the total amount of such charges, and another freight bill for additional freight charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of (~~(30)~~) thirty calendar days to be computed from the first (~~(12 o'clock)~~) 12:00 midnight following the presentation of the subsequently presented freight bill.

(4) Freight bills for all transportation charges shall be presented to the shippers within (~~(7)~~) seven calendar days from the first (~~(12 o'clock)~~) 12:00 midnight following delivery of the freight.

(5) Shippers may elect to have their freight bills presented by means of the United States mails, and when the mail service is so used the time of mailing by the carriers shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

(6) The mailing by the shipper of valid checks, drafts or money orders, which are satisfactory to the carriers, in payment of freight charges within the credit period allowed such shipper may be deemed to be the collection of the tariff rates and charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

(7) Carriers engaged in garbage, refuse or debris collection, or in the transportation of dump truck commodities may present monthly bills; carriers of logs and carriers of household goods shall be governed as to extension of credit by other orders of the commission relating to the subject.

(8) Carriers billing for the transportation of unmanufactured or unprocessed agricultural commodities, including the return of empty containers, where the farmer or grower pays the freight charges, shall present the freight bill to said farmer or grower within (~~(7)~~) seven calendar days from the first (~~(12 o'clock)~~) 12:00 midnight following delivery of the freight. The carrier may extend credit for transportation charges for a period of (~~(30)~~) thirty calendar days, to be computed from the first (~~(12 o'clock)~~) 12:00 midnight following presentation of the subsequently presented freight bill.

(9) The provisions of this rule shall not apply to payments of intrastate transportation charges by use of charge cards when a carrier offering charge card payment services has obtained approval for such charge card plan or plans as provided in WAC 480-12-465 and when the shipper of household goods does not force an involuntary extension of credit by the carrier by causing the charge card issuer to reverse the charge transaction and charge payments back to the carrier's account.

WSR 86-14-051

ADOPTED RULES

DEPARTMENT OF LICENSING

[Order PM 602—Filed June 27, 1986]

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

Amd WAC 308-29-060 Sale of a licensed collection agency.
New WAC 308-29-070 Disclosure of rate of interest.
New WAC 308-29-080 Notice to credit reporting bureaus.

This action is taken pursuant to Notice No. WSR 86-10-002 filed with the code reviser on April 24, 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 Licensing as authorized in RCW 19.16.410.

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

APPROVED AND ADOPTED June 20, 1986.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order PL-306, filed 6/1/79)

✓ WAC 308-29-060 SALE OF A LICENSED COLLECTION AGENCY. Whenever a licensee intends to sell or otherwise transfer his or its interest in a collection agency, the seller (licensee) and buyer or transferee will insure that there is incorporated in the body of the sale agreement or document of transfer appropriate clauses that set forth provisions relative to the following:

(a) The Washington state collection agency license is not transferable or assignable and buyer is responsible to initiate whatever administrative action is necessary to obtain such license as required by law.

(b) Whether buyer or seller has the responsibility for all payments due customers on or before the effective date of sale.

(c) Whether buyer or seller has the responsibility for maintaining and preserving the accounting records as prescribed by RCW 19.16.230(3).

(d) Whether buyer is restricted from or is authorized to use the seller's collection agency's business name.

(e) The buyer (transferee) or seller (transferor) shall provide notice of the sale or transfer to the seller's or transferor's clients, and shall provide said clients the opportunity to reclaim their accounts. The sale or transfer document shall provide which party to the sale or transfer is responsible for providing said notice.

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

NEW SECTION

✓ WAC 308-29-070 DISCLOSURE OF RATE OF INTEREST. Whenever a collection agency is required pursuant to Chapter 19.16 RCW to disclose to the debtor that interest charges are being added to the original obligation, the collection agency must also disclose to the debtor the rate of interest; said rate of interest not to exceed the legal maximum rate pursuant to chapter 19.52 RCW.

NEW SECTION

✓ WAC 308-29-080 NOTICE TO CREDIT REPORTING BUREAUS. In the event a collection agency informs a credit reporting bureau of the existence of a claim, the collection agency shall, within thirty days of satisfaction of said claim, notify the credit reporting bureau that said claim has been satisfied.

WSR 86-14-052
EMERGENCY RULES
BOARD OF PHARMACY
 [Order 199—Filed June 27, 1986]

Be it resolved by the Board of Pharmacy, acting at Spokane, Washington, that it does adopt the annexed rules relating to hard gelatin capsule restrictions, WAC 360-20-200, which restricts the sale of nonprescription drug products in unsealed two-piece hard gelatin capsules.

We, the Board of Pharmacy, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in consideration of the recent discovery of the death of two persons as the result of cyanide placed in unsealed two-piece hard gelatin capsules coupled with the discovery of other similarly tampered drug capsules; the Washington State Board of Pharmacy has determined that current technology has not provided for the development of tamper evident or tamper resistant packaging for over-the-counter (OTC) drugs which is sufficient to prevent tampering with unsealed two-piece hard gelatin capsules. Therefore, in order to protect the health and safety of the citizens of this state, the board has developed this emergency rule banning the sale of such capsules in Washington state to prevent further loss of life.

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

Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules":

This rule is promulgated pursuant to RCW 18.64.005(11) and is intended to administratively implement that statute.

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

This order, after being first recorded in the order register of this governing body, is herewith transmitted to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED June 25, 1986.

By Barbara A. Vanderkolk
 Chairperson

NEW SECTION

WAC 360-20-200 HARD GELATIN CAPSULE RESTRICTIONS. *Effective immediately, no pharmacy, shopkeeper or other drug outlet may offer for sale in this state any nonprescription drug which is manufactured in unsealed, two-piece, hard gelatin capsules. All such products must be removed from the store shelves and returned to the manufacturer or be destroyed, unless restricted to sale by prescription only.*

WSR 86-14-053
PROPOSED RULES
PUBLIC WORKS BOARD
 [Filed June 27, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Works Board intends to adopt, amend, or repeal rules concerning the operations of the Public Works Board, including the evaluation of applications for public works loans and pledges, and the conditions of public works loans and pledges;

that the agency will at 10:00 a.m., Tuesday, August 12, 1986, in the Mercury 12 Room, Sea-Tac Red Lion Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 43.155 RCW.

The specific statute these rules are intended to implement is RCW 43.155.040, Laws of 1985.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Monday, August 11, 1986.

Dated: June 17, 1986

By: Pete A. Butkus
 Manager, Public Works Trust Fund

STATEMENT OF PURPOSE

Title: WAC 399-30-040 Board deliberations; and 399-30-060 Loan and financing guarantee contracts.

Statutory Authority and Specific Statute the Rule is Intended to Implement: RCW 43.155.040 to implement chapter 43.155 RCW.

Summary of the Rule and Statement of the Reasons Supporting the Proposed Action: Revise the procedures by which applications for loans from the public works assistance account will be considered, evaluated and prioritized and revise the conditions under which public works loans and pledges will be offered to local jurisdictions.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Robert C. Anderson, Chairman, Public Works Board, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 586-0490.

Name of the Organization Proposing the Rule: Public Works Board.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: These rules are necessary to carry out the intent of chapter 43.155 RCW, which creates the Public Works Board and authorizes it to make low-interest or interest-free loans for and to guarantee financing of local governments' public works projects that meet the legislation's criteria and standards.

Whether the Rule is Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Resolution No. 85-17, filed 1/15/86)

WAC 399-30-040 BOARD DELIBERATIONS. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2) in application Form A. Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local effort and project need.

(i) Up to two hundred ~~((points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making a reasonable effort to meet its public works needs:~~

~~(A) In application Form C "road, bridges or storm sewer projects," responses to questions 26 through 31 will be evaluated to determine this score.~~

~~(B) In application Form D "water projects" responses to questions 32 through 35 and to questions 37 through 39 will be evaluated to determine this score.~~

~~(C) In application Form E "sanitary sewer projects," responses to questions 41 through 44 and to questions 46 through 48 will be evaluated to determine this score.~~

~~(ii) Up to three hundred points may be awarded in the evaluation of each application's demonstration of need for the proposed project.~~

~~(A) Up to two hundred points may be awarded in the evaluation of the statements of project need and health and safety impacts provided in applicant responses to questions 8, 9, and 21.~~

~~(B) Up to one hundred points may be awarded in the evaluation of responses to questions 20, 22, and 23 that indicate natural disasters, emergency public works needs and joint projects)) fifty points may be awarded in the evaluation of each application's demonstration of need for the proposed project:~~

~~(A) Responses to questions 10 through 21 will be evaluated to determine this score.~~

~~(B) Up to two hundred and forty-five points may be awarded in the evaluation of the extent and severity of public works problems provided in applicant responses to questions 10 through 13 and 16 through 21. Extent and severity referred to include health and safety, emergency needs, high maintenance and operation costs and community and regional benefit.~~

~~(C) Up to five points may be awarded in the evaluation of coordinated projects provided in applicant responses to question 14.~~

~~(ii) Up to two hundred points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making a reasonable effort to meet its public works needs:~~

~~(A) Responses to questions 22 through 38 will be evaluated to determine this score.~~

~~(B) In the case of nonrate-based projects, up to one hundred and fifty points may be awarded in the evaluation of the management initiatives undertaken by applicant jurisdictions provided in applicant responses to questions 22 through 26.~~

~~(C) In the case of nonrate-based projects, up to fifty points may be awarded in the evaluation of local option tax measures charged by applicant jurisdictions provided in applicant responses to questions 27, 28, 29, 30 and 31.~~

~~(D) In the case of rate-based projects, up to one hundred points may be awarded in the evaluation of the management initiatives undertaken by applicant jurisdictions provided in applicant responses to questions 22 through 26.~~

~~(E) In the case of rate-based projects, up to one hundred points may be awarded in the evaluation of user rates charged by applicant jurisdictions provided in applicant responses to questions 27, 28, and 32 through 38.~~

(d) Staff will provide the board with preliminary evaluation and scoring of the applications, including a summary of each proposal. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board will then adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) ~~((Readiness to proceed;~~

~~(v) Size of projects)) Type of jurisdiction.~~

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects on the list recommended for funding.

(3) Applicants will be notified in writing of board decisions.

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

WAC 399-30-060 LOAN AND FINANCING GUARANTEE CONTRACTS. (1) The board shall not sign ~~((contracts)) loan agreements~~ or otherwise financially obligate funds from the public works assistance account until the list ~~((is in final form and the appropriations are received from))~~ and accompanying appropriation are approved by the legislature.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: PROVIDED, That the amount loaned to a local government shall not exceed ninety percent of eligible proposed project cost: PROVIDED FURTHER, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues: PROVIDED FURTHER, That the interest rate for loans shall not exceed three percent per annum: PROVIDED FURTHER, That loans may be provided at rates of lower than three percent but greater than one percent if the local government participates to a greater extent than ten percent in financing the project receiving a trust fund loan: PROVIDED FURTHER, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.

(3) Public works project loan and/or financing guarantee ~~((contracts)) agreements~~ offered to local governments shall be formally executed by the local government and ~~((an original contract returned to~~

the board)) the department of community development prior to the disbursement of any funds thereunder.

(4) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on public works projects financed through loans or financing guarantees offered to local governments must commence prior to October 1 of the year in which the loan or financing guarantee is offered.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twenty-four months of the date work has begun on such projects, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account. Such funds may be used by the local government as an element in its required local participation in a project financed by the public works assistance account.

WSR 86-14-054

EMERGENCY RULES

PUBLIC WORKS BOARD

[Resolution No. 86-08—Filed June 27, 1986]

Be it resolved by the Public Works Board, acting at the Mercury 12 Room, Sea-Tac Red Lion Inn, Seattle, Washington, that it does adopt the annexed rules relating to the operations of the Public Works Board, including the evaluation of applications for public works loans and pledges, and the conditions of public works loans and pledges.

We, the Public Works 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 limited time available to the Public Works Board between the initial loan prioritization cycle and the second cycle necessitates the adoption of emergency rules, in order to meet the intent of the legislation that created the Public Works Board.

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 Public Works Board as authorized in RCW 43.155.040.

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

APPROVED AND ADOPTED June 17, 1986.

By Pete A. Butkus
Manager, Public Works Trust Fund

AMENDATORY SECTION (Amending Resolution No. 85-17, filed 1/15/86)

WAC 399-30-040 BOARD DELIBERATIONS.

(1) The board will consider and prioritize, or disapprove,

all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2) in application Form A. Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local effort and project need.

(i) Up to two hundred ((points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making a reasonable effort to meet its public works needs:

(A) ~~In application Form C "road, bridges or storm sewer projects," responses to questions 26 through 31 will be evaluated to determine this score.~~

(B) ~~In application Form D "water projects" responses to questions 32 through 35 and to questions 37 through 39 will be evaluated to determine this score.~~

(C) ~~In application Form E "sanitary sewer projects," responses to questions 41 through 44 and to questions 46 through 48 will be evaluated to determine this score.~~

(ii) ~~Up to three hundred points may be awarded in the evaluation of each application's demonstration of need for the proposed project:~~

(A) ~~Up to two hundred points may be awarded in the evaluation of the statements of project need and health and safety impacts provided in applicant responses to questions 8, 9, and 21.~~

(B) ~~Up to one hundred points may be awarded in the evaluation of responses to questions 20, 22, and 23 that indicate natural disasters, emergency public works needs and joint projects)) fifty points may be awarded in the evaluation of each application's demonstration of need for the proposed project:~~

(A) ~~Responses to questions 10 through 21 will be evaluated to determine this score.~~

(B) ~~Up to two hundred and forty-five points may be awarded in the evaluation of the extent and severity of public works problems provided in applicant responses to questions 10 through 13 and 16 through 21. Extent and severity referred to include health and safety, emergency needs, high maintenance and operation costs and community and regional benefit.~~

(C) ~~Up to five points may be awarded in the evaluation of coordinated projects provided in applicant responses to question 14.~~

(ii) ~~Up to two hundred points may be awarded in the evaluation of the applicant jurisdiction's demonstration that it is making a reasonable effort to meet its public works needs:~~

(A) ~~Responses to questions 22 through 38 will be evaluated to determine this score.~~

(B) In the case of nonrate-based projects, up to one hundred and fifty points may be awarded in the evaluation of the management initiatives undertaken by applicant jurisdictions provided in applicant responses to questions 22 through 26.

(C) In the case of nonrate-based projects, up to fifty points may be awarded in the evaluation of local option tax measures charged by applicant jurisdictions provided in applicant responses to questions 27, 28, 29, 30 and 31.

(D) In the case of rate-based projects, up to one hundred points may be awarded in the evaluation of the management initiatives undertaken by applicant jurisdictions provided in applicant responses to questions 22 through 26.

(E) In the case of rate-based projects, up to one hundred points may be awarded in the evaluation of user rates charged by applicant jurisdictions provided in applicant responses to questions 27, 28, and 32 through 38.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications, including a summary of each proposal. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board will then adjust the ranked list in consideration of the following factors:

- (i) Geographical balance;
- (ii) Economic distress;
- (iii) Type of projects;
- (iv) ~~((Readiness to proceed;~~
- ~~(v) Size of projects))~~ Type of jurisdiction.

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects on the list recommended for funding.

(3) Applicants will be notified in writing of board decisions.

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

WAC 399-30-060 LOAN AND FINANCING GUARANTEE CONTRACTS. (1) The board shall not sign ~~((contracts))~~ loan agreements or otherwise financially obligate funds from the public works assistance account until the list ~~((is in final form and the appropriations are received from))~~ and accompanying appropriation are approved by the legislature.

(2) After the legislature has appropriated funds from the public works assistance account for a specific list of public works projects, the loan funds will be disbursed to the applicant local government pursuant to a contract therefor, which will be offered to the local government with such reasonable terms and conditions as the board may determine: PROVIDED, That the amount loaned to a local government shall not exceed ninety percent of eligible proposed project cost: PROVIDED FURTHER, That the funds provided by a local government which are considered local financial participation shall consist of locally generated revenues: PROVIDED FURTHER,

That the interest rate for loans shall not exceed three percent per annum: PROVIDED FURTHER, That loans may be provided at rates of lower than three percent but greater than one percent if the local government participates to a greater extent than ten percent in financing the project receiving a trust fund loan: PROVIDED FURTHER, That loans shall not exceed twenty years in duration, or the useful life of the improvements, whichever is shorter. Exception to these provisions shall be made only in cases of severe economic distress and/or natural disaster.

(3) Public works project loan and/or financing guarantee ~~((contracts))~~ agreements offered to local governments shall be formally executed by the local government and ~~((an original contract returned to the board))~~ the department of community development prior to the disbursement of any funds thereunder.

(4) Public works project loan and/or financing guarantee contracts offered to local governments shall be executed by the local government within ninety days of the date a loan agreement is initiated.

(5) Work on public works projects financed through loans or financing guarantees offered to local governments must commence prior to October 1 of the year in which the loan or financing guarantee is offered.

(6) Work on public works projects financed through loans or financing guarantees offered to local governments must be completed within twenty-four months of the date work has begun on such projects, unless a written request for extension is approved by the board.

(7) Funds expended by local governments on projects financed through loans or financing guarantees by the public works assistance account before an agreement has been formally executed by the local government and the department of community development may not be reimbursed with funds from the public works assistance account. Such funds may be used by the local government as an element in its required local participation in a project financed by the public works assistance account.

WSR 86-14-055

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed June 27, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Disclosure Commission intends to adopt, amend, or repeal rules concerning Definition—Nonreimbursed public office related expense, new WAC 390-24-032;

that the agency will at 9 a.m., Tuesday, August 26, 1986, in the 2nd Floor Conference Room, Evergreen Plaza Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 26, 1986.

The authority under which these rules are proposed is RCW 42.17.370(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 1986.

This notice is connected to and continues the matter in Notice No. WSR 86-13-006 filed with the code reviser's office on June 5, 1986.

Dated: June 27, 1986
By: Graham E. Johnson
Executive Director

WSR 86-14-056

ADOPTED RULES

PUBLIC DISCLOSURE COMMISSION

[Order 86-05—Filed June 27, 1986]

Be it resolved by the Public Disclosure Commission, acting at 403 Evergreen Plaza Building, Olympia, Washington, FJ-42, that it does adopt the annexed rules relating to:

- New WAC 390-16-033 Earmarked contributions.
- New WAC 390-20-141 Registration and reporting required when a lobbyist employs another lobbyist.

This action is taken pursuant to Notice Nos. WSR 86-11-049 and 86-12-058 filed with the code reviser on May 19, 1986, and June 3, 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 42.17.370(1) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 24, 1986.

By Graham E. Johnson
Executive Director

NEW SECTION

WAC 390-16-033 EARMARKED CONTRIBUTIONS—REPORTING; FORM. The official form for reporting the details surrounding an earmarked contribution, as required by Section 3, Chapter 228, Laws of 1986, is designated "Attachment E." This attachment shall accompany each C-3 or C-4 which reports the receipt or giving of the contribution.

EARMARKED CONTRIBUTION		ATTACHMENT TO C-3 OR C-4	E
1. NAME OF CANDIDATE OR COMMITTEE FILING THIS REPORT ADDRESS CITY COUNTY ZIP	2. PERSON FILING THIS REPORT IS: <input type="checkbox"/> INTERMEDIARY—RECEIVED AN EARMARKED CONTRIBUTION TO BENEFIT ANOTHER PERSON <input type="checkbox"/> BENEFITTED CANDIDATE OR COMMITTEE		
3. ORIGINAL SOURCE OF EARMARKED CONTRIBUTION NAME ADDRESS CITY COUNTY ZIP	DATE OF CONTRIBUTION: AMOUNT / VALUE: \$ <input type="checkbox"/> CASH <input type="checkbox"/> IN-KIND—DESCRIBE:		
4. INTERMEDIARY—Candidate or committee which received an earmarked contribution for the benefit of another candidate or committee. NAME ADDRESS CITY COUNTY ZIP	5. HOW WILL INTERMEDIARY USE THIS CONTRIBUTION? <input type="checkbox"/> GIVEN AS CASH (OR CHECK) CONTRIBUTION TO THE BENEFITTED CANDIDATE OR COMMITTEE <input type="checkbox"/> COMBINED WITH OTHER FUNDS ON HAND AND GIVEN TO THE BENEFITTED CANDIDATE OR COMMITTEE <input type="checkbox"/> DIVIDED BETWEEN SEVERAL CANDIDATES ATTACH LIST SHOWING AMOUNT TO EACH. <input type="checkbox"/> USED TO PURCHASE GOODS OR SERVICES FOR THE BENEFITTED CANDIDATE OR COMMITTEE. DESCRIBE THE GOODS OR SERVICES: <input type="checkbox"/> OTHER—SPECIFY:		
6. CANDIDATE OR COMMITTEE TO BE BENEFITTED NAME ADDRESS CITY COUNTY ZIP	IF CANDIDATE, WHAT OFFICE IS THE PERSON RUNNING FOR? _____		
CERTIFICATION: I certify that the information herein and on accompanying attachments is true.			
Candidate's Signature	Date	Treasurer's Signature (if a political committee)	Date

INSTRUCTIONS:

PURPOSE OF THIS REPORT IS TO HIGHLIGHT AN EARMARKED CONTRIBUTION (A CONTRIBUTION GIVEN TO ONE CANDIDATE OR COMMITTEE WITH THE INTENT OR INSTRUCTION THAT IT BE USED TO BENEFIT ANOTHER). THIS REPORT IS FILED IN ADDITION TO ANY OTHER REPORTING OF THE TRANSACTION THAT IS REQUIRED.

WHO FILES THIS REPORT? ANY CANDIDATE OR COMMITTEE WHO RECEIVES OR IS TO BENEFIT FROM AN EARMARKED CONTRIBUTION.

WHEN IS THE REPORT FILED?
 CASH CONTRIBUTION RECEIVED—ATTACHED TO C-3 FORM REPORTING RECEIPT.
 IN-KIND CONTRIBUTION RECEIVED—WITH C-4 AND SCHEDULE B REPORTING RECEIPT.
 CASH EXPENDITURE MADE WITH OR FROM EARMARKED FUNDS—ATTACHED TO C-4 AND SCHEDULE A REPORTING THE EXPENDITURE
 IN-KIND EXPENDITURE MADE WITH OR FROM EARMARKED CONTRIBUTIONS—ATTACHED TO C-4 AND SCHEDULE B REPORTING THE EXPENDITURE.

FILE A SEPARATE ATTACHMENT E FOR EACH EARMARKED CONTRIBUTION.

ANY PERSON WHO RECEIVES AN EARMARKED CONTRIBUTION MUST NOTIFY THE BENEFITTED CANDIDATE OR COMMITTEE WITHIN TWO WORKING DAYS. THE CANDIDATE OR COMMITTEE TO BENEFIT WILL REPORT THE CONTRIBUTION ON THE NEXT C-3 OR C-4 AND ATTACH THIS REPORT.

NEW SECTION

WAC 390-20-141 REGISTRATION AND REPORTING REQUIRED WHEN A LOBBYIST EMPLOYS ANOTHER LOBBYIST. (1) If a registered lobbyist employs another lobbyist to perform lobbying activities in excess of the exemptions specified in RCW 42.17.150(2) or RCW 42.17.160 then such registered lobbyist is also an employer of a registered lobbyist.

(2) Any person who becomes an employer of a registered lobbyist under such circumstances must (a) confirm such employment on the employee's L-1 registration statement; (b) in a written instrument filed with such employee's L-1 registration statement identify which clients the employee is authorized to represent; (c) file an annual L-3 report as an employer of a registered lobbyist; and (d) continue to file monthly L-2 reports as a registered lobbyist.

WSR 86-14-057
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 86-53—Filed June 27, 1986]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to ceremonial and subsistence 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 a harvestable number of salmon are available for a ceremonial fishery.

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

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

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

APPROVED AND ADOPTED June 26, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-36-02500X CHEHALIS RIVER—CEREMONIAL FISHERY. *Notwithstanding the provisions of WAC 220-36-025, effective immediately until July 31, 1986, it is unlawful for any person, including treaty Indian fishermen, to fish for or possess foodfish taken for any purpose from the waters of the Chehalis River upstream from the Porter Bridge, except as provided for in this section:*

(1) *The fishermen listed in subsection (3) of this section may fish for salmon for ceremonial purposes from 8:00 p.m. June 27, 1986 to 6:00 a.m. June 28, 1986 using no more than one net with mesh no smaller than 6 3/4 inches, and these fishermen must have Chehalis tribal fishing identification cards or receipts in possession while fishing. The nets must be identified.*

(2) *The authorized fishermen are:*

1. John Youckton
2. Dennis Cayenne
3. Darren Jones
4. Violet Starr
5. Irene Thompson
6. Lee Starr
7. Joan Cayenne
8. James Cayenne
9. Edna Bruce
10. Karen Klatush
11. Virginia Canales
12. Percy Youckton
13. Bill Secena
14. David Youckton
15. Margie Youckton
16. Cheryl Cayenne
17. Jerry Youckton
18. Stacey Brown
19. Ben Starr, Jr.
20. Beatrice Christensen

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-36-02500W CHEHALIS RIVER—CEREMONIAL FISHERY. (86-48)

WSR 86-14-058
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 86-54—Filed June 27, 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 summer/fall chinook 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 June 27, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-57-42500H SKAGIT RIVER. Notwithstanding the provisions of WAC 220-57-425, effective July 1, 1986, until further notice, Bag Limit C - Downstream from the mouth of Gilligan Creek except that the six fish daily bag limit may include two chinook salmon greater than 24 inches in length.

WSR 86-14-059
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Filed June 27, 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 IMR program and reimbursement system, amending chapter 275-38 WAC;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 1986.

The authority under which these rules are proposed is RCW 74.09.120.

The specific statute these rules are intended to implement is RCW 74.09.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 7, 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, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 26, 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 275-38-555.

Purpose of the Rule: To establish the criteria completing annual cost reports and maintaining financial records for both community and state-owned IMRs participating in the Title XIX-Medicaid program.

Reason for the Change: The present rule is not in accordance with direction from OFM.

Re: Amending WAC 275-38-860.

Purpose of the Rule: To provide for cost reimbursement to the community IMRs for Title XIX-Medicaid services in the resident care cost center.

Reason for the Change: The present rule requires that 1984 cost report data be used to establish part of this rate.

Statutory Authority: RCW 74.09.120.

Summary: Present rule WAC 275-38-555 requires state-owned IMRs participating in the Title XIX-Medicaid program to use cash method of accounting rather than modified accrual method. This change is in accordance with directions from OFM and will provide that DSHS can claim federal financial participation for accrued expenses; and present rule WAC 275-38-860 provides the rate for cost reimbursement for resident care and training staff in the community IMRs will be based on data from their 1984 cost reports rather than their most current cost report.

Person Responsible for Drafting, Implementing and Enforcement of the Rule: Corki Hirsch, Field Services Support Unit, Division of Developmental Disabilities, mailstop OB-42C, phone 753-4449.

Rules proposed by DSHS.

These rules are not necessary as a result of a change in federal or state law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-555 COMPLETING REPORTS AND MAINTAINING RECORDS. (1) All reports shall be legible and reproducible. It is recommended all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except for governmental institutions operated on a ((cash)) modified accrual method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multi-service facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 275-38-735.

(5) If a contractor fails to maintain records adequate for audit purposes or fails to allow inspection of such records by authorized personnel as provided in the contractor's IMR contract, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the

department shall resume current contract payments and shall release payments suspended pursuant to the contractor's IMR contract.

AMENDATORY SECTION (Amending Order 2312, filed 12/5/85)

WAC 275-38-860 RESIDENT CARE AND HABILITATION COST CENTER RATE. (1) For C and D level facilities, the resident care and habilitation cost center will reimburse for resident living services, habitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation.

(2) For E level facilities, the resident care and habilitation cost center will reimburse for resident living services, habitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation. The cost center will also reimburse for resident care and training staff performing administration and operations functions specified in WAC 275-38-870.

(3) A facility's resident care and habilitation cost center rate shall be determined as follows:

(a) The facility's most recent desk-reviewed costs per resident day shall be adjusted for inflation except those costs for resident care and training (RCT) and recreation staff.

(b) RCT staff and recreation staff shall be determined by multiplying the number of reimbursed RCT and recreation staff hours per resident day reported in the facility's ~~((1984))~~ most recent cost report by the greater of seven dollars and twenty-nine cents or the ~~((1984))~~ most recent reported cost for RCT and recreation staff per reported hour.

~~((i)) As part of a contractor's resident care and habilitation cost center payment for October 1985, a contractor will receive a one-time distribution of RCT and recreation staff compensation enhancement.~~

~~((ii)) The distribution will be the contractor's 1984 desk-reviewed RCT and recreation staff hours divided by the number of days in the contractor's 1984 cost report, multiplied by ninety-two days, and multiplied by the difference between seven dollars and twenty-nine cents and the contractor's 1984 cost for RCT and recreation staff per hour where the contractor's 1984 cost per RCT and recreation staff hour is less than seven dollars and twenty-nine cents.))~~

(c) The amounts determined in subsections (3)(a) and (b) of this section shall be summed to establish the facility's rate.

WSR 86-14-060
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Filed June 27, 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 division of developmental disabilities services, amending chapter 275-27 WAC;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 1986.

The authority under which these rules are proposed is RCW 71.20.070.

The specific statute these rules are intended to implement is RCW 71.20.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 7, 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, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 26, 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 275-27 WAC.

Purpose of the Rule Change: To resolve legal action (law suit No. 86 2 01051 1) for declaratory and injunctive relief.

The rule change is necessary as present WAC does not allow the department to authorize services at a level below the level requested, deny services, or reduce or terminate services due to the nonavailability of funding without processing through a fair hearing.

Statutory Authority: RCW 71.20.070.

Summary of Rule Change: Chapter 275-27 WAC is amended to clarify that the department can authorize services at a level below the level requested, deny services, or reduce or terminate services due to the nonavailability of funds. The amended WAC allows the department to continue these actions pending final administrative ruling. The amended WAC also prescribes the factors and service priority criteria used to establish monthly family support service authorization.

Persons Responsible for Drafting, Implementation and Enforcement of the Rules: Jon Halvorson, Supervisor, Field Services Support Unit, Division of Developmental Disabilities, mailstop OB-42C, phone 753-2786.

Rules proposed by DSHS.

These rules are necessary to resolve a legal action against the department.

No economic impact statement is required under the Regulatory Fairness Act.

Chapter 275-27 WAC
~~((BUREAU))~~ DIVISION OF DEVELOPMENTAL DISABILITIES
SERVICES ~~((AND HOME AID RESOURCES))~~ RULES

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-050 DETERMINATION FOR NECESSARY SERVICES. (1) Within sixty days from the date of the division's decision that an individual is developmentally disabled, the appropriate division field services office shall evaluate the individual's needs to determine which services, if any, are necessary to serve the client's best interest.

(2) Upon completion of the evaluation, an individual service plan with determination of necessary services shall be prepared pursuant to WAC 275-27-060 or other department forms as appropriate.

(3) Determination of necessary services shall not be regarded as a guarantee of service authorization or delivery. Service authorization

and delivery of services shall be ~~((based on availability of services and/or funding))~~ pursuant to WAC 275-27-230.

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-060 **INDIVIDUAL SERVICE PLAN.** (1) The division shall develop a written individual service plan for each person determined eligible for division services within sixty days. Interim services may be provided if deemed necessary.

(2) ~~((The))~~ An individual service plan shall be based on an assessment of the individual's needs and will specify the services adjudged to be in the best interests of the client and meet the individual's habilitation needs. The individual service plan ~~((and authorization of services))~~ shall be in the form and manner specified by the director.

(3) A client, his or her parent or parents, or guardian may request review or modification of the service plan at any time based on changed circumstances.

(4) Development, review, and significant modifications of the individual service plan shall include, to the maximum extent possible, appropriate division staff, the client, his or her parent or parents or guardian, and personal representative or representatives of the agency or facility which is, or will be, primarily responsible for the implementation of specific provisions of the plan.

(5) An individual service plan is a planning document, and is not an authorization for services. A plan does not guarantee the authorization or delivery of services contained therein. The authorization of such services is pursuant to WAC 275-27-230.

NEW SECTION

WAC 275-27-220 **FAMILY SUPPORT SERVICES.** (1) The intent of family support services is to reduce or eliminate the need for out-of-home residential placements of clients wherein the in-home placement is in the client's best interest, to allow clients to live in the most independent setting possible, and to have access to services best suited to clients' needs.

(2) Family support services include, but are not limited to, the following services:

- (a) Emergency or planned respite care;
- (b) Attendant care;
- (c) Therapeutic services, including physical therapy, occupational therapy, behavior management therapy, and communication therapy;
- (d) The purchase, rental, loan or refurbishment of specialized equipment, environmental modifications, and other adaptations;
- (e) Other service pursuant to subsection (1) of this section approved by the director or designee.

(3) Family support services are time-limited. Services are authorized for a specified period. A service authorization shall state the type of, amount, and period (duration) of service. Each authorization constitutes a new service for a new period. If requested family support services are not authorized, such actions are deemed a denial of services. Family support services may be authorized below the level requested for the period. If during the authorized service period, family support services are reduced or terminated below the levels specified in service authorizations, such actions are deemed a reduction or termination of services.

(4) The authorization of family support services shall be based on service priority criteria established by the director. Factors used to establish the criteria include, but are not limited to, the following:

- (a) The client's need for assistance with personal care (bathing, dressing, feeding, mobility, toileting, etc.);
- (b) The client's special medical support requirements (apnea monitor, gastrostomy, tracheotomy, gavage feeding, heart monitor, respirator, ventilator, etc.);
- (c) The client's risk of behavioral episodes which may result in physical injury to the client or others, and/or in damage to property;
- (d) The number of primary care givers available to assist the client and/or family;
- (e) The availability to the client of private, local, other state, or federal resources; and
- (f) The likelihood of out-of-home placement.

(5) Family support services shall be authorized in accordance with policies established by the director. Monthly service authorizations shall be based on the service priority criteria set forth in subsection (4) of this section and the following limitations:

- (a) Service requests which are for family support services prescribed in subsection (2) of this section;

(b) Availability of requested family support services; and

(c) Monthly regional family support services funding allocations, except for emergencies as defined in WAC 275-27-020(11).

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-230 **AUTHORIZATION OF SERVICES.** (1) The division's field services section shall be responsible for authorizing services received by all eligible division clients ~~((from))~~ including, but not limited to:

- (a) Placement to and from residential habilitation centers((;));
 - (b) Other residential facilities, including, but not limited to, community IMR's, group homes, tenant support, and alternative living;
 - (c) Family support services; and
 - (d) Nonresidential programs.
- (2) Authorization of services shall be based on the availability of funding and/or services.

(3) Determination of services to be authorized shall include, to the maximum extent feasible, the client, his or her parent or parents or guardian, and all other responsible parties.

~~((3))~~ (4) The emergency admission of any individual to a residential habilitation center shall not exceed thirty days.

~~((4))~~ (5) A temporary admission of any individual to a residential habilitation center for respite care or diagnostic services shall not exceed thirty days.

~~((5))~~ (6) Placement by the division in a county-funded service is limited as follows:

- (a) The service must be included in a state-approved county plan;
- (b) Placement and funding is limited to those cases where the local school district is not responsible for provision of county-funded services: **PROVIDED, That:**

(i) The division shall aid the client in obtaining required services from the local school district;

(ii) Exceptions may be granted by the division for county-funded services during nonschool months.

AMENDATORY SECTION (Amending Order 2124, filed 7/18/84)

WAC 275-27-400 ~~((REASONABLE NOTICE))~~ **NOTIFICATION AND CONSULTATION.** (1) ~~((A))~~ Notification ~~((of department decision with respect to eligibility, development, or modification))~~ of the ~~((individual service plan, proposed services, termination of))~~ following decisions by the division ~~((services, placements, and admission or readmission to, or discharge from residential habilitation centers;))~~ shall be delivered to the client ~~((and the)),~~ applicant, parent ~~((or parents)),~~ guardian, or ~~((advocate of such individual))~~ other authorized representative of the client or applicant, by mail or in person:

- (a) Denial or termination of the eligibility;
- (b) Development or modification of the individual service plan;
- (c) Proposed services;
- (d) Authorization, denial, reduction, or termination of services;
- (e) Placement; and
- (f) Admission or readmission to, or discharge from a residential habilitation center or community services.

(2) A termination of ~~((the division))~~ eligibility or a reduction or termination of services, which is not due to the availability of funding, shall not be implemented for a period of thirty days after the notification ~~((of the department's decision to terminate services))~~ date.

(3) The department may implement a reduction or termination of services due to the nonavailability of funds ten days after the notification date.

(4) The department may implement an authorization of services below the level requested or a denial of services at the date of the decision to authorize or deny the services. A notice of authorization or denial shall be issued within thirty days of the decision to authorize or deny the services.

(5) Other decisions ~~((of the department))~~ may be acted upon ~~((by the department even though the thirty-day period in which to appeal pursuant to WAC 275-27-500(1) has not expired))~~ without delay provided the client, or parent of a client under age eighteen, or guardian authorized to determine residential placements for the client may, at any time, withdraw consent ~~((to))~~ for any division service.

~~((2))~~ (6) The notice shall set forth ~~((a statement of the reasons for the decision, and information pertaining to such person's or persons' right to))~~ appeal rights pursuant to WAC 275-27-500 and a statement that clients' case managers can be contacted for an explanation of the reasons for the decision.

~~((3))~~ (7) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible field services regional office in person and/or by telephone.
~~((4))~~ (8) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

AMENDATORY SECTION (Amending Order 2122, filed 7/13/84)

WAC 275-27-500 FAIR HEARINGS. (1) An applicant or recipient has the right to appeal a division decision regarding eligibility for, development of, or modification of an individual program plan; eligibility for or termination of services; placement and admission to, placement and readmission to, or discharge from a state school. The hearings are governed by the Administrative Procedure Act, the rules in this chapter, and by chapters 10-08 and 388-08 WAC. In case of conflict between this section and chapter 388-08 WAC, the provisions in this chapter take precedence over the rules in chapter 388-08 WAC.

~~((1))~~ (2) The request for a fair hearing must be in writing and filed with the DSHS Office of Hearings (~~P.O. Box 2465, Olympia, WA 98504~~) within thirty days of receipt of the decision the appellant wishes to appeal.

~~((2))~~ (3) A request for a fair hearing may be made by the applicant or recipient, his or her parent when the applicant or recipient is a minor, or by his or her guardian or other authorized representative.

~~((3))~~ (4) Except for ~~((a))~~ decisions to return a resident of a state residential school to the community, ~~((if the division has not implemented a decision before a written request for a hearing is properly filed and a request is properly filed))~~ authorize services at a level below the level requested, deny services, or to reduce or terminate services due to the nonavailability of funding, the division shall not implement the decision without the client's or his or her representative's written consent until the earlier of:

- (a) The final administrative decision being made, or
- (b) Until an administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

~~((4))~~ (5) Services may be authorized at a level below the level requested, denied, or reduced or terminated due to the nonavailability of funding, pending the final administrative decision.

(6) When the appellant requests a hearing to appeal a decision to return a resident of a state residential school to the community, the procedures specified in RCW 72.33.161 shall govern the proceedings. These include:

- (a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless:
 - (i) The client's or his or her representative gives written consent, or
 - (ii) The administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.
- (b) The burden of proof is on the department.
- (c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

(d) When a party files a petition for administrative review of an initial decision, the secretary shall rule on the petition and render the review decision. The secretary cannot delegate the authority to make the final decision. The secretary may get advice and assistance from agency employees who have not participated in the proceedings in any manner and whose duties do not include investigative or prosecutory functions and the secretary's review shall be confined to the record.

~~((5))~~ (7) The initial decision should be made within sixty days of the department's receipt of the request for a hearing. When a party files a petition for administrative review, the review decision should be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the hearing is continued on motion by, or with the assent of, the appellant.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-27-210 HOME AID RESOURCES.

WSR 86-14-061
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2391—Filed June 27, 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 Standards of assistance—Supplemental security income (SSI) program, amending WAC 388-29-295.

This action is taken pursuant to Notice No. WSR 86-10-030 filed with the code reviser on May 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 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 June 20, 1986.

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

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-295 STANDARDS OF ASSISTANCE — SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM. ((Effective January 1, 1985)) The standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
Area I			
Living alone			
Individuals	(\$366.60) \$325.00 \$38.30)	\$364.00	\$28.00
Couples			
Both eligible	((525.40) 488.00 37.40))	526.00	22.00
With essential person	((525.40) 488.00 37.40))	526.00	22.00
With ineligible spouse	((525.40) 325.00 200.40))	526.00	190.00
Area II			
Living alone			
Individuals	((343.85) 325.00 17.85))	343.55	7.55
Couples			
Both eligible	((495.45) 488.00 7.45))	504.00	0

	Standard	Federal Benefit	State Supplement
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With essential person	((495.45 488.00 7.45)) 504.00	488.00 504.00	7.45) 0
With ineligible spouse	((495.45 325.00 170.45)) 496.15	325.00 336.00	170.45) 160.15
Shared living Individuals	((229.35 216.67 12.68)) 229.81	216.67 224.00	12.68) 5.81
Couples Both eligible	((341.91 325.34 16.57)) 342.30	325.34 336.00	16.57) 6.30
With essential person	((341.91 325.34 16.57)) 342.30	325.34 336.00	16.57) 6.30
With ineligible spouse	((341.91 216.67 125.24)) 342.30	216.67 224.00	125.24) 118.30

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

WSR 86-14-062
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
 [Filed June 30, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to adopt, amend, or repeal rules concerning an amendment to WAC 468-30-060, rental of state highway lands and improvements that would clarify the basis for rental of improved property;

that the agency will at 10:00 a.m., Thursday, August 28, 1986, in the Board Room, 1D 2, Transportation Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 47.12.120 and 47.01.101(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 18, 1986.

This notice is connected to and continues the matter in Notice No. WSR 86-12-005 filed with the code reviser's office on May 22, 1986.

Dated: June 27, 1986
 By: A. D. Andreas
 Deputy Secretary

WSR 86-14-063
EMERGENCY RULES
DEPARTMENT OF REVENUE
 [Order FT-86-1—Filed June 30, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- New WAC 458-40-18721 Stumpage values (tables for July 1, through December 31, 1986).
- New WAC 458-40-18722 Harvester adjustments (tables for July 1, through December 31, 1986).
- Amd WAC 458-40-18700 Definitions.
- Amd WAC 458-40-18704 Stumpage value area and hauling distance zone—Map.
- Amd WAC 458-40-18706 Timber quality code numbers—Tables.

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 chapter 84.33 RCW requires stumpage value for timber be shown on tables to be prepared by the Department of Revenue each year on or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31, which stumpage tables shall in accordance with the policy of the Department of Revenue reflect the most recent sales data which is available.

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

This rule is promulgated pursuant to chapter 84.33 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 June 30, 1986.

By Trevor W. Thompson
 Assistant Director

Reviser's note: The rules relating to stumpage values, chapter 458-40 WAC, were adopted both as emergency and permanent rules by the Department of Revenue in Administrative Order Numbers FT-86-1 and FT-86-2, respectively. Due to length of the rules, and the fact that they are identical in both their emergency and permanent versions, they are displayed in the Register only once, under WSR 86-14-064.

WSR 86-14-064
ADOPTED RULES
DEPARTMENT OF REVENUE
 [Order FT-86-2—Filed June 30, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

New	WAC 458-40-18721	Stumpage values (tables for July 1, through December 31, 1986).
New	WAC 458-40-18722	Harvester adjustments (tables for July 1, through December 31, 1986).
Amd	WAC 458-40-18700	Definitions.
Amd	WAC 458-40-18704	Stumpage value area and hauling distance zone—Map.
Amd	WAC 458-40-18706	Timber quality code numbers—Tables.

This action is taken pursuant to Notice No. WSR 86-10-054 filed with the code reviser on May 7, 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 chapter 84.33 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 June 30, 1986.

By Trevor W. Thompson
Assistant Director

AMENDATORY SECTION (Amending Order FT-85-5, filed 12/31/85)

WAC 458-40-18700 DEFINITIONS. (1) Acceptable log scaling rule. The acceptable log scaling rule shall be the Scribner Decimal C Log Scale Rule or other prevalent measuring practice, provided that such other prevalent measuring practice shall be submitted to the department for approval prior to the time of harvest.

(2) Applicable rate of tax. The applicable rate of tax shall be that excise tax rate in effect at the time the timber is harvested.

(3) Approved log scaling and grading rules.

(a) West of the Cascade summit—Approved scaling and grading rule. With respect to the reporting of timber harvested from private or public lands in areas west of the Cascade summit, which areas are designated as stumpage value areas 1, 2, 3, 4, and 5 in the stumpage value area map of WAC 458-40-18704, the methods and procedures published by the Columbia River Log Scaling and Grading Bureau, Grays Harbor Log Scaling and Grading Bureau, and the Puget Sound Log Scaling and Grading Bureau and published as the "Official Log Scaling and Grading Rules" are approved by the department for use in those areas.

(b) East of the Cascade summit—Approved scaling rule. With respect to the reporting of timber harvested from private or public lands in areas east of the Cascade summit, which areas are designated as stumpage value areas 6, 7, ((8, 9,)) and 10 in the stumpage value area map of WAC 458-40-18704, the methods and procedures published by the United States Forest Service under the title "National Forest Log Scaling Handbook" procedures are approved by the department for use in those areas. This log scaling handbook is published under the title FSH 2409-11 National Forest Log Scaling Handbook, Forest Service, United States Department of Agriculture.

(c) East of the Cascade summit—Established grading rule. Because the National Forest Log Scaling Handbook does not contain grading rules, a separate computation shall be made to arrive at the proper grade for purposes of determining the timber quality code number for timber harvested east of the Cascade summit. The grade for quality classification purposes of the timber harvested from private or public land east of the Cascade summit shall be determined by the number of sawable sixteen foot logs per thousand feet net Scribner Decimal C Log Scale. The computation shall be made under the following three-step procedure:

(i) Step 1. The highest possible total number of sawable sixteen foot logs which could be recovered shall be determined by dividing the sum total of length of all sawable logs harvested by the number sixteen.

(ii) Step 2. The average net volume per sixteen foot recoverable log shall be determined by dividing the total volume harvested (net log scale) by the total number of sixteen foot logs as determined in Step 1.

(iii) Step 3. The total number of logs per thousand board feet (MBF) shall be determined by dividing one thousand by the average net volume as determined in step 2.

(4) Codominant trees. Trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

(5) Competitive bidding process. The competitive bidding process means the offering of timber which is advertised to the general public for sale at a public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. For purposes of this chapter the competitive bidding process includes making available to the general public permits for the removal of forest products.

(6) Department. Department, for the purposes of this chapter, shall mean the department of revenue of the state of Washington.

(7) Dominant trees. Trees whose crowns are higher than the general level of the canopy and who receive full light from the sides as well as from above.

(8) Forest excise tax payment. Every person who is engaged in business as a harvester of timber from privately or publicly owned land shall pay a forest excise tax which shall be equal to the taxable stumpage value of timber harvested for sale or for commercial or industrial use and multiplied by the applicable rate of tax as provided in chapter 84.33 RCW.

(9) Harvester. Harvester (~~shall~~) means every person who from his own land or from land of another under ((a)) right or license granted by lease or contract, either directly or by contracting with others (~~(, 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)~~) for the necessary labor and mechanical services, fells, cuts, or takes timber for commercial or industrial use: PROVIDED, That whenever any government entity, as described in chapter 315, Laws of 1986, sells timber for commercial or industrial use, the harvester is the

first person or private business that acquires title to or possessory interest in such timber.

(10) Harvested timber—When determined. Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined.

(11) Harvesting and marketing costs. Harvesting and marketing costs means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but does not include any other costs which are not directly and exclusively related to harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest.

(12) Harvest type. Harvest type shall be a term referring to the grouping of harvested timber by age and type of harvest and shall include and is limited to the following harvest types:

(a) Merchantable sawtimber, all ages—The removal of timber east of the Cascade summit shall be reported as merchantable sawtimber, all ages, unless the harvest type comes within the definition in this chapter of special forest products.

(b) Old growth. The removal of any timber from a harvest unit that is 100 years of age or older and west of the Cascade summit shall be reported as old growth unless the harvest type comes within the definition in this chapter of special forest products.

(c) Special forest products. The removal of Christmas trees (except as provided in RCW 84.33.170), shake blocks and boards, and posts and other western redcedar products shall be reported as special forest products.

(d) Thinning. The removal of timber from a harvest unit meeting all the following conditions:

(i) Harvest unit located west of the Cascade summit;
 (ii) Timber that is less than 100 years of age;
 (iii) The total merchantable volume which is removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest;

(iv) Not more than forty percent of the total volume removed is from the dominant and codominant trees;

(v) The trees removed in the harvest operation shall be distributed over the entire harvest unit.

(e) Young growth. The removal of any timber from a harvest unit that is less than 100 years of age and does not meet the definition of thinning in (d) of this subsection and west of the Cascade summit shall be reported as young growth unless the harvest type comes within the definition in this chapter of special forest products or within the definition of thinning.

(13) Harvest unit. A harvest unit is a harvest area having the same forest excise tax permit number, stumpage value area, hauling distance zone, harvest type, harvest adjustments and harvester. A harvest unit may include more than one section.

(14) Lump sum sale. A lump sum sale, also known as a cash sale or an installment sale, is a sale of timber wherein the total sale price as determined at the time of sale is final and not dependent upon the volume of timber actually harvested.

(15) MBF. As used herein MBF shall mean one thousand board feet measured in Scribner Decimal C Log Scale Rule.

(16) Other consideration. As used herein other consideration shall mean improvements to the land that are required by contract by the seller and are of a permanent nature. For instance, other consideration may include, but is not limited to the construction of permanent roads, and the installation of permanent bridges.

(17) Permanent road. A road built as part of the harvesting operation which is intended to have a useful life subsequent to the completion of the harvest is a permanent road.

(18) Private timber. Private timber is all timber harvested from privately owned lands. Private timber includes timber on reclassified reforestation land under chapters 84.28 and 84.33 RCW.

(19) Pro rata unit price. The pro rata unit price shall be the result of dividing the total sale price of a lump sum sale by the sale volume.

(20) Public timber. Public timber is timber harvested from state, federal, municipal, county, and other government owned lands.

(21) Remote island. A remote island is an area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

(22) Sale price. The sale price shall mean the amount paid for standing timber in cash or other consideration.

(23) Sawlog. Sawlog shall mean any log large enough to produce one-third of its gross volume in sound lumber or other products that can be sawed.

(24) Scale sale. A scale sale means a sale in which the sale price is the product of the actual volume harvested and the unit price at the time of harvest.

(25) Small harvester. Small harvester means every person who from his 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)) and mechanical services, fells, cuts, or takes timber ((for sale or)) for commercial or industrial use in an amount not exceeding 500 MBF in a calendar quarter and not exceeding 1000 MBF in a calendar year of combined public and private harvest (excluding conifer utility, and hardwood utility). ((H)) PROVIDED, That whenever any government entity, as described in chapter 315, Laws of 1986, sells timber for commercial or industrial use, the harvester is the first person or private business that acquires title to or possessory interest in such timber. Small harvester does not include persons or businesses performing under contract the necessary labor or mechanical services for a harvester, and it does not include ((harvests)) harvesters of forest products classified by the department of revenue as special forest products including Christmas trees, posts, shake boards(;) and bolts, ((flatsawn;)) and shingle blocks.

(26) Small harvester option. Harvesters of no more than 500 MBF per calendar quarter or a total of 1000 MBF in a calendar year of combined public and private harvest (excluding conifer and hardwood utility) may

elect to calculate the timber tax in the manner provided by RCW 84.33.073 and 84.33.074. A harvester who elects to use this option shall use the quarterly reporting forms provided for this option by the department.

(27) Species. Species designation is a biologically-based grouping of harvested timber and shall include but is not limited to the following designations of species and subclassifications thereof (as defined in Agriculture Handbook No. 541 Checklist of United States Trees (Native and Naturalized)):

(a) Douglas-fir, western hemlock, true fir, noble fir, western redcedar, Alaska-cedar, western larch, ponderosa pine, lodgepole pine, western white pine, Sitka spruce, Engelmann spruce, red alder, and cottonwood shall be reported as separate species where designated as such in the stumpage value tables.

(b) Species designations for the harvest type special forest products shall be western redcedar shake blocks and boards, western redcedar flatsawn and shingle blocks, western redcedar and other posts, lodgepole pine and other posts, pine Christmas trees, Douglas-fir Christmas trees, Douglas-fir and other Christmas trees, true fir and other Christmas trees.

(c) Other conifer, as used in the stumpage value tables, shall be all other conifers not separately designated in the applicable stumpage value tables.

(d) Hardwood, and other hardwood, as used in the stumpage value tables, shall be all hardwoods not separately designated in the applicable stumpage value tables.

(e) Utility, conifer utility, and hardwood utility are separate species as defined by the "Official Log Scaling and Grading Rules" published by the Puget Sound Log Scaling and Grading Bureau and shall be reported as separate species where designated as such in the stumpage value tables.

(28) Stumpage value area. A stumpage value area is an area with specified boundaries which contains timber having similar growing, harvesting, and marketing conditions. Presently, there are ~~((ten))~~ eight such stumpage value areas designated in the state of Washington as shown under WAC 458-40-18704. Stumpage value areas 1, 2, 3, 4, and 5 are located west of the Cascade summit and stumpage value areas 6, 7, ~~((8, 9,))~~ and 10 are located east of the Cascade summit.

(29) Taxable stumpage value of timber. The taxable stumpage value of timber shall be the value determined by one of the following methods as appropriate:

(a) Private timber. The taxable stumpage value of private timber shall be the appropriate value for each species of timber harvested, or for each species of special forest product harvested, as set forth in the stumpage value tables adopted under this chapter.

(b) Private timber — small harvester option. The taxable stumpage value for the small harvester option shall be determined by one of the following methods, whichever is most appropriate to the circumstances of the harvest.

(i) Sale of logs — Timber which has been severed from the stump and cut into various lengths for further processing. The taxable stumpage value is the actual gross

receipts from the harvested timber less the costs of harvesting and marketing. Actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of harvesting and marketing costs, the deduction shall be a percentage of the gross receipts from the sale of the harvested timber as determined by the department. The deduction shall be fifty percent of the gross receipts. A landowner who has sold logs for a percentage share of gross receipts should report the value received under ~~((WAC 458-40-18700 (29)))~~(b)(ii) of this subsection.

(ii) Sale of stumpage — Standing or fallen trees which have not been severed from the stump, providing the harvest occurs within twelve months of the date of sale. The taxable stumpage value is the actual gross receipts received for the timber for the most recent sale prior to harvest. No harvesting and marketing cost deduction is allowable. If there has been a sale of stumpage and a subsequent sale of logs within twelve months, the taxable stumpage value shall be the gross receipts for the stumpage. If harvest occurs more than twelve months after the date of sale, report under ~~((WAC 458-40-18700 (29)))~~(b)(i) of this subsection.

(c) Public timber. The taxable stumpage value for public timber sales shall be determined as follows:

(i) Noncompetitive sales: Timber not sold by a competitive bidding process shall be valued in the same manner as private timber.

(ii) Scale sales: The taxable stumpage value shall be the sum of the products of each species volume multiplied by the unit price for each species.

(iii) Lump sum sales: For sales in which the harvest is completed within a single quarterly reporting period, the taxable value shall be the actual sale price for the timber in cash or other consideration. For sales in which the harvest extends over more than one quarterly reporting period, the taxable value for each period shall be based on the actual quantity harvested and the estimated pro rata unit price. In no event shall the taxable value of the sale differ from the original sale price in cash or other consideration.

(iv) Sale of logs: When public timber is sold in the form of logs, the taxable value shall be the actual purchase price for the logs less deductions as appropriate for the costs of felling, bucking, and yarding the logs to the point of sale. Cost deductions shall be the actual costs when documented proof of such costs are available. In the absence of verifiable actual cost data, cost deductions shall be based on the appraised costs as appraised by the seller, if available; or an estimate of such costs based on the best available information from the sale of similar timber under similar harvesting conditions.

(30) Timber. Timber shall include forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees, shake blocks and boards, posts and other western redcedar products.

(31) Timber quality code number. The timber quality code number is a number assigned to the harvest of a particular species within a harvest type under WAC

458-40-18706, and is based upon the constituent percentage of log grade specifications within the total volume of timber harvested for that particular species.

(32) Unit price. The unit price shall mean the sale price (including cash or other consideration) for each unit of volume. The unit price will most often be expressed as dollars per MBF.

(33) This rule shall not be construed to affect any public timber contracts in effect prior to August 1, 1982; PROVIDED, That the excise tax imposed by chapter 84.33 RCW applies to timber harvested after April 4, 1986, from lands sold to any government agency wherein the seller retained the cutting rights, or acquired cutting rights by quit claim deed for any length of time; regardless of the date the right to harvest was established.

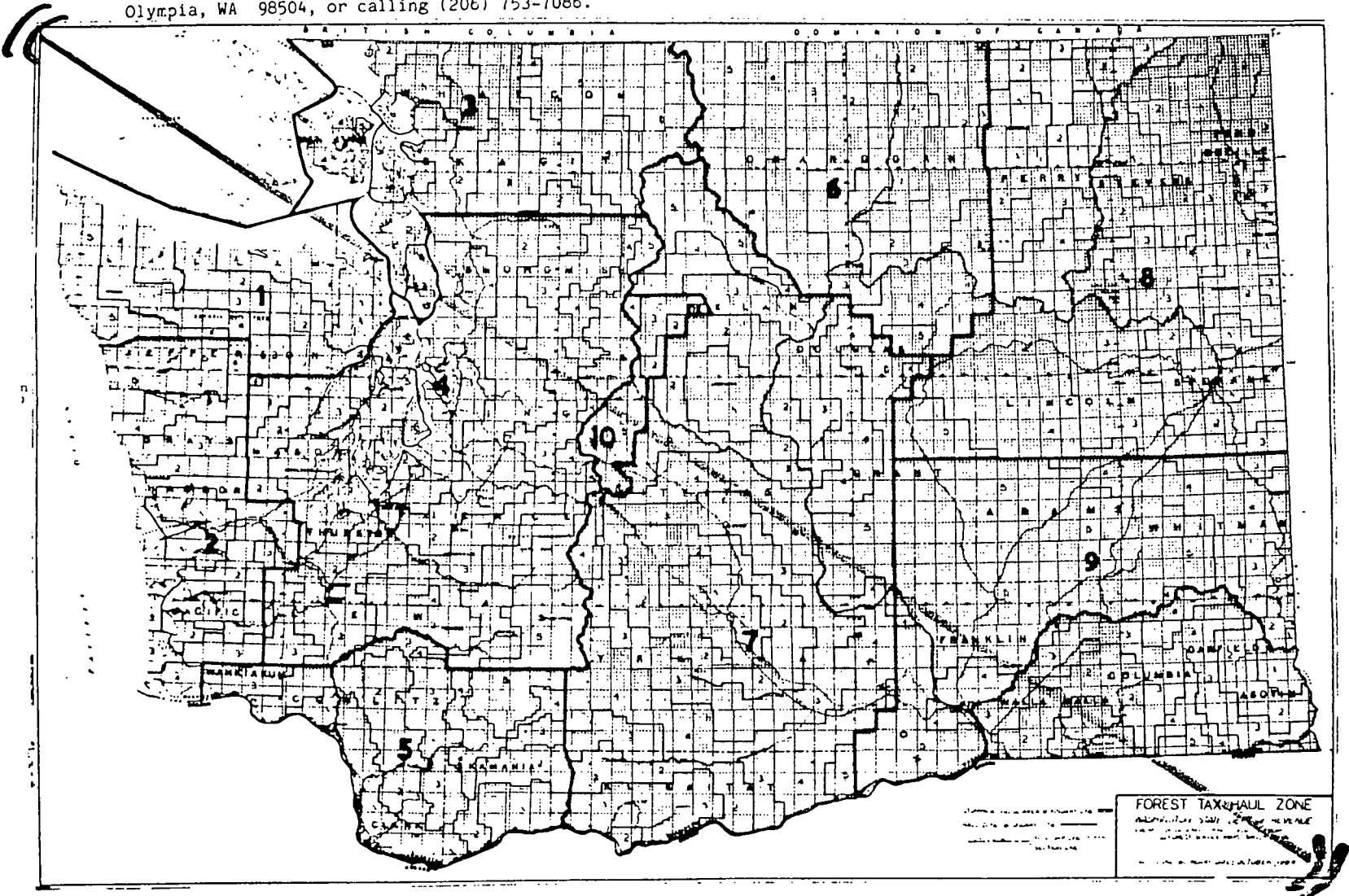
AMENDATORY SECTION (Amending Order FT-84-7, filed 12/28/84)

WAC 458-40-18704 STUMPAGE VALUE AREAS AND HAULING DISTANCE ZONE—MAP. In order to allow for differences in market conditions and other relevant factors throughout the state as required by chapter 84.33 RCW, the department has created a map designating areas containing timber having similar growing, harvesting, and marketing conditions; the department has designated zones within each area which have similar accessibility to conversion points and other similar hauling cost factors.

The stumpage value area and hauling distance zone map shall be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value.

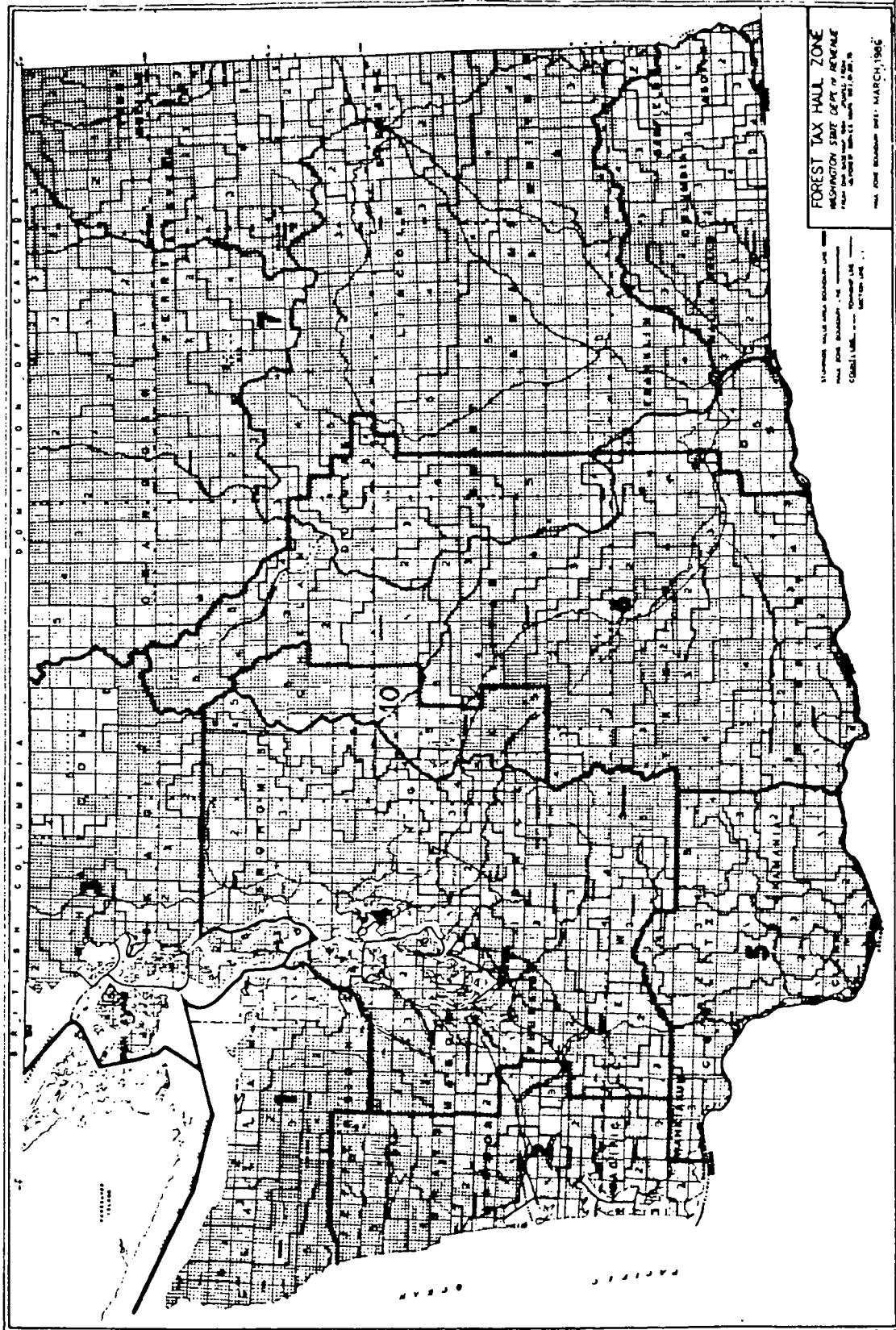
The following stumpage value area and hauling distance zone map is hereby adopted:

WAC 458-40-18704 STUMPAGE VALUE AREA AND HAUL DISTANCE ZONE--MAP
 Those harvesters who want a larger scale map may obtain one by writing to
 State of Washington, Department of Revenue, Forest Tax Section, MS-AX-02,
 Olympia, WA 98504, or calling (206) 753-7086.



[120]

MAC 453-40-18704 STUMPAGE VALUE AREA AND HAUL DISTANCE ZONE--MAF
Those harvesters who want a larger scale map may obtain one by
writing to State of Washington, Department of Revenue, Forest Tax
Section, MS-AX-02, Olympia, WA. 98504, or calling (206) 753-7086.



AMENDATORY SECTION (Amending Order FT-85-5, filed 12/31/85)

✓ WAC 458-40-18706 **TIMBER QUALITY CODE NUMBERS—TABLES.** In order to allow for differences in age, size, quality of timber and other relevant factors as required by chapter 84.33 RCW, the department has assigned timber quality code numbers for harvests of the various designated harvest types and species.

Scaling and grading information derived from an acceptable log scaling and grading rule for the particular harvest type and species shall be used to determine the proper quality code number.

For each timber quality code number in the following tables, there is a corresponding timber quality code number for that particular harvest type and species in the stumpage value tables which is to be used in computing timber harvest value.

The following timber quality code tables are hereby adopted:

TABLE 1—TIMBER QUALITY CODE TABLE STUMPAGE VALUE AREAS 1, 2, 3, 4, AND 5 OLD GROWTH (100 years of age or older)

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Douglas-fir	Over 40% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Spruce	Over 35% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	Over 25% Special Mill, No. 1 Sawmill & better log grade
	Hardwoods	All No. 3 Sawmill logs & better log grades
2	Douglas-fir	15-40% inclusive Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	10-20% inclusive Special Mill, No. 1 Sawmill, Peeler & better log grade
	Spruce	15-35% inclusive No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	5-25% inclusive Special Mill, No. 1 Sawmill & better log grade

TABLE 1—cont.

Timber Quality Code Number	Species	Log Grade Specifications ¹
3	Douglas-fir	Less than 15% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Less than 10% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Spruce	Less than 15% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	Less than 5% Special Mill, No. 1 Sawmill & better log grade
5	Conifer Utility	All conifer logs graded as utility log grade
	Hardwood Utility	All No. 4 Sawmill log grade and all hardwood logs graded as utility

¹ For detailed descriptions and definitions of approved log scaling, grading rules, and procedures see the Official Rules for the following Log Scaling and Grading Bureaus; Columbia River, Grays Harbor, Northern California, Puget Sound, Southern Oregon, and Yamhill. (January 1, 1982 edition)

TABLE 2—TIMBER QUALITY CODE TABLE STUMPAGE VALUE AREAS 1, 2, 3, 4, AND 5 YOUNG GROWTH OR THINNING (less than 100 years of age)

Timber Quality Code Number	Species	Log Grade Specifications ¹
1	Douglas-fir	Over 70% No. 2. Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Hardwoods	All No. 3 Sawmill logs & better log grades
2	Douglas-fir	40-70% inclusive No. 2 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	5-20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40-70% inclusive No. 2 Sawmill & better log grade

TABLE 2—cont.

Timber Quality Code Number	Species	Log Grade Specifications ¹
	Douglas-fir	5% to but not including 40% No. 2 Sawmill & better log grade
3	Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	5% to but not including 40% No. 2 Sawmill & better log grade
4	Douglas-fir, Western Hemlock & Other Conifer, except Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade and all hardwood logs graded as utility

¹ For detailed descriptions and definitions of approved log scaling, grading rules, and procedures see the Official Rules for the following Log Scaling and Grading Bureaus; Columbia River, Grays Harbor, Northern California, Puget Sound, Southern Oregon, and Yamhill.

(January 1, 1982 edition)

TABLE 3—TIMBER QUALITY CODE TABLE STUMPAGE VALUE AREAS 6 AND 7
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications
	Ponderosa Pine	Less than 10 logs 16 feet long per thousand board feet Scribner scale
1	All Conifers Other than Ponderosa Pine	All log sizes
	Hardwoods	Sawlogs only
2	Ponderosa Pine	10 or more logs 16 feet long per thousand board feet Scribner scale
5	Utility	All logs graded as utility

TABLE 4—TIMBER QUALITY CODE TABLE STUMPAGE VALUE AREA 10

MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications
	Ponderosa Pine & Other Conifers	Less than 5 logs 16 feet long per MBF net log Scribner scale
1	Hardwoods	All logs graded as sawlogs
	Ponderosa Pine	5 to 9 logs inclusive 16 feet long per MBF net log Scribner scale
2	Other Conifer	5 to 12 logs inclusive 16 feet long per MBF net log scale
	Ponderosa Pine	More than 9 logs 16 feet long per MBF net log Scribner scale
3	Other Conifer	More than 12 logs 16 feet long per MBF net log Scribner scale
5	Utility	All logs graded as utility

NEW SECTION

✓ WAC 458-40-18721 STUMPAGE VALUES—TABLES FOR JULY 1 THROUGH DECEMBER 31, 1986. As required by chapter 84.33 RCW the department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type special forest products the value tables of this section shall establish the values for such special forest products.

The following stumpage value and special forest product value tables are hereby adopted for use during the period of July 1 through December 31, 1986.

TABLE 1—STUMPAGE VALUE TABLE STUMPAGE VALUE AREA 1
July 1 through December 31, 1986

OLD GROWTH
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$204	\$198	\$192	\$186	\$180
		2	199	193	187	181	175
		3	122	116	110	104	98
Western Hemlock ²	WH	1	120	114	108	102	96
		2	107	101	95	89	83
		3	76	70	64	58	52

TABLE 1—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	231	225	219	213	207
		2	221	215	209	203	197
		3	166	160	154	148	142
Sitka Spruce	SS	1	198	192	186	180	174
		2	177	171	165	159	153
		3	94	88	82	76	70
Other Conifer	OC	1	120	114	108	102	96
		2	107	101	95	89	83
		3	76	70	64	58	52
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	29	22	15	8	1
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³ Includes Alaska-cedar.

TABLE 2—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1986

YOUNG GROWTH OR THINNING
(less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$161	\$154	\$147	\$140	\$133
		2	157	150	143	136	129
		3	145	138	131	124	117
		4	109	102	95	88	81
Western Hemlock ²	WH	1	130	123	116	109	102
		2	111	104	97	90	83
		3	84	77	70	63	56
		4	84	77	70	63	56
Western Redcedar ³	RC	1	230	223	216	209	202
		2	172	165	158	151	144
		3	170	163	156	149	142
Other Conifer	OC	1	130	123	116	109	102
		2	111	104	97	90	83
		3	84	77	70	63	56
		4	84	77	70	63	56
Red Alder	RA	1	36	29	22	15	8
Cottonwood	BC	1	29	22	15	8	1
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9

TABLE 2—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³ Includes Alaska-cedar.

TABLE 3—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1986

SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$115	\$109	\$103	\$97	\$91
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	41	35	29	23
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ²	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 4—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1986

OLD GROWTH
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$156	\$150	\$144	\$138	\$132
		2	147	141	135	129	123
		3	125	119	113	107	101
Western Hemlock ²	WH	1	126	120	114	108	102
		2	101	95	89	83	77
		3	76	70	64	58	52

TABLE 4—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	273	267	261	255	249
		2	186	180	174	168	162
		3	163	157	151	145	139
Sitka Spruce	SS	1	203	197	191	185	179
		2	157	151	145	139	133
		3	114	108	102	96	90
Other Conifer	OC	1	126	120	114	108	102
		2	101	95	89	83	77
		3	76	70	64	58	52
Red Alder	RA	1	52	45	38	31	24
Cottonwood	BC	1	39	32	25	18	11
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
²Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³Includes Alaska-cedar.

TABLE 5—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1986

YOUNG GROWTH OR THINNING
(less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$202	\$195	\$188	\$181	\$174
		2	164	157	150	143	136
		3	133	126	119	112	105
		4	131	124	117	110	103
Western Hemlock ²	WH	1	127	120	113	106	99
		2	108	101	94	87	80
		3	68	61	54	47	40
		4	53	46	39	32	25
Western Redcedar ³	RC	1	196	189	182	175	168
		2	148	141	134	127	120
		3	141	134	127	120	113
Other Conifer	OC	1	127	120	113	106	99
		2	108	101	94	87	80
		3	68	61	54	47	40
		4	53	46	39	32	25
Red Alder	RA	1	52	45	38	31	24
Cottonwood	BC	1	39	32	25	18	11
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9

TABLE 5—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	9	9	9	9	9

¹Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
²Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³Includes Alaska-cedar.

TABLE 6—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1986

SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$115	\$109	\$103	\$ 97	\$ 91
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	41	35	29	23
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 7—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1986

OLD GROWTH
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$190	\$184	\$178	\$172	\$166
		2	165	159	153	147	141
		3	165	159	153	147	141
Western Hemlock ²	WH	1	126	120	114	108	102
		2	93	87	81	75	69
		3	76	70	64	58	52

TABLE 7—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	196	190	184	178	172
		2	181	175	169	163	157
		3	144	138	132	126	120
Other Conifer	OC	1	126	120	114	108	102
		2	93	87	81	75	69
		3	76	70	64	58	52
Red Alder	RA	1	34	27	20	13	6
Cottonwood	BC	1	31	24	17	10	3
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³ Includes Alaska-cedar.

TABLE 8—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1986

YOUNG GROWTH OR THINNING
(less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$170	\$163	\$156	\$149	\$142
		2	158	151	144	137	130
		3	129	122	115	108	101
		4	127	120	113	106	99
Western Hemlock ²	WH	1	102	95	88	81	74
		2	86	79	72	65	58
		3	70	63	56	49	42
		4	63	56	49	42	35
Western Redcedar ³	RC	1	202	195	188	181	174
		2	151	144	137	130	123
		3	150	143	136	129	122
		4	150	143	136	129	122
Other Conifer	OC	1	102	95	88	81	74
		2	86	79	72	65	58
		3	70	63	56	49	42
		4	63	56	49	42	35
Red Alder	RA	1	34	27	20	13	6
Cottonwood	BC	1	31	24	17	10	3
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³ Includes Alaska-cedar.

TABLE 9—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1986

SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar—Shake Blocks & Boards ¹	RCS	1	\$115	\$109	\$103	\$ 97	\$ 91
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	41	35	29	23
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 10—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1986

OLD GROWTH
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$213	\$207	\$201	\$195	\$189
		2	203	197	191	185	179
		3	167	161	155	149	143
Western Hemlock ³	WH	1	130	124	118	112	106
		2	118	112	106	100	94
		3	112	106	100	94	88
Western Redcedar ⁴	RC	1	243	237	231	225	219
		2	182	176	170	164	158
		3	151	145	139	133	127
Other Conifer	OC	1	130	124	118	112	106
		2	118	112	106	100	94
		3	112	106	100	94	88
Red Alder	RA	1	38	31	24	17	10
Cottonwood	BC	1	27	20	13	6	1
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9

TABLE 10—cont.

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

TABLE 11—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1986

YOUNG GROWTH OR THINNING
(less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$200	\$193	\$186	\$179	\$172
		2	158	151	144	137	130
		3	128	121	114	107	100
		4	97	90	83	76	69
Western Hemlock ³	WH	1	104	97	90	83	76
		2	96	89	82	75	68
		3	84	77	70	63	56
		4	61	54	47	40	33
Western Redcedar ⁴	RC	1	218	211	204	197	190
		2	171	164	157	150	143
		3	149	142	135	128	121
Other Conifer	OC	1	104	97	90	83	76
		2	96	89	82	75	68
		3	84	77	70	63	56
		4	61	54	47	40	33
Red Alder	RA	1	38	31	24	17	10
Cottonwood	BC	1	27	20	13	6	1
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

TABLE 12—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1986

SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$115	\$109	\$103	\$97	\$91
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	41	35	29	23
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 13—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1986

OLD GROWTH
(100 years of age or older)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$240	\$234	\$228	\$222	\$216
		2	210	204	198	192	186
		3	145	139	133	127	121
Western Hemlock ³	WH	1	126	120	114	108	102
		2	118	112	106	100	94
		3	117	111	105	99	93
Western Redcedar ⁴	RC	1	216	210	204	198	192
		2	182	176	170	164	158
		3	132	126	120	114	108
Other Conifer	OC	1	126	120	114	108	102
		2	118	112	106	100	94
		3	117	111	105	99	93
Red Alder	RA	1	39	32	25	18	11
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9

TABLE 13—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

TABLE 14—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1986

YOUNG GROWTH OR THINNING
(less than 100 years of age)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$184	\$177	\$170	\$163	\$156
		2	131	124	117	110	103
		3	114	107	100	93	86
		4	114	107	100	93	86
Western Hemlock ³	WH	1	102	95	88	81	74
		2	83	76	69	62	55
		3	60	53	46	39	32
		4	47	40	33	26	19
Western Redcedar ⁴	RC	1	196	189	182	175	168
		2	150	143	136	129	122
		3	129	122	115	108	101
Other Conifer	OC	1	102	95	88	81	74
		2	83	76	69	62	55
		3	60	53	46	39	32
		4	47	40	33	26	19
Red Alder	RA	1	39	32	25	18	11
Cottonwood	BC	1	34	27	20	13	6
Other Hardwoods	OH	1	41	34	27	20	13
Hardwood Utility	HU	5	9	9	9	9	9
Conifer Utility	CU	5	9	9	9	9	9

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

TABLE 15—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1986

SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$115	\$109	\$103	\$97	\$91
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	41	35	29	23
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 16—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
July 1 through December 31, 1986

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	\$187	\$181	\$175	\$169	\$163
		2	100	94	88	82	76
Douglas-fir ²	DF	1	97	91	85	79	73
Western Hemlock ³	WH	1	54	48	42	36	30
Engelmann Spruce	ES	1	51	45	39	33	27
Western Redcedar ⁴	RC	1	92	86	80	74	68
Western White Pine	WP	1	90	84	78	72	66
Lodgepole Pine	LP	1	46	40	34	28	22
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	1	1	1	1	1

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

**TABLE 17—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
July 1 through December 31, 1986**

**SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit**

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

**TABLE 19—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
July 1 through December 31, 1986**

**SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit**

Species Name and Product	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

**TABLE 18—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
July 1 through December 31, 1986**

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	\$138	\$132	\$126	\$120	\$114
			92	86	80	74	68
Douglas-fir ²	DF	1	80	74	68	62	56
Western Hemlock ³	WH	1	67	61	55	49	43
Engelmann Spruce	ES	1	61	55	49	43	37
Western Redcedar ⁴	RC	1	134	128	122	116	110
Western White Pine	WP	1	143	137	131	125	119
Lodgepole Pine	LP	1	60	54	48	42	36
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	10	10	10	10	10

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Includes Alaska-cedar.

**TABLE 20—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1986**

MERCHANTABLE SAWTIMBER, ALL AGES

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	\$115	\$109	\$103	\$ 97	\$ 91
			81	75	69	63	57
			54	48	42	36	30
Douglas-fir ²	DF	1	113	107	101	95	89
			79	73	67	61	55
			64	58	52	46	40
Western Hemlock ³	WH	1	117	111	105	99	93
			93	87	81	75	69
			69	63	57	51	45
Other Conifer	OC	1	117	111	105	99	93
			93	87	81	75	69
			69	63	57	51	45
Hardwoods	OH	1	23	17	11	5	1
			23	17	11	5	1
Utility	CU	5	2	2	2	2	

¹ Log scale conversions between Western and Eastern Washington. See conversion method Tables 4 and 5 WAC 458-40-19004.
² Includes Western Larch.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 21—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1986**

**SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit**

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner scale. See conversion method Table 2 WAC 458-40-19004.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

NEW SECTION

✓ **WAC 458-40-18722 HARVESTER ADJUSTMENTS—TABLES FOR JULY 1 THROUGH DECEMBER 31, 1986.** In order to make reasonable and adequate allowances for costs of removal and size of logging operation in computation of stumpage value rates as required by chapter 84.33 RCW, the department has prepared tables which allow for adjustments to the stumpage value rates derived from the stumpage value tables of WAC 458-40-18719.

Harvest adjustments relating to harvest volume per acre, logging conditions and average volume per log shall be allowed against the stumpage value rates for the designated harvest types and in the designated stumpage value areas as set forth in the following tables with the following limitations:

- (1) No harvest adjustment shall be allowed against special forest products.
- (2) No harvest adjustment shall be allowed against utility, conifer utility, and hardwood utility.
- (3) Stumpage value rates for conifers and hardwoods shall be adjusted to a value no lower than \$1 per thousand board feet.

Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage value rates. Such applications should contain a map with the legal description of the area from which the timber will be

removed, a description of the damage sustained by the timber, and a listing of additional costs incurred. Such applications should be sent to the Department of Revenue AX-02, Forest Tax Division, General Administration Building, Olympia, Washington 98504, before the harvest commences.

In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application when the necessary information is obtained, but in no event later than 90 days following completion of the harvest unit.

Upon application from any person who plans to harvest damaged timber the department will make a determination as to the amount of adjustment to be allowed. The harvester will be notified by the department of the amount of the adjustment. This amount can then be taken as a credit against tax liabilities or if the harvester is no longer harvesting, a refund will be authorized.

The following harvest adjustment tables are hereby adopted for use during the period of July 1 through December 31, 1986:

**TABLE 1—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, AND 5
July 1 through December 31, 1986**

**OLD GROWTH
(100 years of age, or older)**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 15 thousand board feet to 40 thousand board feet per acre.	-\$4.00
Class 3	Harvest of less than 15 thousand board feet per acre.	-\$7.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	-\$6.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$18.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	-\$99.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

**TABLE 2—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 1, 2, 3, 4, AND 5
July 1 through December 31, 1986**

**YOUNG GROWTH OR THINNING
(less than 100 years of age)**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 30 thousand board feet per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to 30 thousand board feet per acre.	– \$2.00
Class 3	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	– \$6.00
Class 4	Harvest of less than 5 thousand board feet per acre.	– \$8.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	– \$6.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	– \$18.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	– \$99.00
III. Remote island adjustment:		
	For timber harvested from a remote island	– \$50.00
IV. Thinning (see WAC 458-40-18700 (12)(d))		
Class 1	Average log volume of 50 board feet or more.	– \$25.00
Class 2	Average log volume of less than 50 board feet.	– \$35.00

TABLE 3—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	– \$13.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	– \$26.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	– \$113.00
III. Remote island adjustment:		
	For timber harvested from a remote island	– \$50.00
DOMESTIC MARKET ADJUSTMENT:		
Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:		
Federal Timber Sales: All species except Alaska yellow cedar. (Stat. Ref. – 36 CFR 223.10)		
State Timber Sales: Western red cedar only. (Stat. Ref. – 50 USC appendix 2406.1)		
The adjustment amounts shall be as follows:		
Class 1:	All eligible species in Western Washington (SVA's 1 through 5)	– \$10.00 per MBF
Class 2:	All eligible species in Eastern Washington (SVA's 6, 7, and 10)	– \$6.00 per MBF
NOTE: The adjustment will not be allowed on conifer utility, hardwood utility or special forest products.		

**TABLE 3—HARVEST ADJUSTMENT TABLE
STUMPAGE VALUE AREAS 6, 7, AND 10
July 1 through December 31, 1986**

MERCHANTABLE SAWTIMBER, ALL AGES

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	– \$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	– \$10.00

WSR 86-14-065

PROPOSED RULES

OFFICE OF FINANCIAL MANAGEMENT

[Filed June 30, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Financial Management intends to adopt, amend, or repeal rules concerning this notice proposes to amend WAC 82-50-021, official lagged, semi-monthly paydates established, in the following ways: Deleting from the section the official semi-monthly paydates used in calendar year 1985; and adding to the section the official semi-monthly paydates to be used in calendar year 1987. The result of these changes will be to have the section displaying the official lagged semi-monthly paydates for calendar years 1986 and 1987;

that the agency will at 9:00 a.m., Tuesday, August 5, 1986, in the 3rd Floor Conference Room, Insurance

Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, August 8, 1986.

The authority under which these rules are proposed is RCW 42.16.010(1) and 42.16.017.

The specific statute these rules are intended to implement is RCW 42.16.010(1) and 42.16.017.

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

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

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

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

Mr. Collum C. Liska
Accounting and Fiscal Services Division
4th Floor, Insurance Building
Mailstop AQ-44
Olympia, Washington 98504
(206) 753-8538
234-8538 scan

Dated: June 30, 1986
By: Orin C. Smith
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 82-50 WAC, Paydates for state employees, consisting of the following: The amendment of WAC 82-50-021 Official lagged, semi-monthly paydates established.

Statutory Authority: RCW 42.16.010(1) and 42.16.017.

Specific Statute that the Rule is Intended to Implement: RCW 42.16.010(1) and 42.16.017.

Summary of the Rules: Deletes from the section the calendar year 1985 official lagged, semi-monthly paydates, that now are merely historical and of no further use; and adds to the section the calendar year 1987 official lagged, semi-monthly paydates. The calendar year 1986 official lagged, semi-monthly paydates are retained in the section. Therefore, the end result of this amendment is to have WAC 82-50-021 contain and display the official lagged, semi-monthly paydates for calendar years 1986 and 1987.

Reasons Supporting the Proposed Rules: To ensure compliance with the legislative directive to annually update and publish the official, lagged semi-monthly paydates for the current and ensuing calendar years through the administrative hearing process.

Involved Agency Personnel, Drafting, Implementation and Enforcement: Mr. Collum C. Liska, Senior Policy Coordinator, Accounting and Fiscal Services Division,

Office of Financial Management, 4th Floor, Insurance Building, Mailstop AQ-44, Olympia, Washington 98504, phone (206) 753-8538.

Name of Involved Agency Proposing the Rules: Office of Financial Management.

Agency Comments: None.

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

Other Information: None.

Small Business Economic Impact Statement: Not attached since these proposed rules are not applicable to the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 85-62, filed 7/26/85)

WAC 82-50-021 OFFICIAL LAGGED, SEMIMONTHLY PAY DATES ESTABLISHED. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1) that began on January 1, 1984. The following are the official lagged, semi-monthly pay dates for calendar years ((1985 and 1986)) 1986 and 1987:

Table with columns: CALENDAR YEAR 1985, CALENDAR YEAR 1986, CALENDAR YEAR 1986, CALENDAR YEAR 1987. Lists specific dates and days of the week for each year.

WSR 86-14-066

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

(Tree Fruit Research Commission)

[Order 8, Resolution No. 8—Filed June 30, 1986—Eff. August 1, 1986]

Be it resolved by the Washington Tree Fruit Research Commission, acting at Room 231, Yakima County Courthouse, Yakima, Washington, that it does adopt the annexed rules relating to WAC 16-560-06001.

This action is taken pursuant to Notice No. WSR 86-07-051 filed with the code reviser on March 18, 1986. These rules shall take effect at a later date, such date being August 1, 1986.

This rule is promulgated pursuant to RCW 15.26.155 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 13, 1986.

By George Ing
Chairman

AMENDATORY SECTION (Amending Order 7, Resolution No. 7, filed 4/19/85)

✓ WAC 16-560-06001 ASSESSMENT RATES.

There is hereby levied on all commercial tree fruit produced in this state or held out as being produced in this state for fresh or processing use, an assessment of twenty-five cents per ton on all such tree fruit: **PROVIDED**, That such assessment for cherries shall be two dollars per ton: **PROVIDED**, That such assessment for pears, shall not be more than one dollar per ton: **PROVIDED** FURTHER, That such assessment for apples for fresh shipment shall be at the rate of one and one-quarter cents per hundred pounds gross billing weight.

There is hereby established pursuant to RCW 15.26.155 an additional assessment for an industry services fund for programs related to sanitation, planting, production, harvesting, handling, processing and shipping. The assessment shall be set annually by the commission, upon approval of two-thirds of the voting members of the commission, to create and maintain this fund at or near one hundred thousand dollars. If this fund should inadvertently exceed one hundred thousand dollars due to larger crops than estimated or the addition of interest earned, the excess shall be credited to the following year's fund.

In consideration of maintaining this industry services fund, the commission shall annually consult with the affected industry and grower organizations.

WSR 86-14-067

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed June 30, 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 physician's services, amending WAC 388-86-095.

It is the intention of the secretary to adopt these rules on an emergency basis on July 1, 1986;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 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 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 7, 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, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 30, 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 388-86-095.

Purpose of the Rule Change: To resolve legal action against the department, and clarify current policy.

The rule change is necessary as present WAC limitations on psychotherapy are not based on medical necessity.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Psychotherapy is covered by medical assistance only when provided by a psychiatrist. It is generally limited to one hour per month. Additional hours are covered when medically necessary and require prior approval.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules proposed by DSHS.

These rules are necessary to resolve a legal action against the department.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-86-095 PHYSICIANS' SERVICES. The department shall purchase the services of physicians participating in the program on a fee-for-service or contract basis subject to the exceptions and restrictions listed as follows.

~~(1) ((Physicians' services are provided through contract agreements for certain voluntary child care agencies and maternity homes.~~

~~(2) Cost of a) Physical examinations ((is authorized only)) are provided for recipients related to federal programs under the following circumstances:~~

(a) For admission to skilled nursing facility if within forty-eight hours of admission or change of status from a private-pay to a medicare-eligible patient.

(b) Given as a screening under the EPSDT program; see WAC 388-86-027.

(c) For physical examination not covered by medicare, see the following:

(i) AFDC incapacity, see chapter 388-24 WAC.

(ii) Determination of whether an individual's health will or will not permit his return to his home, see chapter 388-28 WAC.

(iii) Request by the claimant or examiner in a fair hearing procedure, see chapter 388-08 WAC.

(iv) Foster home placement, see chapter 388-70 WAC.

(v) Adoptive home placement, see chapter 388-70 WAC.

(vi) Employability for WIN program, see chapter 388-24 WAC.

(vii) Incapacity for GAU program, see chapter 388-37 WAC.

~~((3) When covered services of a) (2) Consultant or specialist ((are necessary payment)) fees for covered services shall be ((made)) paid in accordance with local medical bureau practices((-)) with the following limitations:~~

(a) A fee for consultation shall not be paid when the specialist subsequently performs surgery or renders treatment for which flat fees or fees-for-service accrue.

(b) On initial or subsequent visits for the purpose of establishing a diagnosis and when services of a specialist or consultant are required, payment shall be limited to not more than two such services.

~~((4) Limitations on payment for)) (3) Physicians' services are subject to the following limitations:~~

(a) Payment for physicians' calls for nonemergent conditions in a skilled nursing facility or an intermediate care facility, is limited to two calls per month. Requests for payment for additional visits must be justified at the time the billing is submitted by the physician.

(b) Payment for hospital calls is limited to one call per day. This is applicable to other than flat fee care.

(c) Individual outpatient psychotherapy shall be provided by a psychiatrist ~~((shall be)) and is generally limited to one hour per month or equivalent combinations. ((Up to a maximum of two hours psychotherapy may be authorized when justified during the first month of treatment. Subdivisions of (4)(a) and (b) of this section, also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.~~

~~(5) All nonemergent surgical procedures require prior approval unless otherwise excepted.~~

~~((6)) Additional hours of outpatient psychotherapy require prior approval and will be provided only when medically necessary. Except as described in WAC 388-86-067(1), the limits on physician calls set by subsection (4)(a) and (b) of this section also apply to outpatient psychotherapy.~~

~~(d) For limitations on out-of-state physicians' services see WAC 388-86-115.~~

~~(4) Nonemergent surgical procedures require prior approval except for:~~

(a) Minor surgery and diagnostic procedures performed in a physician's office ~~((do not require prior approval)).~~

~~((7) A recipient of public assistance is not required to obtain medical care in the county of his residence.~~

~~(8) For limitations on out-of-state physicians' services see WAC 388-86-115.~~

~~((9)) (b) Other procedures listed in numbered memoranda published by the division of medical assistance.~~

~~(5) Cataract surgery ((will be)) is considered medically necessary when the following conditions exist:~~

(a) When vision is 20/200 in the worse eye.

(b) When vision is worse than 20/70, distant vision, and J-5 with +3.50, near vision, in better eye.

(c) When extenuating circumstances, such as employment requirements, need to drive, are present, the vision is worse than 20/40, distant vision, in the better eye.

(d) Other unusual circumstances.

~~((10)) (6) Contact lenses ((would be)) are considered medically necessary for certain medical conditions of the eyes, i.e., keratoconus, recurrent corneal erosions, other medical conditions where visual acuity either cannot be corrected with spectacles or there is a true therapeutic effect, i.e., transparent bandage effect, and when suffering from high refractive errors, over +6 or over -6 diopters.~~

**WSR 86-14-068
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 30, 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:

Amd WAC 388-95-335 Ownership of income.

Amd WAC 388-95-340 Computation of available income and resources.

It is the intention of the secretary to adopt these rules on an emergency basis on July 1, 1986;

that the agency will at 10:00 a.m., Thursday, August 7, 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 August 13, 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 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 7, 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

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July 24, 1986. The meeting site is in a location which is barrier free.

Dated: June 30, 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 388-95-335 and 388-95-340.

Purpose of the Rule Change: Implement new state law, chapter 220, Laws of 1986.

Reason for the Change: Required by the new law.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-95-335, spouses cannot transfer or assign rights to future income; and 388-95-340, community income rule is used only when it will benefit the spouse at home. When both spouses are eligible and institutionalized income and resources are considered separately even if they share the same room. The OASDI COLA disregard is being removed. This disregard is not used in determining participation towards cost of care. Chapter 388-95 WAC relates only to persons in medical facilities for more than one month. All sections relating to living in the home are being removed.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules proposed by DSHS.

These rules are necessary as a result of a new state law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2224, filed 4/10/85)

WAC 388-95-335 OWNERSHIP OF INCOME. (1) Community property law ~~((as defined in RCW 26.16.030 shall be followed))~~ is used in determining ownership of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, ~~((shall be))~~ is divided by two with one-half of the total assigned to each individual, as their income.

(4) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(5) Income produced by transferred or assigned resources is recognized as the separate income of the transferee.

AMENDATORY SECTION (Amending Order 2132, filed 8/3/84)

WAC 388-95-340 COMPUTATION OF AVAILABLE INCOME AND RESOURCES. (1) ~~((Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.~~

~~((2))~~ Financial responsibility of spouses ~~((and parents))~~.

~~((a))~~ ~~((Income and resources are considered jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s)).~~

~~((b))~~ If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods specified below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

~~((i))~~ If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

~~((ii))~~ If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection ~~((f))~~ (b) of this section.

~~((f))~~ (b) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

~~((d))~~ (c) When both spouses are eligible and institutionalized: ~~((i))~~ ~~Income and resources are considered jointly if they share the same room.~~

~~((ii))~~ ~~Income and resources are considered separately ((if they don't)) even if they share the same room.~~

~~((e))~~ (d) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

~~((3))~~ ~~When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.~~

~~((4))~~ (e) If the community income received in the name of the non-applicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess is considered unavailable to the applicant.

(2) Relative responsibility shall be limited to spouse for spouse and parent for child.

(3) For ((SSI related individuals;)) children age eighteen to twenty-one((;)) the parents' income is not deemed ((available)) to the child. Count only the income that is actually contributed to the child.

~~((5))~~ ~~For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.~~

~~((6))~~ ~~When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (7) and (9) of this section, shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard all the remaining income shall be deemed to the applicant.~~

~~((7))~~ (4) Exclusions from income. The following shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) Supplemental security income and state public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

~~((e))~~ ~~((Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child placement or child care agency;~~

~~((f))~~ ~~One-third of any payment for child support received from an absent parent ((will be excluded));~~

~~((g))~~ (f) The first twenty dollars per month of earned or unearned income(, not otherwise excluded in subsection (7)(a) through (f) of this section, for a person at home. The exclusion is considered only once for a husband and wife)). There is no exclusion on income which is paid on the basis of need ((of the eligible individual, such as VA pension and cash from private charitable organizations)) and is totally or partially funded by the federal government or by a private agency;

~~((h))~~ (g) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

~~((f)) (h) Tax rebates or special payments excluded by other statutes. ((When necessary these exclusions will be publicized by numbered memoranda from the state office));~~

~~((g)) (i) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;~~

~~((k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit;~~

~~((h)) (j) Veteran's benefits, only the following portions ((of the payment which is attributable to the veteran is counted as income in determining eligibility for Medicaid)) are excluded.~~

~~(i) The veteran's aid and attendance/house bound allowance ((is to meet the cost of unusual medical care and is excluded in determining eligibility for Medicaid)).~~

~~((For institutionalized individuals, the amount subsequently is considered in the cost of institutional care.))~~

~~(ii) The portion attributable to the dependent ((is counted as income to the dependent)).~~

~~((m) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost of living benefit increases shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost of living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. This disregard does not apply to:~~

~~(i) New applicants (i.e., who were not receiving SSI/SSP prior to increase);~~

~~(ii) Persons who are not actually receiving SSI/SSP payments for some other reason;~~

~~(iii) Persons who would have received SSI/SSP if they had applied;~~

~~(iv) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility;~~

~~((n)) (k) A fee charged by a guardian to reimburse himself or herself for services provided ((is not considered available to the individual and is not treated as income)).~~

~~((o)) (l) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).~~

~~((8) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant;~~

~~((9)) (5) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection ((7)) (4) of this section, plus one-half of the remainder.~~

~~((10) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to AFDC grant regulations;~~

~~((11)) (6) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration (for the recovery of SSI overpayments) is considered as available income for the institutionalized individual's contribution toward the cost of care.~~

WSR 86-14-069

EMERGENCY RULES

INSURANCE COMMISSIONER

[Order R 86-1—Filed June 30, 1986]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to establishment of a joint underwriting association pursuant to chapter 141, Laws of 1986, to provide liability insurance for day care services.

I, Dick Marquardt, Insurance Commissioner, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general

welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is chapter 141, Laws of 1986, deals with the inability of day care service providers to obtain liability insurance. Section 3 of that chapter requires the commissioner to approve by July 1, 1986, a plan for the establishment of a joint underwriting association for day care insurance. To meet such deadline, it is necessary to adopt such plan on an emergency basis.

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

This rule is promulgated pursuant to RCW 48.02.060 (3)(a) which directs that the Insurance Commissioner has authority to implement the provisions of chapter 141, Laws of 1986.

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

APPROVED AND ADOPTED June 30, 1986.

By Dick Marquardt
Insurance Commissioner

*Chapter 284-78 WAC
JOINT UNDERWRITING ASSOCIATION FOR
DAY CARE INSURANCE*

WAC

- 284-78-010
- 284-78-020
- 284-78-030
- 284-78-040
- 284-78-050
- 284-78-060

- Purpose.*
- Definitions.*
- The association.*
- Activation of association.*
- Administration.*
- General powers and duties of the board.*
- Assessments.*
- Statistics, records, and reports.*
- Eligibility of licensees for coverage.*
- Standard policy coverage—premiums.*
- Renewal of policies.*
- Cancellation of policies.*
- Right of appeal.*
- Cooperation of producers.*
- Commissions.*
- Additional notice required.*
- Termination of association.*
- Effective date.*

NEW SECTION

WAC 284-78-010 PURPOSE. *The purpose of this chapter is to establish a joint underwriting association pursuant to chapter 141, Laws of 1986, to provide liability insurance for day care services.*

NEW SECTION

WAC 284-78-020 DEFINITIONS. *Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.*

(1) "Insurer" means any insurance company that, on or after July 1, 1986, possesses a certificate of authority to write property and casualty insurance within this state on a direct basis.

(2) "Day Care Insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as a result of negligence or malpractice in rendering professional service by any licensee.

(3) "Association" means the joint underwriting association established pursuant to the provisions of chapter 141, Laws of 1986.

(4) "Licensee" means any person or facility licensed to provide day care services pursuant to chapter 74.15 RCW.

(5) "Commissioner" means the insurance commissioner of the state of Washington.

(6) "Service insurer" means any insurance company designated by the association and approved by the commissioner to issue policies pursuant to this chapter.

(7) "Board" means the governing board of the association.

NEW SECTION

WAC 284-78-030 THE ASSOCIATION. (1) A nonprofit joint underwriting association for day care insurance is hereby established. Membership in the association shall be mandatory for all insurers that on or after July 1, 1986, possess a certificate of authority to write property and casualty insurance within this state on a direct basis. Every such insurer shall be and remain a member of the association and fulfill all its membership obligations as a condition of its authority to continue to transact property and casualty insurance business in this state.

(2) The association shall remain inactive, except for the actions of the board enumerated in WAC 284-78-050 through 284-78-080, until it is activated by the commissioner as provided in WAC 284-78-040.

NEW SECTION

WAC 284-78-040 ACTIVATION OF ASSOCIATION. If the commissioner finds that any licensee is unable to obtain day care insurance with liability limits of at least one hundred thousand dollars per occurrence from the voluntary insurance market, or through any market assistance plan organized pursuant to section 906, chapter 305, Laws of 1986, the commissioner may notify the board in writing of such finding and may direct the board to activate the association and commence writing day care insurance within thirty days of receipt of the notice in accordance with the provisions of these regulations.

NEW SECTION

WAC 284-78-050 ADMINISTRATION. (1) The association shall be administered by a governing board, subject to the supervision of the commissioner, and operated by a manager appointed by the board.

(2) The board shall consist of nine members. Five board members shall be insurers, one of which shall be appointed by the commissioner from each of the following: American Insurance Association, Alliance of American Insurers, National Association of Independent Insurers, all other stock insurers, and all other nonstock insurers. A sixth board member shall be the insurer designated as the service insurer for the association (or, if there is more than one service insurer, the sixth board member shall be such service insurer as the commissioner designates as the board member). The other three board members shall be licensees who are appointed by the commissioner to so serve, none of whom shall be interested, directly or indirectly, in any insurer except as a policyholder. Board members shall serve for a period of one year or until their successors are appointed. Not more than one insurer in a group under the same management or ownership shall serve on the board at the same time. At least one of the six insurers on the board shall be a domestic insurer. All members of the board shall serve at the pleasure of the commissioner.

(3) Each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association shall be indemnified by the association against all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board, or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of wilful misconduct in the performance of his, her, or its duties as a member of such board, or member, officer, or employee of the association. This indemnification shall not be exclusive of other rights as to which such member, or officer, or employee may be entitled as a matter of law.

NEW SECTION

WAC 284-78-060 GENERAL POWERS AND DUTIES OF THE BOARD. (1) Within 30 days after the appointment of its members by the commissioner, the board shall prepare and adopt articles of association consistent with this chapter, subject to approval by the commissioner. In a timely manner thereafter, the board shall take all actions necessary to prepare the association to receive applications and issue policies, when and if the commissioner activates the association as provided in WAC 284-78-040. These actions shall include the preparation of all necessary policy forms and rating information to be filed with the commissioner for approval and all necessary operating manuals and procedures to be followed.

(2) The board shall meet as often as may be required to perform the general duties of the administration of the association or on the call of the commissioner. Three insurer members of the board shall constitute a quorum.

(3) The board may appoint a manager, who shall serve at the pleasure of the board, to perform any duties necessary or incidental to the proper administration of the association, including the hiring of necessary staff.

(4) The board shall annually furnish to all insurer members of the association and to the commissioner a written report of operations.

NEW SECTION

WAC 284-78-070 ASSESSMENTS. (1) The board may calculate, levy, and collect assessments from member insurers whenever necessary for the orderly operation of the association.

(2) After its formation, the board may calculate, levy, and collect from member insurers a start-up assessment to pay initial expenses of the association and to establish any necessary reserves. The start-up assessment shall not exceed \$1,000,000. For ease of administration, the share of the start-up assessment levied upon and collected from each member insurer shall be the same for each member insurer, regardless of size and regardless of whether it is actively writing business in this state.

(3) Any assessment subsequent to the initial start-up assessment shall be used to offset losses and/or expenses in excess of income received by the association. These assessments may be made as often as the board determines is necessary. To the extent such an assessment exceeds \$1,000,000, each member insurer shall be assessed a proportionate share relating to premium volume. The first \$1,000,000 of such an assessment shall be levied and collected in equal amounts from each member insurer.

(4) Any member insurer failing to remit its assessment when due is subject to revocation of its certificate of authority to write property and casualty insurance in this state.

NEW SECTION

WAC 284-78-080 STATISTICS, RECORDS, AND REPORTS. (1) The association shall maintain separate statistics on business written and shall make the following quarterly report to the commissioner:

- (a) number of applications received by the association;
- (b) number of applications accepted by the association and the total and average premiums charged, including the high and low premiums;
- (c) number of risks declined;
- (d) number of risks conditionally declined and the number ultimately accepted after having been conditionally declined; and
- (e) number of risks cancelled.

(2) In addition to statistics, the association shall maintain complete and separate records of all business transactions, including copies of all policies and endorsements issued by the association, and records of reasons provided for each declination of coverage or cancellation of coverage, including the results of any on-site inspections, or investigations of applicants or insureds or their employees.

(3) Regular reports of the association's operations shall be submitted to all members of the board, such reports to include, but not necessarily to be limited to,

premiums written and earned, losses, including loss adjustment expense, paid and incurred, all other expenses incurred, outstanding liabilities, and, at least once a year, the proposed annual budget of the association for the next fiscal year.

(4) The books of account, records, reports, and other documents of the associations shall be open to the commissioner for examination at all reasonable times.

(5) The books of account, records, reports, and other documents of the association shall be open to inspection by members only at such times and under such conditions as the board shall determine.

(6) The books of account of any and all servicing insurers may be audited by a firm of independent auditors designated by the board.

NEW SECTION

WAC 284-78-090 ELIGIBILITY OF LICENSEES FOR COVERAGE. Any licensee that is unable to obtain day care insurance with liability limits of at least one hundred thousand dollars per occurrence from the voluntary insurance market or from any market assistance plan organized pursuant to section 906, chapter 305, Laws of 1986, is eligible to apply for coverage through the association. The association's service insurer shall promptly process such application and, if the licensee is judged to be an acceptable insurable risk, offer coverage to the licensee. In view of the purpose of chapter 141, Laws of 1986, every licensee will be presumed to be an acceptable insurable risk for the association. To refuse coverage to any licensee meeting the other eligibility requirements of this section, the association must have the prior written approval of the commissioner. The commissioner will grant such approval only if the association demonstrates that extraordinary circumstances justify refusing coverage to such individual licensee.

NEW SECTION

WAC 284-78-100 STANDARD POLICY COVERAGE—PREMIUMS. (1) All policies issued by the association shall have liability limits of at least one hundred thousand dollars per occurrence and shall be issued for a term of one year.

(2) Premiums shall be based on the association's rate filings approved by the commissioner in accordance with chapter 48.19 RCW. Such rate filings shall provide for modification of rates for licensees according to the type, size, and past loss experience of each licensee, and any other differences among licensees that can be demonstrated to have a probable effect upon losses.

(3) A policy shall be offered which provides liability coverage with respect to child abuse, whether of a sexual nature or not. In the discretion of the association, such policy may exclude from coverage an individual who directly commits or participates in the actual abuse, but it may not exclude from coverage other persons who may be liable only vicariously for such abuse. In addition, the association may offer coverage with a broader exclusion with respect to coverage for child abuse.

NEW SECTION

WAC 284-78-110 RENEWAL OF POLICIES. (1) Policies written by the association will not automatically renew. To obtain continuing coverage by the association, a licensee must again satisfy initial eligibility requirements under WAC 284-78-090 at the end of the expiring policy term.

(2) The association shall notify covered licensees at least forty-five days prior to the expiration of a policy term of the need to submit a new application for coverage to the association to continue coverage.

(3) If the association fails to provide the required notice, the existing policy shall continue in force until the association has provided the required notice. In such case, premium shall be charged the licensee on a pro rata basis for coverage during the extended coverage period.

NEW SECTION

WAC 284-78-120 CANCELLATION OF POLICIES. (1) No policy or binder issued pursuant to this chapter shall be cancelled except:

(a) for nonpayment of premium, in which case cancellation of the policy shall be effected by providing ten days written notice in advance of the date of cancellation. Payment to the association of all premiums due, prior to the effective date of the cancellation, shall continue coverage as if no cancellation notice had been issued; or

(b) with the prior written approval of the commissioner upon the request of the board, for cause which would have been grounds for refusal of coverage under WAC 284-78-090.

(2) Notice of cancellation, accompanied by the actual reason therefor, shall be sent to the named insured.

(3) Any cancellation notice sent to the named insured shall be accompanied by a statement that the named insured has a right of appeal to the commissioner.

NEW SECTION

WAC 284-78-130 RIGHT OF APPEAL. (1) Any applicant or insured, currently licensed pursuant to chapter 74.15 RCW, shall have a right of appeal to the commissioner, including the right to appear personally before the commissioner or his or her designee, if requested by the person seeking appeal, from any decision by the board to deny, cancel, or nonrenew coverage.

(2) Appeals to the commissioner under this provision shall be handled in accordance with chapters 48.04 RCW and 34.04 RCW.

NEW SECTION

WAC 284-78-140 COOPERATION OF PRODUCERS. All licensed insurance agents and brokers shall provide full cooperation in carrying out the aims and the operation of the association.

NEW SECTION

WAC 284-78-150 COMMISSIONS. The association shall pay commissions as established by the board on policies issued pursuant to this chapter to the licensed agent or broker designated by the applicant.

NEW SECTION

WAC 284-78-160 ADDITIONAL NOTICE REQUIRED. Any notice of cancellation or nonrenewal of day care insurance given by an insurer to a licensee potentially eligible for coverage through the association shall include or be accompanied by an explanation of the licensee's right and procedure to obtain insurance through the association.

NEW SECTION

WAC 284-78-170 TERMINATION OF ASSOCIATION. The association shall have perpetual existence, subject to repeal or modification of this chapter.

NEW SECTION

WAC 284-78-180 EFFECTIVE DATE. This chapter is effective July 1, 1986.

WSR 86-14-070**EMERGENCY RULES****DEPARTMENT OF NATURAL RESOURCES**

[Order 479—Filed June 30, 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 describing restrictions on outdoor rule burning in parts of Eastern Washington under the protection of the Department of Natural Resources in the northeast area. Burning privileges granted under WAC 332-24-090 are suspended effective midnight June 30, 1986, through midnight July 28, 1986.

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 the continued decline in fuel moistures and the threat of an increase in the number of fires resulting from rule burning, there exists a need to control the use of fire from a nonpermit basis to a permit only basis.

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

This rule is promulgated pursuant to section 17, chapter 100, Laws of 1986, and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Natural Resources as authorized in section 2, chapter 100, Laws of 1986.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
 APPROVED AND ADOPTED June 30, 1986.

By Brian J. Boyle
 Commissioner of Public Lands

NEW SECTION

WAC 332-26-082 OUTDOOR RULE BURN SUSPENSION IN PARTS OF EASTERN WASHINGTON. *Effective on midnight Monday, June 30, 1986 through midnight Sunday, September 28, 1986, all outdoor rule burning on lands protected by the Department of Natural Resources in parts of eastern Washington shall require a written burning permit. Privileges to burn without a written burning permit as granted under WAC 332-24-090 are suspended.*

Effected areas: Lands under the protection of The Department of Natural Resources in

- (1) *All of Spokane County;*
- (2) *Parts of southeastern Stevens County lying within the boundaries of the Spokane River on the south, the Spokane Indian Reservation and State Route 231 to the Town of Springdale on the west, State Route 292 between the town of Springdale and State Route 395 thense northerly along State Route 395 to the north line of Township 30 North then east to the Stevens/Pend Oreille County line on the north, the Stevens/Pend Oreille County line and the Stevens/Spokane County line on the east;*
- (3) *The north part of Lincoln County lying within the Rearden Fire District (Lincoln County Fire Protection District No. 4) boundaried by U.S. Highway 2 on the south, the jurisdictional boundary between the Rearden and Davenport Fire Districts on the west, the Spokane River on the north, and the Lincoln/Spokane County line on the east.*

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 86-14-071
 ADOPTED RULES
 DEPARTMENT OF PERSONNEL
 (Personnel Board)**

[Order 253—Filed July 1, 1986—Eff. August 1, 1986]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98507-1789, that it does adopt the annexed rules relating to:

- New WAC 356-05-397 Shift charge.
- Amd ch. 356-14 WAC Compensation plan.
- Amd WAC 356-18-120 Miscellaneous leave.

This action is taken pursuant to Notice No. WSR 86-10-070 filed with the code reviser on May 7, 1986.

These rules shall take effect at a later date, such date being August 1, 1986.

This rule is promulgated pursuant to RCW 41.06.150 which directs that the State Personnel Board has authority to implement the provisions of RCW 41.06.150, 41.06.155, 41.06.160, 41.06.163 and 41.06.165.

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

APPROVED AND ADOPTED June 12, 1986.

By Leonard Nord
 Secretary

NEW SECTION

✓ **WAC 356-05-397 SHIFT CHARGE.** In a twenty-four hour institutional or hospital setting, is the position responsible for resident/patient care and service delivery on a specified shift of a ward, cottage, or other designated living unit or treatment area: Directs subordinate staff; serves as primary contact on a shift for intershift communications; assigns work and provides on-the-job training for employees; ensures that tasks are completed properly; carries a work load (covers a post); initiates and participates in performance evaluations and corrective action; and participates in or makes recommendations on the selection of staff.

AMENDATORY SECTION (Amending Order 163, filed 11/16/81)

✓ **WAC 356-14-010 COMPENSATION PLAN—**~~((PREPARATION—BASIS—AND))~~ **GENERAL PROVISIONS.** The director of personnel shall prepare a compensation plan for all classifications. The plan shall provide for:

- (1) Full compensation to each employee for all work assigned and performed and consideration of all compensation to the employee in ~~((fixing))~~ setting the employee's salary.
- (2) Salary range schedules including the first, intervening, and maximum steps of each range.
- (3) Assignment of each classification to a salary range ~~((of not less than))~~ giving full consideration to the prevailing rates in Washington state private industries, and other governmental units, for positions of a similar nature to provide like pay for like work.
- (4) Work period designation of each classification, or individual positions within a classification.
- (5) Rates of premium pay ~~((and)),~~ shift ~~((differential))~~ premium, and standby pay schedules determined by the personnel board in the same manner as are basic salaries.

(6) Appropriate statistical standards and reporting requirements as outlined in chapter 356-14 WAC for comprehensive and trend salary/fringe benefit surveys.

NEW SECTION

✓ **WAC 356-14-015 SALARY AND FRINGE BENEFIT SURVEYS—REQUIREMENTS.** (1) The

department of personnel shall undertake comprehensive salary and fringe benefit surveys to be planned and conducted on a joint basis with the higher education personnel board, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature.

(2) In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department of personnel shall plan and conduct on a joint basis with the higher education personnel board a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted.

NEW SECTION

✓ **WAC 356-14-021 SALARY AND FRINGE BENEFIT SURVEY PLANS—INTENTIONS—CONTENT.** (1) It is the intention of the legislature that salary and fringe benefit surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of financial management, employee organizations, the standing committees for appropriations of the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions.

(2) The salary and fringe benefit plan shall include but not be limited to the following:

(a) A complete explanation of the technical statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey; and

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in Washington state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government.

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(3) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under

this section shall be developed jointly by the department of personnel in conjunction with the higher education personnel board. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the department of personnel and the higher education personnel board. The legislative budget committee shall review and evaluate all survey plans before final implementation.

(4) Interim or special surveys shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this chapter.

(5) The term "fringe benefits" as used in this chapter and in conjunction with salary surveys shall include but not be limited to compensation for:

(a) Leave time, including vacation, holiday, civil, and personal leave;

(b) Employer retirement contributions;

(c) Health and insurance payments, including life, accident, and health insurance, worker's compensation, and sick leave; and

(d) Stock options, bonuses, and purchase discounts where appropriate.

NEW SECTION

✓ **WAC 356-14-026 SALARY SURVEYS—APPLICATION—INDEXING.** (1) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys.

(2) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes.

(3) All classes shall be identified and indexed (affixed) to a particular salary survey benchmark class (or group average of selected benchmark classes). Such indexing shall display the number of salary schedule ranges that each class is aligned above, the same, or below the respective benchmark class or group. Such class-by-class indexing shall be published on twenty-day notice and approved by the board.

(4) The salary relationships so established by indexing will remain the same upon application of the salary survey data to respective benchmark classes and groups: **PROVIDED**, That the personnel board may approve exceptions to correct for inequities, substantial changes in duties and responsibilities, or recruiting and retention problems, consistent with other provisions of this chapter.

NEW SECTION

✓ **WAC 356-14-031 COMPENSATION PLAN—ADOPTION.** (1) The compensation plan as developed under this chapter shall be presented to the board for review and adoption after consultation with and consideration of proposals from employee representatives and agencies affected.

(2) Twenty calendar days prior to the open hearing on the plan, the director of personnel shall circulate notice of the hearing to enable employee representatives and agencies affected to present their views either orally or in writing. The notice shall state the date, time, and place of the hearing, and either the terms or a description of the proposed plan. The personnel board may amend and adopt the plan at the hearing.

NEW SECTION

✓ **WAC 356-14-035 COMPENSATION PLAN SUBMITTAL—INTENTIONS—CONTENT.** (1) The results of each comprehensive and trend salary and fringe benefit survey (personnel board approved compensation plan) shall be completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of the office of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives.

(2) In the case of comprehensive salary and fringe benefit surveys, the department of personnel shall furnish the following supplementary data in support of its recommended salary schedule (compensation plan):

(a) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;

(b) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(c) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with:

(i) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(ii) Those department of personnel classes which are substantially the same as classes being used by the higher education personnel board clearly marked to show the commonality of the classes between the two jurisdictions;

(d) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(e) A supplemental salary schedule which indicates those cases where the personnel board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.

(3) It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel. Further, it is the intention of the legislature that the department of personnel and the higher education personnel board jointly determine job classes which are substantially common to both jurisdictions and that basic salaries for these job classes shall be equal based on salary and fringe benefit survey findings.

(4) Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

(5) The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of the office of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of the office of financial management by September 30, 1988.

NEW SECTION

✓ **WAC 356-14-045 SALARIES—COMPARABLE WORTH.** Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department of personnel in cooperation with the higher education personnel board. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under chapter 41.06 RCW shall be fully achieved not later than June 30, 1993.

REPEALER

The following sections of the Washington Administrative Code are repealed:

✓ **WAC 356-14-020 COMPENSATION PLAN—ADOPTION.**

✓ **WAC 356-14-030 COMPENSATION PLAN—APPROVAL BY THE DIRECTOR OF THE OFFICE OF FINANCIAL MANAGEMENT.**

✓ **WAC 356-14-040 COMPENSATION PLAN—PERIODIC REVIEW.**

✓ **WAC 356-14-050 COMPENSATION PLAN—REPORTING PERIODIC RECOMMENDATIONS.**

AMENDATORY SECTION (Amending Order 133, filed 9/18/79)

WAC 356-18-120 MISCELLANEOUS LEAVE.
 (1) Leave with pay may be allowed to permit an employee to take an examination for a state position, receive assessment from the employee advisory service, serve as a member of a jury, or perform other civil duties.

(2) Employees who receive compensation for performing civil duties during working hours shall retain their regular salary but the amount of such additional compensation up to the amount of the employee's basic salary shall be returned or credited back to the agency. The employees shall retain travel reimbursement, and per diem, if any.

WSR 86-14-072
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
 [Order 2390—Filed July 1, 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 schedule of charges, amending WAC 275-16-030.

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 RCW 71.02.410.

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

This rule is promulgated pursuant to RCW 71.02.412 which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 71.02.410 through 71.20.417 [71.02.417].

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

APPROVED AND ADOPTED July 1, 1986.

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

AMENDATORY SECTION (Amending Order 2273, filed 8/15/85)

WAC 275-16-030 SCHEDULE OF CHARGES.
 Hospitalization charges shall be due and payable on or before the tenth day of each calendar month for services rendered during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$(113.24)	\$179.32	\$144.78)
	124.58	\$212.06	\$145.21
Physician Costs	*	((8.64))	7.14 *
*Physician costs will be billed on a fee for service basis			
(b) OUTPATIENT SERVICES -			
Per diem			
Outpatient	—	—	—
Day Care Per Day	—	((67.78))	71.17
Per Hour	—	((11.30))	11.86
(c) ANCILLARY SERVICES -			
Per relative value unit ¹			
Radiology	((7.47)	7.47	4.83))
	4.91	4.91	3.99
Pathology	((-.55)	.55	.38))
	.35	.35	.36
Medical Clinics	((1.94)	1.94	1.00))
	2.60	2.64	2.05
Electroencephalogram	—	—	1.00
Electrocardiogram	—	—	((-.41))
			.30
Inhalation Therapy	—	—	—
Physical Therapy	((2.02)	2.02	1.18))
	1.85	1.85	2.29
Occupational Therapy	—	—	((27.82))
			21.27
Speech Therapy	—	—	((10.43))
			15.53
Dental	((—))	—	41.24))
	22.95	22.95	37.66
Podiatry	((1.18)	1.18	1.22))
	.92	.92	1.00
Optometry	—	—	1.00

(2) Services required by the patient that cannot be provided by hospital staff are purchased from private sources and charged at actual cost.

¹/California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

WSR 86-14-073
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
 [Order 2394—Filed July 1, 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 IMR program and reimbursement system, amending chapter 275-38 WAC.

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 if these rules are not adopted, there will be a substantial loss of federal matching funds.

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

This rule is promulgated pursuant to RCW 74.09.120 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 July 1, 1986.

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

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-555 COMPLETING REPORTS AND MAINTAINING RECORDS. (1) All reports shall be legible and reproducible. It is recommended all entries be typed or in black ink.

(2) Reports shall be completed in accordance with instructions provided by the department. If no specific instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used, except for governmental institutions operated on a ~~((cash))~~ modified accrual method of accounting, data based on this method of accounting will be acceptable. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy is followed.

(4) Methods of allocating costs shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 275-38-735.

(5) If a contractor fails to maintain records adequate for audit purposes or fails to allow inspection of such records by authorized personnel as provided in the contractor's IMR contract, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to the contractor's IMR contract.

AMENDATORY SECTION (Amending Order 2312, filed 12/5/85)

WAC 275-38-860 RESIDENT CARE AND HABILITATION COST CENTER RATE. (1) For C and D level facilities, the resident care and habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation.

(2) For E level facilities, the resident care and habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation. The cost center will also reimburse for resident care and training staff performing administration and operations functions specified in WAC 275-38-870.

(3) A facility's resident care and habilitation cost center rate shall be determined as follows:

(a) The facility's most recent desk-reviewed costs per resident day shall be adjusted for inflation except those costs for resident care and training (RCT) and recreation staff.

(b) RCT staff and recreation staff shall be determined by multiplying the number of reimbursed RCT and recreation staff hours per resident day reported in the facility's ~~((1984))~~ most recent cost report by the greater of seven dollars and twenty-nine cents or the ~~((1984))~~ most recent reported cost for RCT and recreation staff per reported hour.

~~((i)) As part of a contractor's resident care and habilitation cost center payment for October 1985, a contractor will receive a one-time distribution of RCT and recreation staff compensation enhancement.~~

~~((ii)) The distribution will be the contractor's 1984 desk-reviewed RCT and recreation staff hours divided by the number of days in the contractor's 1984 cost report, multiplied by ninety-two days, and multiplied by the difference between seven dollars and twenty-nine cents and the contractor's 1984 cost for RCT and recreation staff per hour where the contractor's 1984 cost per RCT and recreation staff hour is less than seven dollars and twenty-nine cents.))~~

(c) The amounts determined in subsections (3)(a) and (b) of this section shall be summed to establish the facility's rate.

WSR 86-14-074
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2395—Filed July 1, 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 physician's services, amending WAC 388-86-095.

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 changes are necessary to avoid a court suit.

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 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 July 1, 1986.

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

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

WAC 388-86-095 PHYSICIANS' SERVICES. The department shall purchase the services of physicians participating in the program on a fee-for-service or contract basis subject to the exceptions and restrictions listed as follows.

~~(1) (Physicians' services are provided through contract agreements for certain voluntary child care agencies and maternity homes.~~

~~(2) Cost of a) Physical examinations (is authorized only) are provided for recipients related to federal programs under the following circumstances:~~

~~(a) For admission to skilled nursing facility if within forty-eight hours of admission or change of status from a private-pay to a medicaid-eligible patient.~~

~~(b) Given as a screening under the EPSDT program; see WAC 388-86-027.~~

~~(c) For physical examination not covered by medicaid, see the following:~~

~~(i) AFDC incapacity, see chapter 388-24 WAC.~~

~~(ii) Determination of whether an individual's health will or will not permit his return to his home, see chapter 388-28 WAC.~~

~~(iii) Request by the claimant or examiner in a fair hearing procedure, see chapter 388-08 WAC.~~

~~(iv) Foster home placement, see chapter 388-70 WAC.~~

~~(v) Adoptive home placement, see chapter 388-70 WAC.~~

~~(vi) Employability for WIN program, see chapter 388-24 WAC.~~

~~(vii) Incapacity for GAU program, see chapter 388-37 WAC.~~

~~((3) When covered services of a) (2) Consultant or specialist (are necessary payment) fees for covered services shall be ((made)) paid in accordance with local medical bureau practices((-)) with the following limitations:~~

~~(a) A fee for consultation shall not be paid when the specialist subsequently performs surgery or renders treatment for which flat fees or fees-for-service accrue.~~

~~(b) On initial or subsequent visits for the purpose of establishing a diagnosis and when services of a specialist or consultant are required, payment shall be limited to not more than two such services.~~

~~((4) Limitations on payment for)) (3) Physicians' services are subject to the following limitations:~~

~~(a) Payment for physicians' calls for nonemergent conditions in a skilled nursing facility or an intermediate care facility, is limited to two calls per month. Requests for payment for additional visits must be justified at the time the billing is submitted by the physician.~~

~~(b) Payment for hospital calls is limited to one call per day. This is applicable to other than flat fee care.~~

~~(c) Individual outpatient psychotherapy shall be provided by a psychiatrist ((shall be)) and is generally limited to one hour per month or equivalent combinations.~~

~~((Up to a maximum of two hours psychotherapy may be authorized when justified during the first month of treatment. Subdivisions of (4)(a) and (b) of this section, also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.~~

~~(5) All nonemergent surgical procedures require prior approval unless otherwise excepted.~~

~~((6)) Additional hours of outpatient psychotherapy require prior approval and will be provided only when medically necessary. Except as described in WAC 388-86-067(1), the limits on physician calls set by subsection (4)(a) and (b) of this section also apply to outpatient psychotherapy.~~

~~(d) For limitations on out-of-state physicians' services see WAC 388-86-115.~~

~~(4) Nonemergent surgical procedures require prior approval except for:~~

~~(a) Minor surgery and diagnostic procedures performed in a physician's office ((do not require prior approval)).~~

~~((7) A recipient of public assistance is not required to obtain medical care in the county of his residence.~~

~~(8) For limitations on out-of-state physicians' services see WAC 388-86-115.~~

~~((9)) (b) Other procedures listed in numbered memoranda published by the division of medical assistance.~~

~~(5) Cataract surgery ((will be)) is considered medically necessary when the following conditions exist:~~

~~(a) When vision is 20/200 in the worse eye.~~

~~(b) When vision is worse than 20/70, distant vision, and J-5 with +3.50, near vision, in better eye.~~

~~(c) When extenuating circumstances, such as employment requirements, need to drive, are present, the vision is worse than 20/40, distant vision, in the better eye.~~

~~(d) Other unusual circumstances.~~

~~((10)) (6) Contact lenses ((would be)) are considered medically necessary for certain medical conditions of the eyes, i.e., keratoconus, recurrent corneal erosions, other medical conditions where visual acuity either cannot be corrected with spectacles or there is a true therapeutic effect, i.e., transparent bandage effect, and when suffering from high refractive errors, over +6 or over -6 diopters.~~

WSR 86-14-075
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2396—Filed July 1, 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:

Amd WAC 388-95-335 Ownership of income.
 Amd WAC 388-95-340 Computation of available income and resources.

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 chapter 220, Laws of 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 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 July 1, 1986.

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

AMENDATORY SECTION (Amending Order 2224, filed 4/10/85)

WAC 388-95-335 OWNERSHIP OF INCOME.
 (1) Community property law (~~as defined in RCW 26-16.030 shall be followed~~) is used in determining ownership of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, (~~shall be~~) is divided by two with one-half of the total assigned to each individual, as their income.

(4) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(5) Income produced by transferred or assigned resources is recognized as the separate income of the transferee.

AMENDATORY SECTION (Amending Order 2132, filed 8/3/84)

WAC 388-95-340 COMPUTATION OF AVAILABLE INCOME AND RESOURCES. (1) (~~Total income of a beneficiary of supplemental security income is not considered available in determining eligibility.~~

(2)) Financial responsibility of spouses (~~and parents~~).

(a) (~~Income and resources are considered jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s).~~

(b)) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods specified below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

(i) If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(ii) If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection ((c)) (b) of this section.

((c)) (b) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

((d)) (c) When both spouses are eligible and institutionalized(:

(i) ~~Income and resources are considered jointly if they share the same room.~~

(ii)) income and resources are considered separately (~~if they don't~~) even if they share the same room.

((e)) (d) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

((3) ~~When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.~~

(4)) (e) If the community income received in the name of the nonapplicant spouse exceeds the community

income received in the name of the applicant spouse, the applicant's interest in that excess is considered unavailable to the applicant.

(2) Relative responsibility shall be limited to spouse for spouse and parent for child.

(3) For ((SSI related individuals,)) children age eighteen to twenty-one(;) the parents' income is not deemed ((available)) to the child. Count only the income that is actually contributed to the child.

((5) For SSI related individuals under age eighteen, parents' income is deemed available when living in the same household.

(6) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in subsections (7) and (9) of this section, shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard all the remaining income shall be deemed to the applicant.

(7)) (4) Exclusions from income. The following shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) Supplemental security income and state public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) ((Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child placement or child-care agency;

(f)) One-third of any payment for child support received from an absent parent ((will be excluded));

((g)) (f) The first twenty dollars per month of earned or unearned income(, not otherwise excluded in subsection (7)(a) through (f) of this section, for a person at home. The exclusion is considered only once for a husband and wife)). There is no exclusion on income which is paid on the basis of need ((of the eligible individual, such as VA pension and cash from private charitable organizations)) and is totally or partially funded by the federal government or by a private agency;

((h)) (g) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

((i)) (h) Tax rebates or special payments excluded by other statutes. ((When necessary these exclusions will be publicized by numbered memoranda from the state office));

((j)) (i) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

((k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such

child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit;

((j)) (j) Veteran's benefits, only the following portions ((of the payment which is attributable to the veteran is counted as income in determining eligibility for Medicaid)) are excluded.

(i) The veteran's aid and attendance/house bound allowance ((is to meet the cost of unusual medical care and is excluded in determining eligibility for Medicaid)).

((For institutionalized individuals, the amount subsequently is considered in the cost of institutional care.))

(ii) The portion attributable to the dependent ((is counted as income to the dependent)).

((m) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost of living benefit increases shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost of living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. This disregard does not apply to:

(i) New applicants (i.e., who were not receiving SSI/SSP prior to increase);

(ii) Persons who are not actually receiving SSI/SSP payments for some other reason;

(iii) Persons who would have received SSI/SSP if they had applied;

(iv) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

((n)) (k) A fee charged by a guardian to reimburse himself or herself for services provided ((is not considered available to the individual and is not treated as income)).

((o)) (l) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

((8) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant.

(9)) (5) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection ((7)) (4) of this section, plus one-half of the remainder.

((10) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to AFDC grant regulations.

((11)) (6) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration (for the recovery of SSI overpayments) is considered as available income for the institutionalized individual's contribution toward the cost of care.

WSR 86-14-076
PROPOSED RULES
GAMBLING COMMISSION
 [Filed July 1, 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 section WAC 230-12-310;

that the agency will at 10:00 a.m., Thursday, August 14, 1986, in the Campbells Lodge, Chelan, 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), (3), (4) and (7).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 14, 1986.

Dated: July 1, 1986
 By: Ben Bishop
 for Ronald O. Bailey
 Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-12-310 Licensees to report to the commission all civil or criminal actions filed against them.

Description of Purpose: Clarifies the type of civil actions that must be reported to the commission.

Statutory Authority: RCW 9.46.070 (1), (2), (3), (4) and (7).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-12-310 clarifies the type of civil actions that must be reported by the licensees to the commission.

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 this rule amendment.

Agency Comments: The agency believes the proposed amendment is self-explanatory and needs no further comment.

This amendment was 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 this amendment.

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, ~~((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 any person having a substantial interest in the profit seeking corporation, partnership or association; or the manager of any of the activities for which the licensee has a gambling license: PROVIDED, That civil proceedings relating to personal injury, debt collection, adoption, paternity, wage dispute and all noncriminal traffic are exempt from this reporting requirement.

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.

WSR 86-14-077
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
 [Filed July 1, 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:

- New WAC 296-46-348 Regarding the use of electrical metallic tubing.
- Amd WAC 296-46-360 Regarding amusement rides or structures, carnivals, circuses and traveling shows.
- New WAC 296-46-600 Regarding portable electric signs.
- New WAC 296-46-680 Regarding hydromassage bathtubs.
- New WAC 296-46-915 Electrical contractor license, administrator certificate and examination and copy fees.
- New WAC 296-46-920 Regarding civil penalties for violating chapter 19.28 RCW, or chapters 296-46 and 296-401 WAC.
- New WAC 296-46-930 Electrical contractor license and administrator certificate designation.
- New WAC 296-46-940 Electrical contractor license issuance and renewal.
- New WAC 296-46-950 Administrator certificate issuance, renewal and duties.
- Amd WAC 296-401-030 Issuing temporary permits.
- Amd WAC 296-401-060 Regarding specialty certificates.
- Amd WAC 296-401-080 Regarding eligibility for journeyman's examination.
- Amd WAC 296-401-090 Status of person who has failed an examination for an electrician certificate of competency.
- Amd WAC 296-401-100 Computation of years of employment.
- Amd WAC 296-401-120 Regarding electrical trainee certificates.
- Amd WAC 296-401-160 Regarding enforcement.
- Amd WAC 296-401-165 Regarding issuing and renewing an electrician certificate of competency.
- New WAC 296-401-168 Regarding reciprocal electrician certificates.
- Amd WAC 296-401-170 Regarding hearing or appeal procedures.
- Amd WAC 296-401-175 Regarding journeyman, specialty and trainee certificate and examination fees;

that the agency will at 1:30 p.m., Monday, August 11, 1986, in the First Floor Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 19.28.060 and 19.28.600.

The specific statute these rules are intended to implement is chapter 19.28 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 11, 1986.

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

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

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

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

J. Philip Simmons
Chief Electrical Inspector
Department of Labor and Industries
Electrical Section
520 South Water Street
P.O. Box 9519
Olympia, WA 98504-9519
(206) 753-2330

Dated: July 1, 1986

By: Joseph A. Dear
Deputy Director
for Richard A. Davis
Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapter: Chapter 296-46 WAC, Safety standards—Installing electric wires and equipment—Administrative rules; and chapter 296-401 WAC, Certification of competency for journeyman electricians.

Statutory Authority: RCW 19.28.060 and 14.28.600 [19.28.600].

Specific Statutes that Rules are Intended to Implement: Chapter 19.28 RCW.

Summary of the Rules: This notice proposes to promulgate revisions or additions to chapters 296-46 and 296-401 WAC to implement revisions to chapter 19.28 RCW made by the 1986 legislature and to provide for the safety and health of the citizens of the state of Washington. WAC 296-46-348 regulates the installation of electrical metallic tubing; 296-46-360 revises electrical installations for amusement rides or structures, carnivals, circuses and traveling shows; 296-46-600 sets electrical requirement for portable electrical signs; 296-46-680 contains requirements for electrical installations

relating to hydromassage bathtubs; 296-46-915 contains electrical contractor license, administrator certificate and examination and copy fees; 296-46-920 sets civil penalties for violating chapter 19.28 RCW or chapters 296-46 and 296-401 WAC; 296-46-930 contains the scope of general and specialty electrical contractor licenses and administrator certificates; 296-46-940 contains requirements for issuing an electrical contractors license and sets the term for licenses; 296-46-950 contains requirements for issuing administrator certificates, sets the term for certificates and defines a "member of the firm" and "supervisory employee"; 296-401-030 contains requirements for issuing of temporary electrician permits; 296-401-060 defines the scope of specialty electrician certificates; 296-401-080 contains eligibility for journeyman certificate examinations; 296-401-090 contains requirements regarding the status of a person who has failed an examination for a certificate of competency; 296-401-100 regards computation of electrical training certificate years of employment and renewal of training certificates; 296-401-120 contains requirements for issuing first, second, third and fourth year electrical training certificates, the number of hours for each certificate and eligibility requirements; 296-401-160 contains provisions for enforcement of chapter 19.28 RCW and chapter 296-401 WAC; 296-401-165 contains requirements for issuing and renewing an electrician certificate of competency; 296-401-168 contains regulations for issuing reciprocal electrician certificates; and 296-401-175 contains hearing or appeal procedures for a person who is aggrieved by a decision of the department.

Reasons Supporting the Proposed Rules: To implement the legislation passed by the 1986 legislature and for the health and safety of the citizens of the state of Washington.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: J. Philip Simmons, Chief Electrical Inspector, Department of Labor and Industries, 520 South Water Street, P.O. Box 9519, Olympia, WA 98504-9519, (206) 753-2330.

Name of the Person or Organization Whether Private, Public or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

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

A small business impact statement is not required because the proposed rule does not affect more than twenty percent of all industries or ten percent of any one industry.

NEW SECTION

WAC 296-46-348 ELECTRICAL METALLIC TUBING. In addition to complying with the provisions of Article 348 of the National Electrical Code, electrical metallic tubing shall not be installed in direct contact with the earth or in concrete on or below grade. See also section 300-6 of the National Electrical Code.

Electrical metallic tubing shall not be installed as the wiring method for service entrance conductors inside a building.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-360 AMUSEMENT RIDES OR STRUCTURES, CARNIVALS, CIRCUSES, AND TRAVELING SHOWS. (~~Wiring methods shall comply with Chapter 3 of the National Electrical Code.~~)

(1) ~~Secondary feeders shall be a type approved for the purpose, and shall use type "S" cable or an equivalent.~~

(2) ~~Each concession or ride is a single occupancy. A separate enclosed externally operable fused switch or circuit breaker shall be provided for each concession or ride.)~~ (1) Electrical installations. Service equipment, separately derived systems, feeders and circuits for each amusement ride, structure or concession and the interconnection of each ride, structure or concession, shall comply with the National Electrical Code and this chapter. Feeders for portable rides, structures or concessions shall be type "S" flexible cord or an equivalent.

(2) Disconnecting means. A separate, enclosed, externally operable fused switch or circuit breaker, shall be installed on each amusement ride, structure or concession to disconnect all electrical equipment. The disconnecting means shall be readily accessible.

(3) Rotating equipment. Components of amusement rides or structures which rotate more than three hundred sixty degrees and which have electrically operated equipment, shall be supplied by approved collector rings which shall be totally enclosed or located so they are accessible to authorized personnel only. The collector rings shall be factory produced with an equipment grounding segment having a voltage and current rating which equals or exceeds the rating of the current carrying segments. Collector rings shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served. Collector rings for control and signal purposes shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served.

(4) Equipment grounding. All noncurrent carrying metal parts of amusement rides and structures shall be grounded in accordance with the National Electrical Code and these rules. The metallic structure shall not be used as a current carrying conductor.

Exception:

The metallic structure shall be permitted to be used as the return path for low voltage systems which do not exceed thirty volts, provided that the ungrounded conductors are protected by an overcurrent device in accordance with the National Electrical Code and the system is factory built for such use.

NEW SECTION

WAC 296-46-600 PORTABLE OUTDOOR ELECTRICAL SIGNS. A weatherproof receptacle outlet which is weatherproof with the supply cord connected shall be installed within six feet of each electrical sign. Extension cords shall not be permitted. All new portable outdoor electrical signs shall be listed by an electrical testing laboratory which has been accredited by the department. Existing portable signs which are not listed or which do not have ground-fault circuit-interrupter protection, as required by section 600-11 of the National Electrical Code, shall have ground-fault circuit-interrupter protection provided in the branch circuit which supplies the portable sign.

NEW SECTION

WAC 296-46-680 HYDROMASSAGE BATHTUBS. (1) Electrical equipment associated with hydromassage bathtubs shall be listed by an electrical products testing laboratory which is accredited by the department and shall have the supply circuit protected by a ground-fault circuit-interrupter.

(2) Receptacle outlets. Receptacle outlets shall not be located closer than six feet to a hydromassage bathtub unless located above or within one foot of a basin or vanity, in which case a receptacle outlet shall be permitted to be located no closer than three feet to the inside walls of a hydromassage bathtub. Receptacles located within the room or within twelve feet from the inside walls of a hydromassage bathtub, shall be protected by a ground-fault circuit-interrupter. A door or sliding window is not considered to be a permanent barrier.

(3) Lighting fixtures and lighting outlets. Lighting fixtures other than the pendant or hanging type shall be permitted above a one-person hydromassage bathtub if all of the following conditions are met:

(a) The fixture is of the totally enclosed type;

(b) The distance from the bottom of the fixture to the maximum water level is not less than five feet;

(c) The fixture is rigidly attached to the wall or ceiling; and

(d) A ground-fault circuit-interrupter is installed in the branch circuit supplying the fixture(s).

(4) Wall switches. Switches shall be located at least three feet measured horizontally from the inside walls of the hydromassage bathtub. Circuits controlled by wall switches located within six feet of the hydromassage bathtub shall be protected by a ground-fault circuit-interrupter.

NEW SECTION

WAC 296-46-915 ELECTRICAL CONTRACTOR LICENSE, ADMINISTRATOR CERTIFICATE AND EXAMINATION, AND COPY FEES.

- (1) General or specialty contractor license (per twenty-four month period) \$72
- (2) Electrical contractor name or business structure change \$40
- (3) Administrator certificate examination application (nonrefundable) \$20
- (4) Administrator certificate examination \$50
- (5) Administrator certificate or renewal (per twenty-four month period) \$48
- (6) Late renewal of administrator certificate (per twenty-four month period) \$96
- (7) Transfer of administrator designation \$10
- (8) Certified copy of document(s) (maximum \$24 per file) \$2

NEW SECTION

WAC 296-46-920 CIVIL PENALTY. A person, firm, partnership, corporation or other entity that violates a provision of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC is liable for a civil penalty based upon the following schedule.

- (1) Offering to perform, submitting a bid for, installing or maintaining conductors or equipment that convey or utilize electrical current without having an unexpired, unrevoked and unsuspended electrical contractor license.

	First offense:	\$ 500
	Second offense:	\$1,000
	Third offense:	\$3,000
	Each offense thereafter:	\$5,000
- (2) Employing an individual for the purposes of RCW 19.28.510 through 19.28.620 who does not possess a valid certificate of competency or training certificate.

	First offense:	\$ 50
	Second offense:	\$ 100
	Each offense thereafter:	\$ 250
- (3) Working as an electrician or electrical trainee in the electrical construction trade without having a valid certificate of competency or electrical training certificate.

	First offense:	\$ 50
	Second offense:	\$ 100
	Each offense thereafter:	\$ 250
- (4) Employing electricians and trainees in an improper ratio.

	First offense:	\$ 50
	Second offense:	\$ 100
	Each additional offense:	\$ 250
- (5) Performing electrical installations, alterations or maintenance outside the scope of the firm's specialty electrical contractors license.

	First offense:	\$ 500
	Second offense:	\$1,000
	Each additional offense:	\$3,000
- (6) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which is not listed and labeled by an approved electrical testing laboratory.

	First offense:	\$ 500
	Second offense:	\$1,000
	Each additional offense:	\$2,000

(7) Each day that a violation occurs will be a separate offense. A violation will be a "second" or "additional" offense only if it occurs within one year from the first violation.

(8) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW, the department may double the penalty amounts shown in subsections (1) through (6) of this section.

NEW SECTION

WAC 296-46-930 ELECTRICAL CONTRACTOR LICENSE AND ADMINISTRATOR CERTIFICATE DESIGNATION. See RCW 19.28.120. (1) General electrical license and/or administrator's certificate encompasses all phases and all types of electrical installations.

(2) Specialty (limited) electrical licenses and/or administrator's certificates are as follows:

(a) Residential: Limited to the wiring of one and two family dwellings, or multifamily dwellings not exceeding three floors above grade. All wiring to be in nonmetallic sheathed cable, except service and/or feeders. This specialty does not include wiring commercial occupancies such as motels, hotels, offices, or stores.

(b) Domestic appliances: Limited to the electrical connection of household appliances and the wiring thereto; such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces, and similar appliances. This specialty license includes circuits to the appliances; however, it does not include the installation of service and/or feeders or circuits to electric furnaces and heat pump equipment.

(c) Pump and irrigation: Limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems and related pumps and pump houses. This specialty license includes circuits, feeders, controls, and services to supply said pumps.

(d) Limited energy system: Limited to the installation of signaling and power limited circuits and related equipment. Such license includes the installation of fire protection signaling systems, intrusion alarms, nonutility owned communications systems, and such similar low energy circuits and equipment.

(e) Signs: Limited to placement and connection of signs and outline lighting, the electrical supply, related controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only.

(f) Nonresidential maintenance: Limited to maintenance, repair and replacement of electrical equipment and conductors on industrial or commercial premises. This specialty certificate of license does not include maintenance activities in hotel, motel, or dwelling units.

(3) Combination specialty electrical contractor license. The department may issue a combination specialty electrical contractor license to a firm which qualifies for more than one specialty electrical contractor license. The license shall plainly indicate the specialty licenses which are included in the combination electrical contractor license.

(4) Combination specialty electrical administrator certificate. The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate shall plainly indicate the specialty administrators' certificate the holder has qualified for.

NEW SECTION

WAC 296-46-940 ELECTRICAL CONTRACTOR LICENSE. The department shall issue an electrical contractor license to a person, firm, partnership, corporation or other entity that complies with RCW 19.28.120 which shall expire twenty-four months following the date of issue. The department may issue an electrical contractor license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor licenses which expire each month. The department shall prorate the electrical contractor license fee according to the number of months in the license period. All subsequent licenses shall be issued for a twenty-four month period.

NEW SECTION

WAC 296-46-950 ADMINISTRATORS CERTIFICATE. (1) The department shall issue an administrator certificate to a person who qualifies for a certificate in accordance with RCW 19.28.125. The first

certificate issued shall expire on the person's birthdate at least one year and not more than three years from the date of issue. If a person was born in an even numbered year, the certificate shall expire on the holder's even numbered birthdate. If the person was born in an odd numbered year, the certificate shall expire on the holder's odd numbered birthdate. The department shall prorate the administrators certificate fee according to the number of months or major portions of months in a certificate period. All subsequent certificates shall be issued for a twenty-four month period. The signature of a person who desires to renew their certificate shall be notarized.

(2) Effective July 1, 1987, an administrator designated on the electrical contractor license shall be a member of the firm who shall fulfill the duties of a full-time supervisory employee, or be a full-time supervisory employee. In determining whether the person is a member of the firm, the department shall require that the person is named as the sole proprietor, a partner or an officer in a corporation as shown on the electrical contractor license application on file with the department. In determining whether a person is a full-time supervisory employee, the department shall consider whether the person is on the electrical contractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical contractor and carries out the duties shown in RCW 19.28.125(2).

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-030 ISSUING OF TEMPORARY PERMITS.

(1) The department will issue to an applicant who meets the eligibility requirements of RCW 19.28.530, one out-of-state temporary permit for a period of ninety days or less before the examination of the applicant ((for a period of ninety days or less)).

((The applicant shall surrender the permit to the person conducting the examination when the applicant appears for the examination:)) If the applicant with a temporary permit does not appear for ((his)) the examination the applicant has been scheduled for, the permit will expire on the expiration date specified on the permit.

(2) The department will issue a second temporary certificate of competency to an applicant for a period of ninety days or less only if the applicant furnishes evidence to the department of enrollment in an electrician training or refresher course which has been approved by the board of electrical examiners.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-060 SPECIALTY CERTIFICATES. The department shall issue specialty electrician's certificates of competency in the following areas of electrical work:

(1) Residential. The holder of a residential certificate is limited to wiring one-family and two-family dwellings, or ((multi-family)) multifamily dwellings that do not exceed three floors above grade. All wiring shall be in nonmetallic sheathed cable, except service and feeder wiring. This specialty does not include wiring commercial occupancies such as motels, hotels, offices, or stores.

(2) Domestic appliances. The holder is limited to the electrical connection of domestic appliances and their wiring, such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces, and similar appliances. The holder may also install the circuits to domestic appliances but may not install service or feeder wires, or circuits to electric furnaces and heat pump equipment.

(3) Pump and irrigation. The holder is limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems, and related pumps and pump houses. The holder may also install the circuits, feeders, controls, and services necessary to supply electricity to the pumps.

(4) Limited energy system. The holder is limited to installing signaling circuits, power limited circuits, and related equipment. Such equipment includes fire protection signaling systems, intrusion alarms, nonutility-owned communication systems, and similar low energy circuits and equipment.

(5) Signs. The holder is limited to; placing and connecting signs and outline lighting and their electrical supply, controls, and associated circuit extensions; and the installation of a maximum 60 ampere, 120/240 volt, single phase service to supply power to a remote sign only.

(6) Nonresidential maintenance. The holder is limited to maintaining, repairing and replacing electrical equipment and conductors on

industrial or commercial premises. This specialty certificate does not include maintenance activities in hotel, motel or dwelling units.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-401-080 ELIGIBILITY FOR JOURNEYMAN'S EXAMINATION. A person holding an electrical trainee certificate who has been employed under the direct supervision of a journeyman electrician for four years, or who has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training, or who is a graduate of a trade school program in the electrical construction trade that was established during 1946, shall be eligible to take the examination for a journeyman's certificate of competency. A person who has had two years of schooling under the conditions provided in RCW 19.28.530 in addition to two years of employment under the direct supervision of a journeyman electrician shall be eligible to take the examination for a journeyman's certificate of competency.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-090 STATUS OF PERSON WHO HAS FAILED AN EXAMINATION FOR ((A JOURNEYMAN)) AN ELECTRICIAN CERTIFICATE OF COMPETENCY. (1) A person who fails an examination for ~~((a journeyman's))~~ an electrician certificate of competency may take a 90 day refresher course and may work in the electrical construction trade only if the person has a valid electrician training certificate or temporary permit.

(2) A person who has a training certificate and/or who is taking a refresher course shall ((have the status of a fourth year trainee and may)) work ((with) only under the supervision of a certificated electrician.

(3) ~~((If any person refuses to take the refresher course, or finishes the refresher course and again fails the examination, that person shall have the status of a fourth year trainee; however, that person may not work without supervision until he or she passes an examination for a journeyman or specialty certificate of competency.))~~ Upon application, the department may issue an electrician trainee certificate to a person who has failed an examination for a certificate of competency, only if the person furnishes evidence of enrollment in an electrician training or refresher course which is approved by the board of electrical examiners. To be eligible to renew the training certificate, the person must furnish evidence of, (a) successfully completing the electrician training or refresher course, and (b) failing the certificate of competency again.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-401-100 COMPUTATION OF YEARS OF EMPLOYMENT. (1) For the purposes of RCW 19.28.530, 1800 hours of employment shall be considered one year of employment.

(2) At the time of renewal of an electrical training certificate, the holder shall provide the department with an accurate list of the holder's employers in the electrical industry for the previous year, the specialty the holder worked in and the number of hours worked for each employer in each specialty.

(3) A person who has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 7200 hours (four years) of employment.

~~((4) A person who has completed a two year apprenticeship program in an electrical specialty that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 3600 hours (two years) of employment.))~~

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-120 ELECTRICAL TRAINEE CERTIFICATES. (1) The department upon proper application and verification shall issue separate electrical trainee certificates for the first, second, third, and fourth years of training. If a person has ((less than)) 1800 hours of employment or less in the electrical construction trade, the department shall ((give)) issue the individual a first year certificate; if more than ((+799 but less than)) 1800 through 3600 hours, a second year certificate; if more than ((+3599 but less than)) 3600 through 5400

hours, a third year certificate; and if more than ~~((5399))~~ 5400 hours a fourth year certificate.

(2) A holder of an electrical trainee certificate may apply for the next year's certificate whenever he or she has sufficient hours of employment.

(3) A holder of an electrical trainee certificate may apply for authorization to work without supervision if he or she has over 6299 hours of employment, and has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the electrical construction trade in a school approved by the commission for vocational education.

(4) The department shall not issue an electrical trainee certificate to a person who is eligible for a temporary or reciprocal electrician certificate of competency.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-160 ENFORCEMENT. (1) The department shall ensure that employers and employees subject to chapter 19.28 RCW comply with that chapter and chapter 296-401 WAC by inspecting electrical job sites. The inspections shall be made by the department's compliance officers, or electrical inspectors.

(2) The compliance officer or electrical inspector shall determine whether:

(a) Each person doing electrical work on the job site has a proper journeyman, specialty, or trainee certificate;

(b) The ratio of the certified journeyman electricians to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual with a journeyman or proper specialty certificate of competency for the type of electrical work being performed.

(3) If the compliance officer or electrical inspector determines that an employer or employee has violated chapter((s)) 19.28 RCW or chapter 296-401 WAC, the department shall issue a ((cease and desist order)) citation that describes the reason the employer or employee has violated chapter((s)) 19.28 RCW or chapter 296-401 WAC. If an employer or employee continues to violate chapter 19.28 RCW or chapter 296-401 WAC, the department electrical inspectors or compliance officers may issue a cease and desist order.

(4) The employer or employee to whom a citation or cease and desist order is directed may request a hearing pursuant to ((WAC 296-401-170)) RCW 19.28.620; however, the request shall not stay the effect of the citation or cease and desist order. If the employer or employee disobeys the cease and desist order, the department shall apply to the superior court for a court order enforcing the cease and desist order. If the employer or employee disobeys the court order, the department shall request the attorney general to apply to the superior court for an order holding the employer or employee in contempt of court.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-165 ~~((ELECTRICAL LICENSE AND ADMINISTRATOR CERTIFICATE DESIGNATION))~~ ISSUING AND RENEWING AN ELECTRICIAN CERTIFICATE OF COMPETENCY. ~~((Sec RCW 19.28.120. (1) General electrical license and/or administrator's certificate encompasses all phases of electrical installations for heat, light and power.~~

~~((2) Specialty (limited) electrical licenses and/or administrator's certificates are as follows:~~

~~((a) Residential: Limited to the wiring of one and two family dwellings, or multi-family dwellings not exceeding three floors above grade. All wiring to be in nonmetallic sheathed cable, except service and/or feeders.~~

~~((b) Domestic appliances: Limited to the electrical connection of household appliances and the wiring thereto; such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces and similar appliances. This specialty license includes circuits to the appliances; however, it does not include the installation of service and/or feeders.~~

~~((c) Pump and irrigation: Limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems and related pumps and pump houses. This specialty license includes circuits, feeders, controls and services to supply said pumps.~~

~~((d) Limited energy system: Limited to the installation of signaling and power limited circuits and related equipment. Such license includes the installation of fire protection signaling systems, intrusion~~

alarms, nonutility owned communication systems and such similar low energy circuits and equipment.

(c) Signs: Limited to the placement and connection of signs and outline lighting, the electrical supply, related controls and associated circuit extensions thereto.

(f) Nonresidential maintenance: Limited to maintenance, repair and replacement of electrical equipment and conductors on industrial or commercial premises. This specialty certificate or license does not include maintenance activities in hotel, motel, or dwelling units. (1) The department shall issue an electrician certificate of competency to journeyman or specialty electricians who meet the qualifications in RCW 19.28.530 and who have successfully passed a certification examination in accordance with RCW 19.28.540.

(2) The electrician certificate of competency shall expire on the holder's birthdate at least one year and not more than three years from the date of original issue. All subsequent certificates shall be issued for a two year period. If the person was born in an even numbered year, the certificate shall expire on the holder's even numbered birthdate. If the person was born in an odd numbered year, the certificate shall expire on the holder's odd numbered birthdate. The department shall prorate the electrician fee according to the number of months or major part of a month in a certificate period.

(3) An individual who successfully passes an examination for a certificate of competency, shall apply for a certificate of competency within thirty days of the date the person is notified about the results of the examination. A person who does not apply for a certificate of competency within thirty days of the date the person is notified about the results of the examination, shall be required to apply for, take and pass the examination again.

NEW SECTION

WAC 296-401-168 RECIPROCAL ELECTRICIAN CERTIFICATES. The department shall issue a reciprocal electrician certificate to an electrician coming into the state of Washington from another state who meets the eligibility requirement in RCW 19.28.530 in accordance with the following conditions:

(1) The department has a valid reciprocal agreement with another state in the journeyman or specialty category requested.

(2) The application shall be made on forms prescribed by the department.

(3) The person shall furnish evidence that he or she meets the eligibility requirements in RCW 19.28.530.

(4) The applicant shall pay a fee with the application which shall equal the electrician certification examination application fee and the certificate fee as determined in accordance with chapter 296-401 WAC.

(5) The applicant must have obtained a certificate of competency for which reciprocity is requested while a resident of another state.

(6) A person is not eligible for a reciprocal electrician certificate who has taken an examination to obtain a certificate of competency in the state of Washington, who has failed an examination for a certificate of competency in the state of Washington or who has failed to renew a certificate of competency in accordance with chapter 19.28 RCW.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-170 HEARING OR APPEAL PROCEDURE. An employer or employee to whom a cease and desist order is directed; a person who is aggrieved by the department's denial of a trainee, journeyman, or specialty certificate, or the opportunity to take an examination for a certificate; or a person who has had his or her hours reduced pursuant to WAC 296-401-150; may request a hearing within ((+)) fifteen days from receipt of the citation, cease and desist order, the denial, or the reduction of hours. The ((department shall appoint a person to preside over the hearing)) appeal shall be made in writing to the department and shall be accompanied by a certified check in the amount of two hundred dollars made payable to the department. The deposit shall be returned to the aggrieved party if the decision of the department is not sustained or upheld. If the decision of the department is sustained or upheld, the deposit shall be used to pay the expenses of holding the hearing and any balance remaining after payment of the hearing expenses shall be paid into the electrical license fund. The appeal shall be held in conformance with the requirements of the Administrative Procedure Act, chapter 34.04 RCW.

AMENDATORY SECTION (Amending Order 85-16, filed 9/27/85)

WAC 296-401-175 ((ELECTRICAL CONTRACTOR LICENSE, ADMINISTRATOR,)) JOURNEYMAN, SPECIALTY AND TRAINEE CERTIFICATE, AND EXAMINATION ((AND COPY)) FEES.

Table with 2 columns: Description and Fee. Includes items like General or specialty electrical contractor license, Electrical contractor name or business structure change, Administrator certificate examination, etc.

WSR 86-14-078

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-23—Filed July 1, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Table with 3 columns: Action (New/Amd), WAC Number, and Description. Includes rules regarding electrical metallic tubing, amusement rides, portable electric signs, hydromassage bathtubs, etc.

Amd	WAC 296-401-165	Regarding issuing and renewing an electrician certificate of competency.
New	WAC 296-401-168	Regarding reciprocal electrician certificates.
Amd	WAC 296-401-170	Regarding hearing or appeal procedures.
Amd	WAC 296-401-175	Regarding journeyman, specialty and trainee certificate and examination fees.

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

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

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

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

J. Philip Simmons
 Chief Electrical Inspector
 Department of Labor and Industries
 Electrical Section
 520 South Water Street
 P.O. Box 9519
 Olympia, WA 98504-9519
 (206) 753-2330

I, Richard A. Davis, Director, Department of Labor and Industries, 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 allow the citizens to benefit from the revised fees, to protect the citizens by providing penalties for violating chapter 19.28 RCW, or chapter 296-46 or 296-401 WAC and to implement revisions made to chapter 19.28 RCW by the 1986 legislature.

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

This rule is promulgated pursuant to RCW 19.28.060 and 19.28.600 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in chapter 19.28 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 July 1, 1986.

By Joseph A. Dear
 Deputy Director
 for Richard A. Davis
 Director

NEW SECTION

WAC 296-46-348 ELECTRICAL METALLIC TUBING. In addition to complying with the provisions of Article 348 of the National Electrical Code, electrical metallic tubing shall not be installed in direct contact with the earth or in concrete on or below grade. See also section 300-6 of the National Electrical Code.

Electrical metallic tubing shall not be installed as the wiring method for service entrance conductors inside a building.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-360 AMUSEMENT RIDES OR STRUCTURES, CARNIVALS, CIRCUSES, AND TRAVELING SHOWS. (~~Wiring methods shall comply with Chapter 3 of the National Electrical Code.~~)

~~(1) Secondary feeders shall be a type approved for the purpose, and shall use type "S" cable or an equivalent.~~

~~(2) Each concession or ride is a single occupancy. A separate enclosed externally operable fused switch or circuit breaker shall be provided for each concession or ride.)~~ (1) Electrical installations. Service equipment, separately derived systems, feeders and circuits for each amusement ride, structure or concession and the inter-connection of each ride, structure or concession, shall comply with the National Electrical Code and this chapter. Feeders for portable rides, structures or concessions shall be type "S" flexible cord or an equivalent.

(2) Disconnecting means. A separate, enclosed, externally operable fused switch or circuit breaker, shall be installed on each amusement ride, structure or concession to disconnect all electrical equipment. The disconnecting means shall be readily accessible.

(3) Rotating equipment. Components of amusement rides or structures which rotate more than three hundred sixty degrees and which have electrically operated equipment, shall be supplied by approved collector rings which shall be totally enclosed or located so they are accessible to authorized personnel only. The collector rings shall be factory produced with an equipment grounding segment having a voltage and current rating which equals or exceeds the rating of the current carrying segments. Collector rings shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served. Collector rings for control and signal purposes shall have an ampacity not less than one hundred twenty-five percent of the full-load current of the largest device served plus the full-load current of all other devices served.

(4) Equipment grounding. All noncurrent carrying metal parts of amusement rides and structures shall be grounded in accordance with the National Electrical Code and these rules. The metallic structure shall not be used as a current carrying conductor.

Exception:

The metallic structure shall be permitted to be used as the return path for low voltage systems which do not exceed thirty volts, provided that the ungrounded conductors

are protected by an overcurrent device in accordance with the National Electrical Code and the system is factory built for such use.

NEW SECTION

WAC 296-46-600 PORTABLE OUTDOOR ELECTRICAL SIGNS. A weatherproof receptacle outlet which is weatherproof with the supply cord connected shall be installed within six feet of each electrical sign. Extension cords shall not be permitted. All new portable outdoor electrical signs shall be listed by an electrical testing laboratory which has been accredited by the department. Existing portable signs which are not listed or which do not have ground-fault circuit-interrupter protection, as required by section 600-11 of the National Electrical Code, shall have ground-fault circuit-interrupter protection provided in the branch circuit which supplies the portable sign.

NEW SECTION

WAC 296-46-680 HYDROMASSAGE BATH-TUBS. (1) Electrical equipment associated with hydromassage bathtubs shall be listed by an electrical products testing laboratory which is accredited by the department and shall have the supply circuit protected by a ground-fault circuit-interrupter.

(2) Receptacle outlets. Receptacle outlets shall not be located closer than six feet to a hydromassage bathtub unless located above or within one foot of a basin or vanity, in which case a receptacle outlet shall be permitted to be located no closer than three feet to the inside walls of a hydromassage bathtub. Receptacles located within the room or within twelve feet from the inside walls of a hydromassage bathtub, shall be protected by a ground-fault circuit-interrupter. A door or sliding window is not considered to be a permanent barrier.

(3) Lighting fixtures and lighting outlets. Lighting fixtures other than the pendant or hanging type shall be permitted above a one-person hydromassage bathtub if all of the following conditions are met:

- (a) The fixture is of the totally enclosed type;
- (b) The distance from the bottom of the fixture to the maximum water level is not less than five feet;
- (c) The fixture is rigidly attached to the wall or ceiling, and
- (d) A ground-fault circuit-interrupter is installed in the branch circuit supplying the fixture(s).

(4) Wall switches. Switches shall be located at least three feet measured horizontally from the inside walls of the hydromassage bathtub. Circuits controlled by wall switches located within six feet of the hydromassage bathtub shall be protected by a ground-fault circuit-interrupter.

NEW SECTION

WAC 296-46-915 ELECTRICAL CONTRACTOR LICENSE, ADMINISTRATOR CERTIFICATE AND EXAMINATION, AND COPY FEES.

- (1) General or specialty contractor license

- (per twenty-four month period) \$72
- (2) Electrical contractor name or business structure change \$40
- (3) Administrator certificate examination application (nonrefundable) \$20
- (4) Administrator certificate examination \$50
- (5) Administrator certificate or renewal (per twenty-four month period) \$48
- (6) Late renewal of administrator certificate (per twenty-four month period) \$96
- (7) Transfer of administrator designation \$10
- (8) Certified copy of document(s) (maximum \$24 per file) \$2

NEW SECTION

WAC 296-46-920 CIVIL PENALTY. A person, firm, partnership, corporation or other entity that violates a provision of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC is liable for a civil penalty based upon the following schedule.

- (1) Offering to perform, submitting a bid for, installing or maintaining conductors or equipment that convey or utilize electrical current without having an unexpired, unrevoked and unsuspended electrical contractor license.
 - First offense: \$ 500
 - Second offense: \$1,000
 - Third offense: \$3,000
 - Each offense thereafter: \$5,000
- (2) Employing an individual for the purposes of RCW 19.28.510 through 19.28.620 who does not possess a valid certificate of competency or training certificate.
 - First offense: \$ 50
 - Second offense: \$ 100
 - Each offense thereafter: \$ 250
- (3) Working as an electrician or electrical trainee in the electrical construction trade without having a valid certificate of competency or electrical training certificate.
 - First offense: \$ 50
 - Second offense: \$ 100
 - Each offense thereafter: \$ 250
- (4) Employing electricians and trainees in an improper ratio.
 - First offense: \$ 50
 - Second offense: \$ 100
 - Each additional offense: \$ 250
- (5) Performing electrical installations, alterations or maintenance outside the scope of the firm's specialty electrical contractors license.
 - First offense: \$ 500
 - Second offense: \$1,000
 - Each additional offense: \$3,000
- (6) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which is not listed and labeled by an approved electrical testing laboratory.
 - First offense: \$ 500
 - Second offense: \$1,000
 - Each additional offense: \$2,000

(7) Each day that a violation occurs will be a separate offense. A violation will be a "second" or "additional" offense only if it occurs within one year from the first violation.

(8) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW, the department may double the penalty amounts shown in subsections (1) through (6) of this section.

NEW SECTION

WAC 296-46-930 ELECTRICAL CONTRACTOR LICENSE AND ADMINISTRATOR CERTIFICATE DESIGNATION. See RCW 19.28.120. (1) General electrical license and/or administrator's certificate encompasses all phases and all types of electrical installations.

(2) Specialty (limited) electrical licenses and/or administrator's certificates are as follows:

(a) Residential: Limited to the wiring of one and two family dwellings, or multifamily dwellings not exceeding three floors above grade. All wiring to be in nonmetallic sheathed cable, except service and/or feeders. This specialty does not include wiring commercial occupancies such as motels, hotels, offices, or stores.

(b) Domestic appliances: Limited to the electrical connection of household appliances and the wiring thereto, such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces, and similar appliances. This specialty license includes circuits to the appliances; however, it does not include the installation of service and/or feeders or circuits to electric furnaces and heat pump equipment.

(c) Pump and irrigation: Limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems and related pumps and pump houses. This specialty license includes circuits, feeders, controls, and services to supply said pumps.

(d) Limited energy system: Limited to the installation of signaling and power limited circuits and related equipment. Such license includes the installation of fire protection signaling systems, intrusion alarms, nonutility owned communications systems, and such similar low energy circuits and equipment.

(e) Signs: Limited to placement and connection of signs and outline lighting, the electrical supply, related controls and associated circuit extensions thereto, and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only.

(f) Nonresidential maintenance: Limited to maintenance, repair and replacement of electrical equipment and conductors on industrial or commercial premises. This specialty certificate of license does not include maintenance activities in hotel, motel, or dwelling units.

(3) Combination specialty electrical contractor license. The department may issue a combination specialty electrical contractor license to a firm which qualifies for more than one specialty electrical contractor license. The license shall plainly indicate the specialty licenses

which are included in the combination electrical contractor license.

(4) Combination specialty electrical administrator certificate. The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate shall plainly indicate the specialty administrators' certificate the holder has qualified for.

NEW SECTION

WAC 296-46-940 ELECTRICAL CONTRACTOR LICENSE. The department shall issue an electrical contractor license to a person, firm, partnership, corporation or other entity that complies with RCW 19.28.120 which shall expire twenty-four months following the date of issue. The department may issue an electrical contractor license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor licenses which expire each month. The department shall prorate the electrical contractor license fee according to the number of months in the license period. All subsequent licenses shall be issued for a twenty-four month period.

NEW SECTION

WAC 296-46-950 ADMINISTRATORS CERTIFICATE. (1) The department shall issue an administrator certificate to a person who qualifies for a certificate in accordance with RCW 19.28.125. The first certificate issued shall expire on the person's birthdate at least one year and not more than three years from the date of issue. If a person was born in an even numbered year, the certificate shall expire on the holder's even numbered birthdate. If the person was born in an odd numbered year, the certificate shall expire on the holder's odd numbered birthdate. The department shall prorate the administrators certificate fee according to the number of months or major portions of months in a certificate period. All subsequent certificates shall be issued for a twenty-four month period. The signature of a person who desires to renew their certificate shall be notarized.

(2) Effective July 1, 1987, an administrator designated on the electrical contractor license shall be a member of the firm who shall fulfill the duties of a full-time supervisory employee, or be a full-time supervisory employee. In determining whether the person is a member of the firm, the department shall require that the person is named as the sole proprietor, a partner or an officer in a corporation as shown on the electrical contractor license application on file with the department. In determining whether a person is a full-time supervisory employee, the department shall consider whether the person is on the electrical contractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical contractor and carries out the duties shown in RCW 19.28.125(2).

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-030 ISSUING OF TEMPORARY PERMITS. (1) The department will issue to an applicant who meets the eligibility requirements of RCW 19.28.530, one out-of-state temporary permit for a period of ninety days or less before the examination of the applicant ((for a period of ninety days or less)).

~~((The applicant shall surrender the permit to the person conducting the examination when the applicant appears for the examination.))~~ If the applicant with a temporary permit does not appear for ~~((his))~~ the examination the applicant has been scheduled for, the permit will expire on the expiration date specified on the permit.

(2) The department will issue a second temporary certificate of competency to an applicant for a period of ninety days or less only if the applicant furnishes evidence to the department of enrollment in an electrician training or refresher course which has been approved by the board of electrical examiners.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-060 SPECIALTY CERTIFICATES. The department shall issue specialty electrician's certificates of competency in the following areas of electrical work:

(1) Residential. The holder of a residential certificate is limited to wiring one-family and two-family dwellings, or ((multi-family)) multifamily dwellings that do not exceed three floors above grade. All wiring shall be in nonmetallic sheathed cable, except service and feeder wiring. This specialty does not include wiring commercial occupancies such as motels, hotels, offices, or stores.

(2) Domestic appliances. The holder is limited to the electrical connection of domestic appliances and their wiring, such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces, and similar appliances. The holder may also install the circuits to domestic appliances but may not install service or feeder wires, or circuits to electric furnaces and heat pump equipment.

(3) Pump and irrigation. The holder is limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems, and related pumps and pump houses. The holder may also install the circuits, feeders, controls, and services necessary to supply electricity to the pumps.

(4) Limited energy system. The holder is limited to installing signaling circuits, power limited circuits, and related equipment. Such equipment includes fire protection signaling systems, intrusion alarms, nonutility-owned communication systems, and similar low energy circuits and equipment.

(5) Signs. The holder is limited to, placing and connecting signs and outline lighting and their electrical supply, controls, and associated circuit extensions; and the installation of a maximum 60 ampere, 120/240 volt,

single phase service to supply power to a remote sign only.

(6) Nonresidential maintenance. The holder is limited to maintaining, repairing and replacing electrical equipment and conductors on industrial or commercial premises. This specialty certificate does not include maintenance activities in hotel, motel or dwelling units.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-401-080 ELIGIBILITY FOR JOURNEYMAN'S EXAMINATION. A person holding an electrical trainee certificate who has been employed under the direct supervision of a journeyman electrician for four years, or who has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training, or who is a graduate of a trade school program in the electrical construction trade that was established during 1946, shall be eligible to take the examination for a journeyman's certificate of competency. A person who has had two years of schooling under the conditions provided in RCW 19.28.530 in addition to two years of employment under the direct supervision of a journeyman electrician shall be eligible to take the examination for a journeyman's certificate of competency.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-090 STATUS OF PERSON WHO HAS FAILED AN EXAMINATION FOR ((A JOURNEYMAN)) AN ELECTRICIAN CERTIFICATE OF COMPETENCY. (1) A person who fails an examination for ((a journeyman's)) an electrician certificate of competency may take a 90 day refresher course and may work in the electrical construction trade only if the person has a valid electrician training certificate or temporary permit.

(2) A person who has a training certificate and/or who is taking a refresher course shall ((have the status of a fourth year trainee and may)) work ((with)) only under the supervision of a certificated electrician.

(3) ~~((If any person refuses to take the refresher course, or finishes the refresher course and again fails the examination, that person shall have the status of a fourth year trainee; however, that person may not work without supervision until he or she passes an examination for a journeyman or specialty certificate of competency.))~~ Upon application, the department may issue an electrician trainee certificate to a person who has failed an examination for a certificate of competency, only if the person furnishes evidence of enrollment in an electrician training or refresher course which is approved by the board of electrical examiners. To be eligible to renew the training certificate, the person must furnish evidence of, (a) successfully completing the electrician training or refresher course, and (b) failing the certificate of competency again.

AMENDATORY SECTION (Amending Order 81-5, filed 2/27/81, effective 4/1/81)

WAC 296-401-100 COMPUTATION OF YEARS OF EMPLOYMENT. (1) For the purposes of RCW 19.28.530, 1800 hours of employment shall be considered one year of employment.

(2) At the time of renewal of an electrical training certificate, the holder shall provide the department with an accurate list of the holder's employers in the electrical industry for the previous year, the specialty the holder worked in and the number of hours worked for each employer in each specialty.

(3) A person who has completed a four year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 7200 hours (four years) of employment.

~~((4) A person who has completed a two year apprenticeship program in an electrical specialty that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 3600 hours (two years) of employment.))~~

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-120 ELECTRICAL TRAINEE CERTIFICATES. (1) The department upon proper application and verification shall issue separate electrical trainee certificates for the first, second, third, and fourth years of training. If a person has ~~((less than))~~ 1800 hours of employment or less in the electrical construction trade, the department shall ~~((give))~~ issue the individual a first year certificate, if more than ~~((1799 but less than))~~ 1800 through 3600 hours, a second year certificate; if more than ~~((3599 but less than))~~ 3600 through 5400 hours, a third year certificate; and if more than ~~((5399))~~ 5400 hours a fourth year certificate.

(2) A holder of an electrical trainee certificate may apply for the next year's certificate whenever he or she has sufficient hours of employment.

(3) A holder of an electrical trainee certificate may apply for authorization to work without supervision if he or she has over 6299 hours of employment, and has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the electrical construction trade in a school approved by the commission for vocational education.

(4) The department shall not issue an electrical trainee certificate to a person who is eligible for a temporary or reciprocal electrician certificate of competency.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-160 ENFORCEMENT. (1) The department shall ensure that employers and employees subject to chapter 19.28 RCW comply with that chapter and chapter 296-401 WAC by inspecting electrical job sites. The inspections shall be made by the department's compliance officers, or electrical inspectors.

(2) The compliance officer or electrical inspector shall determine whether:

(a) Each person doing electrical work on the job site has a proper journeyman, specialty, or trainee certificate;

(b) The ratio of the certified journeyman electricians to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual with a journeyman or proper specialty certificate of competency for the type of electrical work being performed.

(3) If the compliance officer or electrical inspector determines that an employer or employee has violated chapter((s)) 19.28 RCW or chapter 296-401 WAC, the department shall issue a ~~((cease and desist order))~~ citation that describes the reason the employer or employee has violated chapter((s)) 19.28 RCW or chapter 296-401 WAC. If an employer or employee continues to violate chapter 19.28 RCW or chapter 296-401 WAC, the department electrical inspectors or compliance officers may issue a cease and desist order.

(4) The employer or employee to whom a citation or cease and desist order is directed may request a hearing pursuant to ~~((WAC 296-401-170))~~ RCW 19.28.620, however, the request shall not stay the effect of the citation or cease and desist order. If the employer or employee disobeys the cease and desist order, the department shall apply to the superior court for a court order enforcing the cease and desist order. If the employer or employee disobeys the court order, the department shall request the attorney general to apply to the superior court for an order holding the employer or employee in contempt of court.

AMENDATORY SECTION (Amending Order 83-32, filed 11/14/83)

WAC 296-401-165 ~~((ELECTRICAL LICENSE AND ADMINISTRATOR CERTIFICATE DESIGNATION))~~ ISSUING AND RENEWING AN ELECTRICAL CERTIFICATE OF COMPETENCY. ~~((See RCW 19.28.120. (1) General electrical license and/or administrator's certificate encompasses all phases of electrical installations for heat, light and power.~~

~~((2) Specialty (limited) electrical licenses and/or administrator's certificates are as follows:~~

~~((a) Residential: Limited to the wiring of one and two family dwellings, or multi-family dwellings not exceeding three floors above grade. All wiring to be in nonmetallic sheathed cable, except service and/or feeders.~~

~~((b) Domestic appliances: Limited to the electrical connection of household appliances and the wiring thereto, such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces and similar appliances. This specialty license includes circuits to the appliances, however, it does not include the installation of service and/or feeders.~~

~~((c) Pump and irrigation: Limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems and related pumps and pump houses. This specialty license includes circuits, feeders, controls and services to supply said pumps.~~

~~((d) Limited energy system: Limited to the installation of signaling and power limited circuits and related~~

equipment. Such license includes the installation of fire protection signaling systems, intrusion alarms, nonutility owned communication systems and such similar low energy circuits and equipment.

(c) Signs: Limited to the placement and connection of signs and outline lighting, the electrical supply, related controls and associated circuit extensions thereto.

(f) Nonresidential maintenance: Limited to maintenance, repair and replacement of electrical equipment and conductors on industrial or commercial premises. This specialty certificate or license does not include maintenance activities in hotel, motel, or dwelling units.) (1) The department shall issue an electrician certificate of competency to journeyman or specialty electricians who meet the qualifications in RCW 19.28.530 and who have successfully passed a certification examination in accordance with RCW 19.28.540.

(2) The electrician certificate of competency shall expire on the holder's birthdate at least one year and not more than three years from the date of original issue. All subsequent certificates shall be issued for a two year period. If the person was born in an even numbered year, the certificate shall expire on the holder's even numbered birthdate. If the person was born in an odd numbered year, the certificate shall expire on the holder's odd numbered birthdate. The department shall prorate the electrician fee according to the number of months or major part of a month in a certificate period.

(3) An individual who successfully passes an examination for a certificate of competency, shall apply for a certificate of competency within thirty days of the date the person is notified about the results of the examination. A person who does not apply for a certificate of competency within thirty days of the date the person is notified about the results of the examination, shall be required to apply for, take and pass the examination again.

NEW SECTION

WAC 296-401-168 RECIPROCAL ELECTRICIAN CERTIFICATES. The department shall issue a reciprocal electrician certificate to an electrician coming into the state of Washington from another state who meets the eligibility requirement in RCW 19.28.530 in accordance with the following conditions:

(1) The department has a valid reciprocal agreement with another state in the journeyman or specialty category requested.

(2) The application shall be made on forms prescribed by the department.

(3) The person shall furnish evidence that he or she meets the eligibility requirements in RCW 19.28.530.

(4) The applicant shall pay a fee with the application which shall equal the electrician certification examination application fee and the certificate fee as determined in accordance with chapter 296-401 WAC.

(5) The applicant must have obtained a certificate of competency for which reciprocity is requested while a resident of another state.

(6) A person is not eligible for a reciprocal electrician certificate who has taken an examination to obtain a certificate of competency in the state of Washington,

who has failed an examination for a certificate of competency in the state of Washington or who has failed to renew a certificate of competency in accordance with chapter 19.28 RCW.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-170 HEARING OR APPEAL PROCEDURE. An employer or employee to whom a cease and desist order is directed; a person who is aggrieved by the department's denial of a trainee, journeyman, or specialty certificate, or the opportunity to take an examination for a certificate; or a person who has had his or her hours reduced pursuant to WAC 296-401-150; may request a hearing within ((+0)) fifteen days from receipt of the citation, cease and desist order, the denial, or the reduction of hours. The ((department shall appoint a person to preside over the hearing)) appeal shall be made in writing to the department and shall be accompanied by a certified check in the amount of two hundred dollars made payable to the department. The deposit shall be returned to the aggrieved party if the decision of the department is not sustained or upheld. If the decision of the department is sustained or upheld, the deposit shall be used to pay the expenses of holding the hearing and any balance remaining after payment of the hearing expenses shall be paid into the electrical license fund. The appeal shall be held in conformance with the requirements of the Administrative Procedure Act, chapter 34.04 RCW.

AMENDATORY SECTION (Amending Order 85-16, filed 9/27/85)

WAC 296-401-175 ((ELECTRICAL CONTRACTOR LICENSE, ADMINISTRATOR,)) JOURNEYMAN, SPECIALTY AND TRAINEE CERTIFICATE, AND EXAMINATION ((AND COPY)) FEES.

(((1) General or specialty electrical contractor license (expires December 31 each year) -	\$ 40
(2) Electrical contractor name or business structure change -	\$ 40
(3) Administrator certificate examination -	\$ 50
(4) Administrator certificate renewal (expires December 31 each year) -	\$ 20
(5) Late renewal of administrator certificate -	\$ 40
(6) Transfer of administrator designation -	\$ 20
(7) Journeyman or specialty certificate (expires June 30 each year) -	\$ 25
(8) Late renewal of journeyman or specialty electrician certificate -	\$ 50
(9) Journeyman or specialty electrician examination -	\$ 50
(+0) Trainee certificate (expires one year after purchase) -	\$ 20
(+1) Certified copy of bond and/or license -	\$ 2)
(1) Journeyman or specialty electrician certificate (per 24-month period) -	\$ 24
(2) Late renewal of journeyman or specialty electrician certificate (per 24-month period) -	\$ 48
(3) Journeyman or specialty electrician examination application (nonrefundable) -	\$ 20

(4) <u>Journeyman or specialty electrician examination -</u>	\$ 30
(5) <u>Trainee certificate (expires one year after purchase) -</u>	\$ 12

WSR 86-14-079
ADOPTED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
 [Order 86-25—Filed July 1, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to this order amends sections in chapter 296-15 WAC, rules and regulations for self-insured employers. These amendments will further define initial certification requirements and continuing reporting requirements of self-insured employers and will update the language in various sections.

This action is taken pursuant to Notice No. WSR 86-09-094 filed with the code reviser on April 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 pursuant to RCW 51.04.020 which directs that the director, Department of Labor and Industries has authority to implement the provisions of Title 51 RCW, industrial insurance laws.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
 APPROVED AND ADOPTED July 1, 1986.

By R. A. Davis
 Director

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~~) workers' 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 or 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,~~) on a fiscal year basis 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~~) self-insurance section. 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 296-15-080 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, and must be prepared by accountants independent of the employer. 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:

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 a reasonable explanation as to why an investigation is in order 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.

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 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 DENIAL OF CLAIM.

SELF-INSURED EMPLOYER'S NOTICE OF 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 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 reject the claim 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 REJECTION OF YOUR BENEFITS

.....
(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 86-14-080

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-35—Filed July 1, 1986]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to this order amends, repeals, and adds sections to chapter 296-15 WAC, rules and regulations for self-insured employers. They will set guidelines to respond to new legislation and clarify employers' reporting requirements and the department's responsibility in corrective action.

I, Richard A. Davis, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the department met with labor, management, and governmental units prior to submitting these proposals. It was necessary to meet with these stakeholders after the legislative session and prior to submission in order to reach an agreement between parties. We will adopt them on an emergency basis to meet timelines as required by law. Permanent notice of intention has already been filed.

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

This rule is promulgated pursuant to chapter 51.14 RCW and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 51.04.020 which directs that the director, Department of Labor and Industries has authority to implement the provisions of Title 51 RCW, industrial insurance laws.

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

APPROVED AND ADOPTED July 1, 1986.

By Joseph A. Dear
for Richard A. Davis
Director

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)) except counties, cities, school districts, municipal corporations and individual accounts participating in a group self-insurance program. Subsection (6) of this section shall apply only to counties, cities and municipal corporations. 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 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.

(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.

(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.

(6) Counties, cities, school districts and municipal corporations shall maintain adequate reserves to cover claim liabilities. The security requirement for each governmental unit shall be at the level of the stated reserves presented on the annual report of the self-insured employer. Additionally, each governmental unit shall maintain a contingency reserve at least equal to twenty percent of those stated reserves to pay department assessments, overhead expenses, and to provide a safeguard against adverse development of costs. At no time shall the total security level fall below the minimum security as determined by subsection (2) of this section or one hundred twenty percent of claim payments made in the prior calendar year. Dedicated funds, governmental securities, or surety bonds may be used to provide the necessary security. The security must be approved by the department. Anticipated recoveries under reinsurance policies held by a governmental unit must be documented by the employer and reported to the department to qualify for consideration in establishing security requirements. Such anticipated recoveries, upon approval by the department, shall be applied to the governmental unit's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7). The

contingency reserve required of governmental units shall be based on total stated reserves, including anticipated reinsurance recoveries.

NEW SECTION

WAC 296-15-065 SELF-INSURERS' INSOLVENCY TRUST. A self-insurance insolvency fund shall be established in the office of the state treasurer. The purpose of this fund shall be to pay for any unsecured benefits paid to the injured workers of self-insured employers under Title 51 RCW for insolvent or defaulting self-insured employers, and to pay for the department's associated administrative costs, including attorneys' fees. This fund shall be financed by assessments levied against total claim payments as defined for purposes of the administrative cost assessment in WAC 296-15-060. These assessments shall be levied on a post-insolvency basis against all self-insurers except school districts, cities, and counties, including any such self-insurer(s) who have surrendered their certification at any time during the thirty-six months prior to the close of a quarter for which assessments to the insolvency fund are payable.

The administration of claims of any insolvent or defaulting self-insurer(s) shall be under the jurisdiction of the department.

Assessments for the self-insurers' insolvency fund shall be in amounts deemed adequate to reimburse the accident, medical aid and/or pension reserve funds for benefits paid from these funds to injured workers of insolvent or defaulting self-insurers, and for associated administrative costs including attorneys' fees. Establishing assessment rates for this purpose shall be the responsibility of a five-member board of trustees comprised of the director (or the director's designee) and four representatives of self-insured employers. Initially, the self-insurer representatives shall be appointed by the director from a list of names submitted by state-wide organizations of self-insurers and others, two of whom shall serve two-year terms and two of whom shall serve three-year terms. These appointments shall be made within thirty days of the effective date of this section. Thereafter, new self-insurer representatives shall be elected by the members of the board of trustees, each member having one vote. New members so elected shall serve two-year terms. In no event shall self-insurer representatives on the board be an owner, officer or employee of a service organization as defined in WAC 296-15-110.

No later than March 31 of each year, the board of trustees shall report in writing to the members of the state legislature regarding the status of the insolvency fund as of the previous December 31, and summarizing any events or transactions of interest or importance to the ongoing operation of the insolvency fund.

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))~~ requesting denial of any claim, shall provide to the claimant, the department, and the attending physician, within ~~((30))~~ thirty days after such self-insurer has notice of the claim, a notice of request for denial of claim, substantially identical to the example SIF #4 ~~((, incorporated herein by reference))~~. With every such request for claim denial a self-insurer shall send to the department all information on which the ~~((denial))~~ request 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,))~~ Labor and Industries form No. F207-005-000, Self-Insurer's Report of Occupational Injury or Disease, 7-86 (SIF-5) 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 or date temporary disability claim is closed.

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))~~.

(c) A self-insurer, upon closure of a temporary disability claim, shall issue an order on a format substantially similar to Labor and Industries form No. F207-

070-000, Self-Insured Employer's Time Loss Claim Closure Order and Notice, 7-86. The self-insurer shall send a copy of the closing order and final SIF-5 to the claimant and the department at the time of closure of a temporary disability claim.

~~((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.

(5) Self-insurers may close temporary disability claims with the date of injury occurring July 1, 1986, through June 30, 1988, and occupational disease claims filed July 1, 1986, through June 30, 1988. Self-insured claims that involve a permanent partial disability, an order issued by the department resolving a disagreement, or return to work with a different employer are not subject to closure by the self-insurer.

NEW SECTION

WAC 296-15-072 CLAIM CLOSURE STUDY. A study shall be conducted to determine if self-insured employers are administering claim closure in a proper manner. The study shall include issues involving proper payment of time loss benefits, correctness of claim closure, conditions and duration of reemployment, and correct application of the rehabilitation laws. Protests to claim closures and the outcome of these protests will also be considered. The study will be accomplished by having department disability adjudicators review self-insured temporary disability closures and compile the statistics. This staff will review documents submitted to the department and files at the employer's worksite. A form will be used to ensure consistency and objectivity in the study. The special assessment base shall be the total claim payments as defined for the administrative cost assessment in WAC 296-15-060.

NEW SECTION

WAC 296-15-255 HEARINGS FOR CORRECTIVE ACTION OR WITHDRAWAL OF CERTIFICATION. (1) This section applies only to proceedings to withdraw certification or for corrective action instituted by the director in response to a petition filed with the department pursuant to RCW 51.14.090. This section shall not apply to actions instituted by the director to

withdraw certification pursuant to RCW 51.14.080 nor to corrective action instituted by the director pursuant to RCW 51.14.095.

(2) The director is authorized to institute proceedings which may result in corrective action or decertification of a self-insured employer when there is a petition for such action by an employee or union or association having a substantial number of employees in the employ of the self-insured.

When such proceedings are instituted in response to a petition filed under RCW 51.14.090, there shall be a hearing before the director to review and determine findings pertaining to the alleged grounds for action. Any such hearing shall be conducted in accordance with the department's rules governing administrative hearings. The director will notify all parties at least twenty days prior to the date of the hearing. The notice shall include the following:

- (a) Nature of proceedings;
- (b) Legal authority for holding the hearing;
- (c) Reference to the section of statutes and rules involved;
- (d) A description of matters asserted;
- (e) The date, time, and place of the hearing.

All parties will be allowed to respond and present evidence and arguments on the issues involved.

Within thirty days of the hearing date, the department will provide written notification of the proceedings, findings, and conclusions to all hearing participants.

(3) If, following the hearing, the decision is to withdraw certification or take corrective action, such action shall comply with the provisions of RCW 51.14.090 (2) and (3) in the case of withdrawal of certification, and RCW 51.14.095 (1), (2), and (3) in the case of corrective action.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-260 CORRECTIVE ACTION OR WITHDRAWAL OF CERTIFICATION. (1) ~~((The director is authorized to institute proceedings which may result in corrective action or decertification of a self-insured employer when there is cause to believe that a self-insured employer's program is not operating in accordance with the requirements of chapter 51 RCW or when there is a petition for such action by a union or association having a substantial number of employees in the employ of the self-insured. (RCW 51.14.090.)~~

~~(2) Corrective action or decertification proceedings shall include a hearing before the director to review and determine findings pertaining to the alleged grounds for action. Any such hearing shall be conducted in accordance with the department's rules governing administrative hearings.~~

~~(3) Corrective action or decertification proceedings may be based upon:~~

- ~~(a) Grounds for decertification specified in RCW 51.14.080;~~
- ~~(b) Grounds for corrective action specified in section 2, chapter 21, Laws of 1983;~~
- ~~(c) A petition filed pursuant to RCW 51.14.090;~~

~~(4) The director will notify all parties at least twenty days prior to the date of the administrative hearing. The notice shall include the following:~~

- ~~(a) Nature of proceedings;~~
- ~~(b) Legal authority for holding the hearing;~~
- ~~(c) Reference to the section of statutes and rules involved;~~
- ~~(d) A description of matters asserted;~~
- ~~(e) The date, time and place of the hearing;~~

~~All parties will be allowed to respond and present evidence and arguments on the issues involved.~~

~~(5) Within 30 days of the hearing date, the department will provide written notification of the proceedings, findings and conclusions to all hearing participants. If the self-insurer's program is deemed to be not in compliance with chapter 51 RCW, the following orders may be issued:~~

~~(a) A notice of corrective action which shall include the nature and specifics of the findings and may include any or all of the following:~~

~~((i)) Corrective action against a self-insured employer shall be by order and notice. A notice of corrective action shall include the nature and specifics of the findings and may include, but will not be limited to, the following:~~

- ~~(a) Probationary certification status for the self-insured employer for a period not to exceed one year,~~
- ~~((ii)) (b) Mandatory training to correct areas of program deficiency to be approved by the department.~~

~~The subject matter to be covered shall be specified in the notice of corrective action. Personnel required to attend and the time period within which the training is to be conducted will also be identified.~~

~~((iii)) (c) Monitoring activities of the self-insured employer for a specified period of time to determine progress regarding correction of program deficiencies may be required. The department may require submission of complete and accurate records and/or conduct an audit to verify program compliance.~~

~~((iv)) (d) If there is a contract between the self-insured employer and a service organization which has been filed with the ((supervisor of industrial insurance)) department (WAC 296-15-110), the corrective action order may specify and require that the service organization be subject to mandatory training and monitoring of activity provisions of the order.~~

~~((v)) (e) The corrective action order shall specify a time frame for submission of progress reports to the department's self-insurance administrator.~~

~~((vi)) (f) During the first ((30)) thirty days following the corrective action order, the self-insured employer shall submit a plan for the implementation of corrective action which shall include specific completion dates. If the plan is determined to be incomplete or inadequate, the department's self-insurance administrator shall notify the self-insurer of the necessary requirements or changes needed, and shall specify the date by which an amended plan shall be submitted.~~

~~((b)) (2) If sufficient grounds for decertification exist, an order and notice will be issued. The order and notice will include, but will not be limited to:~~

((††)) (a) The findings of fact upon which the determination is based.

((††)) (b) A statement to the self-insurer specifying the means by which the program deficiencies may be corrected.

((†††)) (c) The date, not less than ((30)) thirty days after the self-insured employer's receipt of the order and notice, when certification will be withdrawn in absence of satisfactory remedial action.

((†††)) (d) Provisions as stipulated by RCW 51.14.090.

((††)) (3) Upon conclusion of the probationary certification period in the case of corrective action, or the remedial action period in the case of decertification, the program deficiencies requiring corrective action by the self-insured employer shall be evaluated by the department and a written report sent to affected parties. Program activities may be reaudited beyond the stated time period in order to assess continuing compliance with the objectives of the corrective action directives.

((††)) (4) If, at the conclusion of the probationary period or remedial action period, program deficiencies continue to exist, the department shall decide whether to extend the period of probation, require additional corrective action or proceed with decertification of the self-insured employer. An order and notice stating the decision shall be issued.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-15-21003 FORM—SIF #5—SUPPLEMENTAL OR FINAL REPORT ON OCCUPATIONAL INJURY OR DISEASE.

WSR 86-14-081

ADOPTED RULES

HOSPITAL COMMISSION

[Order 86-03, Resolution No. 86-03—Filed July 1, 1986]

Be it resolved by the Washington State Hospital Commission, acting at the Vance Airport Inn, Seattle, Washington, that it does adopt the annexed rules relating to rules for reporting hospital patient discharge information, amending chapter 261-50 WAC.

This action is taken pursuant to Notice No. WSR 86-10-046 filed with the code reviser on May 6, 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 70.39.180 and 34.04.020 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 26, 1986.

By Maurice A. Click
Executive Director

AMENDATORY SECTION (Amending Order 85-05, Resolution No. 85-05, filed 8/13/85)

✓ WAC 261-50-030 REPORTING OF UB-82 DATA SET INFORMATION. (1) Effective with all hospital patient discharges on or after July 1, 1984, hospitals shall collect and report the following UB-82 data set elements to the commission: (References to: "Lcn" means location on the UB-82 billing form; "Type" means (A)lpha, (N)umeric, or (D)ate; "Just" means justification, either (R)ight or (L)eft; "Size" means size of the field in bytes).

(a) Lcn=3 Patient Control Number Type=A Just=L Size=17

Patient's unique alpha-numeric number assigned by the hospital to facilitate retrieval of individual patient records and posting of payments. This number should be constructed to allow prompt hospital access to the patient's discharge record for data verification. Example "235198-001" or "345873."

(b) Lcn=4 Type of Bill Type=A Size=3
This three-digit code requires 1 digit each, in the following sequence form: Type of facility, Bill Classification, Frequency.

Digit #1 must be "1" to indicate a hospital.

Digit #2 must be a "1" or a "2" to indicate an inpatient.

Digit #3 must be one of the following:

- 1 - Admit through discharge claim
- 2 - Interim - first claim
- 3 - Interim - continuing claim
- 4 - Interim - last claim
- 5 - Late charge(s) only
- 6 - Adjustment of prior claim
- 7 - Replacement of prior claim
- 8 - Void/Cancel of a prior claim

Example: "111" or "114."

(c) Lcn= 7 Medicare Provider Number Type=A Just=L Size=6

This is the number assigned to the provider by Medicare. Example: "020888." Note: Dashes are excluded. On hardcopy of the UB-82 billing form, the dash may be included. Example: "02-0888."

(d) Lcn=10 Patient Identifier Type=A Just=L Size=((3†))10

This field may be developed manually and entered in location 10 on the UB-82 for hardcopy submittal (basic service hospitals). For magnetic tape or diskette submittal, programming will be required to generate the composite variable and place it in the required record layout.

(e) Lcn=11 Zipcode Type=A Just=L Size=9

Patient's zipcode. If 9 digits are used the zipcode is provided in xxxxxxxx format (no hyphen). Example: "98102" or "981023452." On hardcopy of the UB-82 billing form, this value may be indicated with a hyphen.

(f) Lcn=12 Birthdate Type=N Size=6

The patient's date of birth in MMDDYY format. Example: "062424" or "122292." Note: If the patient is over 100 years old at the date of admission, then "17"

must be the value ~~((f1)-(f2))~~ in the "Condition Code #1" field. On hardcopy of the UB-82 ~~((f1))~~ billing form, this value may be indicated in MM-DD-YY format.

(g) Lcn=13 Sex Type=A Size=1
Patient's sex in M/F format. Example: "M" or "F."

(h) Lcn=15 Admission Date Type=D Size=6
Admission Date in MMDDYY format. Example: "030284" or "120883." On hardcopy of the UB-82 billing form, this value may be indicated with hyphens. Example: "12-08-83."

(i) Lcn=17 Type of Admission Type=A Size=1
This field is filled with one of the following codes:

- 1 Emergency
- 2 Urgent
- 3 Elective
- 4 Newborn
- 5 Other

Example: "1" or "3."

(j) Lcn=18 Source of Admission Type=A Size=1
This field is completed with one of the following codes:

- 1 Physician referral
- 2 Clinic referral
- 3 HMO referral
- 4 Transfer from another hospital
- 5 Transfer from a SNF
- 6 Transfer from another HCF
- 7 Emergency room
- 8 Court/law enforcement
- 9 Other

Example "1" or "4."

(k) Lcn=21 Patient Status Type=A Size=2
Patient discharge disposition in one of the following codes:

- 01 Discharged home
- 02 Discharged to another short-term general hospital
- 03 Discharged to SNF
- 04 Discharged to an ICF
- 05 Discharged to another type institution
- 06 Discharged to home under care of HHA
- 07 Left against medical advice
- 20 Expired
- 30 Still patient

Example: ~~((f1)-(f2))~~ "01," "02" or "06."

(l) Lcn=22 Statement Covers Period Type=D Size=12

This is the beginning and ending dates for which the UB-82 covers. This should be provided in the following format: MMDDYYMMDDYY. Example: "080183081083" or "122283122583." On hardcopy of the UB-82 billing form, dashes may be included in the dates. Example: "08-01-83 08-10-83."

~~((Chapter 261-50 WAC))~~ Chapter 261-50 WAC

(m) Lcn=35 Condition Code #1 Type=A Size=2
If a patient is equal to or over 100 years old at the time of admission, the value "17" must be the value of this field.

(n) Lcn=51 Revenue Code Type=N Just=R Size=3
The Medicare required revenue code (as defined in the UB-82 Procedures Manual), which identifies a specific

accommodation, ancillary service or billing calculation. Effective January 1, 1987.

~~(o) Lcn=52 Units of Service Type=N Just=R Size=3~~
The Medicare required units of service (as defined in the UB-82 Procedures Manual) which provide a quantitative measure of services rendered by revenue category to or for the patient. Where no units of service are required by Medicare, the units of service may be those used by the hospital. Effective January 1, 1987.

~~(p) Lcn=53 Total Charges by Revenue Code Category Type=N Just=R Size=9~~
Total charges pertaining to the related revenue code. Reported in xxxxxxxx format, where the last two digits are cents and no decimal point is shown. Effective January 1, 1987.

~~(q) Lcn=53 Total Charges Type=N Just=R Size=9~~
Total Charges for Revenue Code 001 in xxxxxxxx format, where the last two digits are cents and no decimal point is shown. Example: "367287" or "1223398."
~~((The following is effective through September 30, 1985:~~

~~{(o) Lcn=57A Payer Identification #1 Type=A Just=L Size=25~~
Data should be entered in the following format "XXX xxxxxxx" where XXX is equal to one of the following entries:

- ~~001 for Medicare~~
- ~~002 for Medicaid~~
- ~~003 for self insured employers~~
- ~~004 for Group Health~~
- ~~005 for other HMO~~
- ~~006 for commercial~~
- ~~007 for county medical bureaus~~
- ~~008 for labor and industries~~
- ~~009 for self pay~~
- ~~010 = 500 for Blue Cross (See UB-82 Manual)~~

Examples: "001," or "002." Note: The first three digits of this field must be filled.]

The following changes are effective October 1, 1985:

~~(r)~~ (r) Lcn=57A Payer Identification #1 Type=A Just=L Size=~~((25))~~3

Data should be entered in the following format "XXXXXXXX..." where XXX ~~((f1))~~ equals a required 3-digit numeric identification code, and xxx equals a supporting written description (not required). The required code options include:

- 001 for Medicare
- 002 for Medicaid
- 004 for health maintenance organizations
- 006 for commercial insurance
- 008 for labor and industries
- 009 for self pay
- 610 for health care service contractors, e.g., Blue Cross, county medical bureaus, Washington Physicians Service
- 625 for other sponsored patients, e.g., CHAMPUS, Indian health
- 630 charity care, as defined in WAC 261-14-020(5)

Examples: "001," or "002." Note: The first three digits of this field must be filled.

~~((p))~~ (s) Lcn=57B Payer Identification #2 Type=A Just=L Size=~~((25))~~3

Same requirements as in Payer Identification #1. This field should only be completed when a secondary payer has been identified.

~~((q))~~ (t) Lcn=77 Principal Diagnosis Code Type=A Just=L Size=6

ICD9-CM Code describing the principal diagnosis (the condition established after study to be chiefly responsible or causing the hospitalization) that exists at time of admission. Example: "0539," or "23452." Note: Leading zeros are included and decimals are excluded.

~~((r))~~ (u) Lcn=78 Diagnosis #2 Code Type=A Just=L Size=6

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay. Example: "0539," or "23452." Note: Leading zeros are included and decimals are excluded.

~~((s))~~ (v) Lcn=79 Diagnosis #3 Code Type=A Just=L Size=6

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay. Example: "0539," or "23452." Note: Leading zeros are included and decimals are excluded.

~~((t))~~ (w) Lcn=80 Diagnosis #4 Code Type=A Just=L Size=6

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay. Example: "0539," or "23452." Note: Leading zeros are included and decimals are excluded.

~~((u))~~ (x) Lcn=81 Diagnosis #5 Code Type=A Just=L Size=6

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay. Example: "0539," or "23452." Note: Leading zeros are included and decimals are excluded.

~~((v))~~ (y) Lcn=84 Principal Procedure Code Type=A Just=L Size=5

The ICD9-CM Code that identifies the principal procedure performed during the patient admission. Example: "100" or "0101." Note: Leading zeros are included and decimals are excluded.

~~((w))~~ (z) Lcn=85 Procedure #2 Code Type=A Just=L Size=5

Secondary procedure code identifying procedures, other than the principal procedure, performed during the admission. Note: Leading zeros are included and decimals are excluded.

~~((x))~~ (aa) Lcn=86 Procedure #3 Code Type=A Just=L Size=5

Secondary procedure code identifying procedures, other than the principal procedure, performed during the admission. Note: Leading zeros are included and decimals are excluded.

~~((y))~~ Filler Type=A Size=~~55~~

~~This field may be used in the future and is included here so that the record length is compatible with microcomputer database management systems.)~~ (bb) Lcn=92 Attending Physician ID Type=A Just=L Size=22

The Medicaid assigned number of the licensed physician who would normally be expected to certify and recertify the medical necessity of the services rendered and/or who has primary responsibility for the patient's medical care and treatment. For physicians who do not have a Medicaid number assigned, the state license number should be used. Effective January 1, 1987.

(cc) Lcn=93 Other Physician ID Type=A Just=L Size=22

The Medicaid assigned number of the licensed physician who performed the principal procedure. For physicians who do not have a Medicaid number, the state license number should be used. If no principal procedure was performed, this field should be left blank. Effective January 1, 1987.

(2) The patient identifier reported pursuant to WAC 261-50-030 (1)(d) shall be composed of the last two letters of the patient's last name, the last two letters of the patient's first name, or one or two initials if no first name is available, and the patient's birthdate in MMDDYY format, i.e., 060650, and shall be entered in field 4 on the record layout and in location 10 on the UB-82 billing form. For example, John Doe, born on January 2, 1948, would be coded: OEHN010248. This data element is required for all hospital patient discharges on or after January 1, 1985. In situations where no first name or initials are available, e.g. a newborn without a first name, the last two letters of the patient's last name shall be followed by 2 blank spaces, followed by the patient's birthdate.

(3) It shall be the responsibility of each hospital to ensure that data reported pursuant to WAC 261-50-030(1) is provided for all patient discharges. Each patient discharge must carry a separate, unique patient control number on a separate UB-82 record. For example, a mother and her newborn require separate UB-82s, each with a separate, unique patient control number.

AMENDATORY SECTION (Amending Order 85-05, Resolution No. 85-05, filed 8/13/85)

✓ WAC 261-50-040 ACCEPTABLE MEDIA FOR SUBMISSION OF DATA. The following is effective through December 31, 1986. For purposes of the data collected and reported pursuant to WAC 261-50-030, hospitals may submit such data on the following media:

~~((The following is effective through September 30, 1985:~~
 (1) ~~Hardcopy of the UB-82 billing form or a form prescribed by the commission:~~

(a) ~~For all patient discharges during the period from July 1, 1984 to September 30, 1984;~~

(b) ~~For all patient discharges after September 30, 1984 from hospitals which are classified as "basic service" hospitals;~~

(2) ~~Magnetic floppy diskette (5 1/4 inch) formatted in Microsoft Disk Operating System (MS-DOS) version 2.0 and utilizing the MS-DOS back-up function;~~

(3) Magnetic tape with the following physical specifications as well as external identification setting forth such specifications;

- (a) 800, 1600, or 6250 bytes per inch;
- (b) ASCH or EBCDIC data representation codes;
- (c) Block length, if blocked;
- (d) Unlabeled;
- (e) Seven or nine track;
- (f) Hospital name and patient discharge period.]

The following changes are effective October 1, 1985)).

(1) Hardcopy of the UB-82 billing form or a form prescribed by the commission for all patient discharges from hospitals which are classified as "basic service" hospitals;

(2) Magnetic floppy diskette (5 1/4 inch) formatted in PC-DOS 2.0 or Microsoft Disk Operating System (MS-DOS) version 2.0, with a record length of 256 bytes and external identification specifying:

- (a) Hospital name;
- (b) Patient discharge period (MMDDYY to MMDDYY);
- (c) The number of 256 byte records each diskette contains.

(3) Magnetic tape with the following physical specifications as well as external identification setting forth such specifications:

- (a) 1600 bytes per inch;
- (b) EBCDIC data representation codes;
- (c) Block length 6400, (25 records of 256 bytes);
- (d) Unlabeled;
- (e) Nine track;
- (f) Hospital name;
- (g) Patient discharge period (MMDDYY to MMDDYY).

The following is effective January 1, 1987. For purposes of the data collected and reported pursuant to WAC 261-50-030, hospitals shall submit such data in such form as prescribed by the commission in the "Procedure Manual for Submitting Discharge Data".

AMENDATORY SECTION (Amending Order 85-05, Resolution No. 85-05, filed 8/13/85)

WAC 261-50-045 MAGNETIC DISKETTE AND TAPE RECORD LAYOUT. The following is effective through December 31, 1986. (1) For purposes of data submitted in accordance with WAC 261-50-040 (2) and (3), the data elements for each patient discharge record must have a logical record length of 256 characters along with the following record layout: (References to: "No" means field number for the record; "Lcn" means location on the UB-82 billing form; "Description" means description of the record field; "Type" means (A)lpha, (N)umeric, or (D)ate; "Just" means justification, either (R)ight or (L)eft; "Size" means size of the field in bytes; "Position" means position of the field on magnetic diskette or tape.)

No.	Lcn	Description	Type	Just	Size	Position
1	3	Patient Control Number	A	L	17	1-17
2	4	Type of Bill	A		3	18-20
3	7	Medicare Provider Number	A	L	6	21-26
4	10	Patient Identifier	A	L	31	27-57

No.	Lcn	Description	Type	Just	Size	Position
5	11	Zipcode	A	L	9	58-66
6	12	Birthdate	N		6	67-72
7	13	Sex	A		1	73-73
8	15	Admission Date	D		6	74-79
9	17	Type of Admission	A		1	80-80
10	18	Source of Admission	A		1	81-81
11	21	Patient Status	A		2	82-83
12	22	Statement Covers Period	N		12	84-95
13	35	Condition Code #1	A		2	96-97
14	53	Total Charges	N	R	9	98-106
15	57A	Payer Identification #1	A	L	25	107-131
16	57B	Payer Identification #2	A	L	25	132-156
17	77	Principal Diagnosis Code	A	L	6	157-162
18	78	Diagnosis #2 Code	A	L	6	163-168
19	79	Diagnosis #3 Code	A	L	6	169-174
20	80	Diagnosis #4 Code	A	L	6	175-180
21	81	Diagnosis #5 Code	A	L	6	181-186
22	84	Principal Procedure Code	A	L	5	187-191
23	85	Procedure #2 Code	A	L	5	192-196
24	86	Procedure #3 Code	A	L	5	197-201
25		Filler	A		22	202-256

(2) Any group of six or more hospitals, or any group of hospitals which in the aggregate have more than 30,000 patient discharges per year (determined on the basis of each hospital's commission-approved budget in effect as of July 1, 1984), may in writing request a waiver from the commission to the required record layout of WAC 261-50-045(1) providing such hospitals have a common alternative record layout with the required data set elements set forth in WAC 261-50-030.

AMENDATORY SECTION (Amending Order 85-05, Resolution No. 85-05, filed 8/13/85)

WAC 261-50-090 PENALTIES FOR VIOLATION. RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform any act which that chapter makes it his/her duty to perform shall be guilty of misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation. Failure to file the information required by WAC 261-50-030, 261-50-040, 261-50-045 and 261-50-065 shall constitute a violation, and the commission may levy a civil penalty not to exceed one hundred dollars per day for each day following official notice of violation by the commission. The executive director of the commission may grant extensions of time to file the information, in which cases failure to file the information shall not constitute a violation until the extension period has expired.

**WSR 86-14-082
EMERGENCY RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)**

[Order 254—Filed July 1, 1986]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin,

Olympia, WA 98507-1789, that it does adopt the annexed rules relating to Career executive program—Appointment status, amending WAC 356-47-046.

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 changes to chapter 356-47 WAC were adopted at the May 1986, Personnel Board meeting with an effective date of July 1, 1986; some changes were inadvertently overlooked; therefore, the appropriate changes were adopted on an emergency basis to be effective July 1, 1986, to coincide with the effective date of the other changes.

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 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED June 12, 1986.

By Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 250, filed 5/30/86, effective 7/1/86)

WAC 356-47-046 CAREER EXECUTIVE PROGRAM—APPOINTMENT STATUS. (1) Employees without permanent status shall serve a twelve-month probationary period once appointed to classified career executive positions. Persons appointed prior to July 1, 1986, shall serve an eighteen-month probationary period.

(2) Permanent employees receiving a promotional appointment to classified career executive positions shall serve a twelve-month trial service period. Employees appointed prior to July 1, 1986, shall serve a six-month trial service period.

(3) Employees who successfully complete probationary or trial service periods in the classified career executive positions to which they are appointed shall attain permanent status in that classification, unless the appointment was made under the provisions of subsection (4) of this section.

(4) The employee shall not attain permanent status in the class to which the position is allocated if so advised in writing by the appointing authority at the time of appointment. Employees with permanent status within classified service shall have return rights from career executive program positions as specified in WAC 356-47-065.

WSR 86-14-083

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1893—Filed July 1, 1986]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rule relating to grain fees, chapter 16-212 WAC.

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 an immediate increase in the fee for submitted sample inspection is necessary to defray the cost of additional certificate information needed by the grain industry and brought about by proposed federal changes in dockage certification rules. Rapeseed inspection fees are needed to provide for official and state inspection of rapeseed for the 1986 crop. All changes are to provide for recovery of costs for 1986 harvest samples.

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

This rule is promulgated pursuant to chapter 22.09 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED July 1, 1986.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1836, filed 7/2/84)

WAC 16-212-030 GENERAL PROVISIONS FOR HOURLY CHARGES.

(1) Straight time, rate per hour \$ 23.00
This hourly rate shall be applied on any job where the fee is not sufficient to provide revenue of \$23.00 per hour, per employee, and where no other hourly rate or fee is specified in the schedule of fees and charges. Whenever the lot size or workload is not of sufficient size to generate \$23.00 per hour, per employee, an additional fee shall be assessed so that total revenue generated is equal to the \$23.00 rate; PROVIDED, That such revenue insufficiency may be established on the basis of the average hourly revenue generated at the worksite over the Monday through Sunday work week, upon written request of the applicant for service. In the absence of such request, fees shall be assessed on a daily basis.

(2) Overtime, and night shift rate per hour \$ 6.00

Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of

\$6.00 per hour, per employee, shall be charged in addition to the regular inspection and weighing fees.

(a) Requests for service on Saturdays, Sundays, or holidays, or for work shifts other than 8:00 a.m. to 5:00 p.m., Monday through Friday, must be received by the inspection office no later than ((2:00)) 4:00 p.m. of the last regularly scheduled working day prior to the requested service. When the request is not received by ((2:00)) 4:00 p.m., service will be provided where personnel are available, but an additional fee of \$4.00 per hour, per employee, will be assessed for that shift.

(b) Requests for service which is beyond the scope or volume normally provided at an inspection site must be received by the inspection office no later than ((2:00)) 4:00 p.m. of the last regularly scheduled working day prior to the date of the requested service in order for the department to guarantee to have adequate staff available to perform the service.

(c) Whenever an employee is called from home after regular working hours, or on a Saturday, Sunday or holiday, a minimum of two additional hours shall be charged at the rate of \$10.00 per hour and added to other fees charged.

(d) Scheduled night shifts.

At all designated inspection points, for night shifts, Monday through Friday (usually from 6:00 p.m. to 3:00 a.m.) that are, or will be, continuous for a period of one month or longer, with only an occasional work stoppage, additional overtime fees per hour will not apply(~~(-PROVIDED, That the workload is sufficient in size so that inspection and weighing fees generated that shift will defray the department's cost of \$23.00 per hour, per employee. If not, an additional charge shall be assessed to equal \$23.00 per hour, per employee).~~)).

(i) The department shall be given at least seven calendar days notice, in writing, to establish a scheduled night shift. If notice is not given, a fee of \$6.00 per hour, per employee, shall be assessed until the seven day notice period has elapsed.

(ii) The department shall be given at least twenty-one calendar days' notice, in writing, of cancellation of any scheduled night shift operation. If such notice is not given, a fee of \$6.00 per hour, per employee, shall be assessed for each hour under the regular night shift schedule that would have been worked until the twenty-one day notice period has elapsed.

(3) Standby rate per hour \$ 25.00
Whenever a service is requested before or after working hours, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, a minimum of four hours at the standby rate of \$25.00 per hour, per employee, shall be charged. Whenever a service is requested before or after working hours or anytime on a Saturday, Sunday or holiday, and a cancellation of such request is not received by ((2:00)) 4:00 p.m. of the last regularly scheduled working day prior to the requested service, the four hour standby charge shall be applied.

(4) Guarantee of expense. When a service is requested that requires assignment of personnel at a facility where the volume of work at the established fees may not be adequate to pay the cost of providing the service, a

guarantee of the expense of providing the service may be required. These facilities may enter into agreement with the department at guaranteed staffing levels and negotiated minimum hours and unit fees.

AMENDATORY SECTION (Amending Order 1836, filed 7/2/84)

WAC 16-212-060 OFFICIAL INSPECTION AND/OR WEIGHING FEES UNDER THE UNITED STATES GRAIN STANDARDS ACT.

(1) Combination inspection and weighing fees. Ships, barges, unit trains and transfers of bulk grain.

- (a) From vessel to elevator, per ton \$ 0.12
- (b) Bin transfers, per ton \$ 0.12
- (c) From elevator to vessel, per ton \$ 0.12
- (d) From railcars of a unit train, sampled by diverter samplers, batch weighed and inspected under the subplot inspection plan in units of not less than five cars, per ton \$ 0.12

(2) Inspection only of railroad boxcars, open hopper-type cars or covered hopper-type cars, original inspection.

(a) When sampled by United States department of agriculture approved mechanical belt, spout or leg type samplers at plants, per car \$ 14.50

(b) When sampled by United States department of agriculture approved grain trier, original and subsequent original inspections, per car \$ 23.00

(3) Inspection only of trucks, per truck \$ 14.00

(4) Reinspections of railroad boxcars, open hopper-type cars, covered hopper-type cars, ship subplot samples, barge lots, truck lots, and submitted samples.

(a) When based on an official file sample, per reinspection \$ 8.50

(b) When based on a new sample, for railcars only, per reinspection \$ 23.00

(c) When based on a new sample, for trucks only, per reinspection \$ 14.00

(5) Submitted samples, per inspection \$ ((6:25)) 7.00

(6) Factor analysis and/or certification.

(a) Factors added to existing certificates, or requested on ship subplot analyses, that do not affect the grade((:)); per factor \$ 2.50

PROVIDED, That on submitted sample certificates of grade for wheat, dockage to the nearest one-tenth percent will be shown in remarks section and foreign material shown on the factor line, when it is not a grading factor, without additional charge.

(b) Factor certification only (maximum of two factors), per certificate \$ 3.00

(i) Additional factors added to a factor certificate, per factor \$ 2.50
(A maximum of \$6.25 will be charged for grading factors only.)

(ii) When submitted samples are not of sufficient size to provide official grade analysis, obtainable factors will be provided, upon request of the applicant, at the factor only rate.

- (7) Official (NIR) protein analysis.
 - (a) Protein in conjunction with official inspection for grade \$ 6.25
 - (b) Protein only, submitted sample or re-inspection \$ 8.50
 - (c) Protein based on official sample, add applicable sampling charges.
 - (8) Inspection of sacked grain at inspection points, per cwt \$ 0.06
 - (9) Checkloading sacked grain, per manhour \$ 23.00
 - (10) Waxy corn determination, on request, per determination \$ 12.00
 - (11) Stowage examinations – ships, barges or vessels.
 - (a) Per stowage space and/or tank, per examination \$ 22.50
 - (b) Initial inspection, minimum charge \$112.00
 - (c) Subsequent inspections, minimum charge \$ 67.50
 - (d) Stowage examinations will be made on ships or vessels at anchor in midstream when requested.
 - (i) It is the responsibility of the applicant to provide safe transportation by licensed tug or water taxi to and from the vessel.
 - (ii) A minimum of two hours of regular time at \$23.00 per hour (one inspector) for general cargo vessels and a minimum of four hours of regular time at \$23.00 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.
 - (iii) Inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.
 - (iv) Inspections can only be made within the area of the designated tidewater grain inspection office.
 - (v) A ship's or vessel's officer or company agent shall accompany the licensed shiphold inspector(s).
 - (e) A minimum of four hours per inspector at the applicable overtime rate shall also be assessed on Saturdays, Sundays, or holidays.
 - (12) Other stowage examinations.
 - (a) Sea van-type containers (when check-loading is not required) \$ 7.60
 - (b) Railroad cars, trucks and other containers, not in conjunction with loading, per container \$ 7.60
 - (13) Checktesting of diverter and mechanical samplers, per manhour \$ 23.00
 - (14) Ship samples.
 - (a) Ship composite samples.
 - (i) Initial set of samples to applicant (maximum of three samples) no charge
 - (ii) Additional samples or samples at the request of other interested parties, per sample (two sample minimum when not requested with initial set) \$ 5.00
 - (b) Ship samples on a subplot basis, per sample \$ 5.00
 - (15) Weighing services.
 - (a) Class X weighing services.

- (i) From railroad boxcars, open or covered hopper-type cars (without inspection required) or vessels to elevator (grain only), per ton \$ 0.10
- (ii) From elevator to boxcars, open or covered hopper-type cars, barges (without inspection required) or vessels (without inspection, grain only), per ton \$ 0.10
- (iii) Bin transfers (grain only), per ton \$ 0.10
- (iv) Trucks, per truck or weight lot \$ 7.00
- (b) Class Y weighing services, per manhour \$ 23.00
- (c) Checkweighing of sacked grain, per manhour \$ 23.00
- (d) Scale certification/checktesting of official weighing scales.
 - (i) Weights and measures scale specialist, per manhour \$ 31.50
 - (ii) Grain inspection personnel, per manhour \$ 23.00

AMENDATORY SECTION (Amending Order 1836, filed 7/2/84)

WAC 16-212-070 OFFICIAL SERVICES UNDER THE AGRICULTURAL MARKETING ACT OF 1946.

- (1) Hay inspection.
 - (a) Complete inspection (minimum charge \$30.00), per ton \$ 1.00
 - (b) Factor inspection (minimum charge \$20.00), per ton \$ 1.00
 - (c) Submitted sample inspection, per sample \$ 5.00
- (2) Inspection of beans, dry peas, lentils, and similar commodities.
 - (a) Inspection of bagged commodities at inspection points, per cwt \$ 0.06
 - (b) Bulk commodity inspection at inspection points, per ton \$ 0.28
 - (c) Minimum charge for bulk or bagged commodities (one hour) \$ 23.00
 - (d) Submitted sample inspection, per sample \$ 13.00
- (3) Weighing and combination inspection/weighing services for bulk commodities.
 - (a) Weighing only, other than grain, per ton \$ 0.11
 - (b) Combination inspection/weighing of bulk commodities under federal grade standards, state standards, or for factor determinations, per ton \$ 0.12
 - (c) Weigh grain by-products into portable containers including fitness examination of the container, weigh and sample the by-product (thirty ton maximum) \$ 14.00
- (4) Factor analysis.
 - (a) Moisture only \$ 5.00
 - (b) Additional factors, the determination of which are not required to establish grade, or otherwise not required by regulation, added to an existing certificate, per factor . . . \$ 2.50

- (c) Certification, factor only (maximum two factors), per certificate \$ 3.00
- (d) Additional factors added to a factor certificate, per factor \$ 2.50
(A maximum of \$13.00 will be charged for grading factors only.)
- (e) Analysis of rapeseed under official criteria, per certificate, \$ 13.00
- (5) Sampling only, bulk commodities.
- (a) Trucks or containers, per carrier \$ 14.00
- (b) Boxcars, open or covered hopper-type cars, per car \$ 23.00
- (6) Processed commodity and defense personnel support center (DPSC) inspection fees.
- (a) Per manhour, two hour minimum, rate per hour \$ 23.00
- (b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the federal grain inspection service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.
- (7) Sanitation inspections.
- (a) Initial inspection no charge
- (b) Reinspections, four hour minimum, per manhour \$ 23.00
- (8) Stowage examinations under the Agricultural Marketing Act.
- (a) Ships and vessels.
- (i) Initial inspection, basic fee \$150.00
- (ii) Subsequent inspections, basic fee \$100.00
- (iii) In addition to the basic fee, there shall be levied a fee of \$23.00 per hour, per inspector.
- (iv) These inspections shall be subject to the same restrictions and conditions as ship stowage examinations under the United States Grain Standards Act, as per WAC 16-212-060 (11)(d)(i) through (iv).
- (b) Other stowage examinations shall be at the rate prescribed for containers listed in WAC 16-212-060(12).
- (9) Aflatoxin testing fees.
- (a) Black light and/or minicolumn determinations, per hour, per inspector \$ 23.00
- (b) Minicolumn determination, per test \$ 15.60
- (c) Thin layer chromatography fees and/or minicolumn fees, if applicable, will be assessed for laboratory analyses identical with the amount charged by the federal grain inspection service for that test.
- (10) Falling numbers determinations, per determination \$ 12.00

AMENDATORY SECTION (Amending Order 1836, filed 7/2/84)

WAC 16-212-082 FEES FOR SERVICES PERFORMED UNDER STATE REGULATION. (1) Inspection of cultivated buckwheat and safflower under Washington state standards shall be at the rate applicable for the same type of sample under the fees for services under the United States Grain Standards Act. The

fees for rapeseed inspection shall be at the rate applicable for the same type of sample under the fees for services under the Agricultural Marketing Act of 1946.

(2) Cracked corn, corn screenings, and mixed grain screenings shall be inspected and/or weighed under the tonnage rate applicable for standardized grains as per WAC 16-212-060.

(3) Unofficial (NIR) protein analysis (barley, mixed grain, etc.), per determination \$ 6.25

(4) Set of ten protein reference samples (one class) standardized with the state monitoring machine, per set \$ 25.00

(5) Unofficial (NIR) oil determination for sunflower seed, per determination \$ 12.00

WSR 86-14-084
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 86-56—Filed July 1, 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 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 sturgeon are available.

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

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

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

APPROVED AND ADOPTED July 1, 1986.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-36-02100Y GRAYS HARBOR GILL-NET SEASON. Notwithstanding the provisions of WAC 220-36-021, 220-36-022, and 220-36-024, effective immediately it is unlawful to fish for or possess salmon taken for commercial purposes with gill net gear from Grays Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

(1) Area 2B - Open continuously from 6:00 p.m. July 6 to 6:00 p.m. July 21, 1986.

(2) Area 2B east of a line drawn true north-south through lighted piling number 16 on Whitcomb Flats -

Open continuously from 6:00 p.m. July 21 to 6:00 p.m. August 15, 1986.

(3) Areas 2C and 2D – Open continuously from 6:00 p.m. July 6 to 6:00 p.m. August 15, 1986.

(4) Lawful gear is limited to 9 inch minimum mesh and 1,500 feet maximum length.

NEW SECTION

WAC 220-40-02100G WILLAPA HARBOR GILLNET SEASON. Notwithstanding the provisions of WAC 220-40-021, 220-40-022, and 220-40-024, effective immediately it is unlawful to fish for or possess salmon taken with gill net gear for commercial purposes from Willapa Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

(1) Area 2G is open continuously in those waters east of a line from Toke Point to Goose Point and south of a line from Leadbetter Point to Goose Point from 6:00 p.m. July 6 to 6:00 p.m. August 15, 1986.

(2) Areas 2J and 2K are open continuously from 6:00 p.m. July 6 to 6:00 p.m. August 15, 1986.

(3) Area 2M is open continuously from 6:00 p.m. July 6 to 6:00 p.m. August 15, 1986.

(4) Lawful gear is limited to 9 inch minimum mesh, maximum length 1,500 feet.

WSR 86-14-085

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Practical Nursing)

[Filed July 1, 1986]

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

Amd WAC 308-117-025 Standards of conduct for discipline for licensed practical nurses.

Amd WAC 308-117-100 Renewal of licenses;

that the agency will at 10:00 a.m., Thursday, August 21, 1986, in the Des Moines City Hall, Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198, 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 18.78.050, 18.130.050 (1) and (12) and sections 19, 128 and 131, chapter 259, Laws of 1986, SHB 131.

The specific statute these rules are intended to implement is RCW 18.78.050, 18.130.050 (1) and (12) and sections 19, 128 and 131, chapter 259, Laws of 1986, SHB 131.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 21, 1986.

Dated: June 27, 1986

By: Ruth Jacobson
Executive Secretary
or Constance Roth
Program Manager

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Practical Nursing.

Purpose: WAC 308-117-025, to readopt and amend standards of conduct for licensed practical nurses as a result of the Uniform Disciplinary Act, chapter 18.130 RCW and SHB 131, chapter 259, Laws of 1986, becoming applicable to the board; and 308-117-100, to make a change and change a reference consistent with the Uniform Disciplinary Act.

Summary: WAC 308-117-025 contains standards of conduct that serve as guidelines for licensed practical nurses. Violation of these standards may be grounds for action with regard to practice as a licensed practical nurse in the state of Washington. The amendments do not change the substantive provisions of this rule; and 308-117-100 relates to license renewal and the amendments relate to a deletion of a reference to back fees and to amend a statutory reference that has been repealed.

Statutory Authority: RCW 18.78.050, 18.130.050 (1) and (12) and sections 19, 128 and 131, chapter 259, Laws of 1986, SHB 131.

Reason Proposed: To take into consideration the applicability of the Uniform Disciplinary Act and to reaffirm the board's continuing support and maintenance, in particular, of the standards of conduct.

Responsible Departmental Personnel: In addition to the members of the Washington State Board of Practical Nursing, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Constance Roth, Board of Practical Nursing, Division of Professional Programs Management, P.O. Box 9649, Olympia, Washington 98504, phone (206) 753-3726 comm, (206) 234-3726 scan.

Proponents: Washington State Board of Practical Nursing.

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

AMENDATORY SECTION (Amending Order PL 574, filed 12/18/85)

WAC 308-117-025 STANDARDS OF CONDUCT FOR DISCIPLINE FOR LICENSED PRACTICAL NURSES. The standards of conduct for discipline (~~with~~) serve as guidelines for the licensed practical nurse (~~as to what is considered to be good licensed practical nurse practice~~). Violation of these standards may be grounds for disciplinary action (~~with regard to the license to practice practical nursing~~) pursuant to RCW (~~(+8-78-135(9))~~) 18.130.180(7). (~~Each individual, upon entering~~) The (~~practice of~~) licensed practical (~~nursing~~) nurse assumes a measure of responsibility (~~and~~), trust and the corresponding obligation to adhere to the standards of conduct, which include, but are not limited to the following:

(1) The licensed practical nurse, functioning under the direction and supervision of other licensed health care professionals as provided in RCW 18.78.010(5), shall be responsible and accountable for his or her own nursing judgments, actions and competence.

(2) The licensed practical nurse shall practice practical nursing in the state of Washington only with a current Washington license.

(3) The licensed practical nurse shall not permit his or her license to be used by another person for any purpose.

(4) The licensed practical nurse shall have knowledge of the statutes and rules governing licensed practical nurse practice and shall function within the legal scope of licensed practical nurse practice.

(5) The licensed practical nurse shall not aid, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of licensed practical nursing.

(6) The licensed practical nurse shall not disclose the contents of any licensing examination or solicit, accept or compile information regarding the contents of any examination before, during or after its administration.

(7) The licensed practical nurse shall delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities, and shall not delegate to unlicensed persons those functions that are to be performed only by licensed nurses.

(8) The licensed practical nurse, in delegating functions, shall supervise the persons to whom the functions have been delegated.

(9) The licensed practical nurse shall act to safeguard clients from unsafe practices or conditions, abusive acts, and neglect.

(10) The licensed practical nurse shall report unsafe acts and practices, unsafe practice conditions, and illegal acts to the appropriate supervisory personnel or to the appropriate state disciplinary board.

(11) The licensed practical nurse shall respect the client's privacy by protecting confidential information, unless required by law to disclose such information.

(12) The licensed practical nurse shall make accurate, intelligible entries into records required by law, employment or customary practice of nursing, and shall not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into client's records or employer or employee records.

(13) The licensed practical nurse shall not sign any record attesting to the wastage of controlled substances unless the wastage was personally witnessed.

(14) The licensed practical nurse shall observe and record the conditions of a client, and report significant changes to appropriate persons.

(15) The licensed practical nurse may withhold or modify client care which has been authorized by an appropriate health care provider, only after receiving directions from an appropriate person, unless in a life threatening situation.

(16) The licensed practical nurse shall leave a nursing assignment only after properly reporting to and notifying appropriate persons and shall not abandon clients.

(17) The licensed practical nurse shall not misrepresent his or her education and ability to perform nursing procedures safely.

(18) The licensed practical nurse shall respect the property of the client and employer and shall not take equipment, materials, property or drugs for his or her own use or benefit nor shall the licensed practical nurse solicit or borrow money, materials or property from clients.

(19) The licensed practical nurse shall not obtain, possess, distribute or administer legend drugs or controlled substances to any person, including self, except as directed by a person authorized by law to prescribe drugs.

(20) The licensed practical nurse shall not practice nursing while affected by alcohol or drugs, or by a mental, physical or emotional condition to the extent that there is an undue risk that he or she, as a licensed practical nurse, would cause harm to him or herself or other persons.

(21) It is inconsistent ~~((with good))~~ for a licensed practical ~~((nursing practice))~~ nurse to perform functions below the minimum standards of competency as expressed in WAC 308-117-400.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-100 RENEWAL OF LICENSES. (1) Individuals making applications for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their next birth anniversary date.

(2) Individuals making application for initial license with the state of Washington under the interstate endorsement regulations, provided they meet all such requirements, will be issued a license, to expire on their next birth anniversary date.

(3) Issuance of license - Licensed practical nurses who complete the renewal application accurately, are practicing nursing in compliance with the law, and pay the renewal fee shall be issued a license to practice. Should the licensee fail to renew his or her license prior to the expiration date, the individual is subject to the penalty fee ~~((and all back fees))~~ as stated in RCW 18.78.090.

(4) Illegal practice - Any person practicing as a licensed practical nurse during the time that his/her license has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violators under the provisions of RCW ~~((18-78-170))~~ 18.130.190.

WSR 86-14-086

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Order PM 603—Filed July 1, 1986]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 308-11-140, a new section that details the surety bond or security requirements for auctioneers and auction companies; and 308-11-050 is to be repealed.

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 SSB 4779, which contains amendments to chapter 18.11 RCW becomes effective on July 1, 1986. Section 8 of SSB 4779 requires the director of the Department of Licensing to establish rules for the procedures regarding surety bonds or other securities. It is also necessary to repeal existing rules affecting this area.

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

This rule is promulgated pursuant to SSB 4779, new section 8, chapter 324, 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 June 26, 1986.

By Theresa Anna Aragon
Director

WAC 308-11-140 SURETY BOND OR OTHER SECURITY REQUIRED. (1) *An auctioneer license shall not be issued unless the applicant has first filed an approved surety bond, or other security in lieu of the bond, in an amount of five thousand dollars with the department.*

(2)(a) *Each applicant for an auction company license shall, at the time of applying for a license, file with the director an approved surety bond, or other security in lieu of the bond, in an amount based on the value of the goods and real estate sold at auctions conducted, supervised, arranged, sponsored or managed by the auction company during the previous calendar year. For a new auction company, the amount of bond or other security shall be based on the estimated value of the goods and real estate to be sold at auctions during the next calendar year.*

(b) The amount of bond or security required of an auction company shall be based on the value of the sales as shown on the following scale:

SALES	BOND/SECURITY AMOUNT
\$ 0.00 to \$ 25,000.00	\$ 5,000.00
\$ 25,000.01 to \$ 49,999.99	\$10,000.00
\$ 50,000.00 to \$ 99,999.99	\$15,000.00
\$ 100,000.00 to \$499,999.99	\$20,000.00
\$ 500,000.00 & Above	\$25,000.00

(c) The department shall provide a financial certification affidavit form to all licensed auction companies by December 31 of each year. Auction companies shall complete and return the form by April 15. The information reported will form the basis for the department's approval of the auction company's bond or security amount each year. A company whose sales increases have placed it in a higher category in the above scale will be required to increase its security bond or security amount accordingly, and file the increased bond or proof of security with the department before April 15 accompanied with the financial certification affidavit form. A company whose sales have decreased may adjust its bond or security amount in accordance with the scale. New license applicants will be provided financial certification affidavit forms and instructions for estimating the value of goods and real estate to be sold.

(3) A bond filed with the department for approval must be executed by the person seeking the license as principal and by a corporate surety licensed to do business in Washington State; be payable to the state; expressly provided that it is to remain in effect for one year after expiration, revocation, or suspension of the license; and expressly provided that if the principal shall comply with all the provisions of the Auctioneer Registration Act, Chapter 324, Laws of 1986, and with all the rules and regulations adopted by the director of the department of licensing pursuant to the provisions of the Act, including payment of any administrative fines assessed against the license, then the obligation shall be null and void, otherwise to remain in full force and effect.

(4) The bond required by this section shall remain in effect one year after expiration, revocation, or suspension of the license. Security in lieu of the bond shall be returned to the (former) licensee at the expiration of one year after the license has expired or been revoked if no legal action has been instituted against the licensee or on the security at the expiration of said one year.

(5)(a) All conditions, obligations and remedies relating to the surety bond shall apply to other security filed with the director in lieu of the surety bond.

(b) The bond or other security must be maintained in an inactive status at all times during the period of licensure.

REPEALER

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

WAC 308-11-050 SURETY BOND OR TRUST ACCOUNT REQUIRED

WSR 86-14-087
EMERGENCY RULES
DEPARTMENT OF LICENSING
(Securities Division)
 [Order SDO-81-86—Filed July 1, 1986]

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

- Amd WAC 460-44A-500 Preliminary notes.
- Amd WAC 460-44A-501 Definitions and terms.
- Amd WAC 460-44A-502 General conditions to be met.
- Amd WAC 460-44A-503 Filing of notice of payment of fee prior to offering.
- New WAC 460-44A-505 Uniform offering exemption for limited offers and sales of securities not exceeding \$5,000,000.

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 section 3 of SHB 205 enacted in the regular session of the 1986 legislature declares the adoption of a uniform offering exemption to promote capital formation an emergency.

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

WAC 460-44A-500, 460-44A-501, 460-44A-502 and 460-44A-503 are promulgated pursuant to RCW 21.20.320 (1) and (17) and are intended to administratively implement those statutes and RCW 21.20.450 which directs that the director of the Department of Licensing has the authority to implement the provisions of chapter 21.20 RCW. WAC 460-44A-505 is promulgated pursuant to RCW 21.20.320(17) and 21.20.340(11) and is intended to administratively implement those statutes and RCW 21.20.450 which directs that the director of the Department of Licensing has the authority to implement the provisions of chapter 21.20 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 July 1, 1986.

By Theresa Anna Aragon
 Director

AMENDATORY SECTION (Amending Order SDO-98-82, filed 10/15/82)

WAC 460-44A-500 PRELIMINARY NOTES.
 (1) The rules of WAC 460-44A-501 through 460-44A-506 relate to transactions exempted from the registration requirements of the Federal Securities Act of 1933 and RCW 21.20.140. WAC 460-44A-505 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 505. WAC 460-44A-506 is an exemption from registration for offerings exempted under Securities and Exchange Commission

Rule 506. Such transactions are not exempt from the anti-fraud, civil liability, or other provisions of the securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under these rules, in light of the circumstances under which it is furnished, not misleading.

(2) Attempted compliance with the rules in WAC 460-44A-501 through 460-44A-506 does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption.

(3) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(4) In any proceeding involving the rules in WAC 460-44A-501 through 460-44A-506, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(5) The effective date of rules WAC 460-44A-501 ((through)), 460-44A-502, 460-44A-503, and 460-44A-506 is May 25, 1982. Existing rules WAC 460-44A-010 through 460-44A-045 will be repealed on the adoption and effectiveness of the permanent rules WAC 460-44A-501 ((through)), 460-44A-502, 460-44A-503, and 460-44A-506; no filings for exemption under rules WAC 460-44A-010 through 460-44A-045 will be accepted after repeal. For those offerings made in compliance with WAC 460-44A-010 through 460-44A-045 which commence or commenced prior to the date of repeal and which continue past the date of repeal, no registration is required if the offering terminates before June 30, 1983.

AMENDATORY SECTION (Amending Order SDO-98-82, filed 10/15/82)

WAC 460-44A-501 DEFINITIONS AND TERMS. As used in rules WAC 460-44A-501 through 460-44A-506, the following terms shall have the meaning indicated:

(1) "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(a) Any bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; insurance company as defined in section 2(13) of the Securities Act of 1933; investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that act; small business investment company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act which is either a bank, insurance company, or

registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000;

(b) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(c) Any organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of \$5,000,000;

(d) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(e) Any person who purchases at least \$150,000 of the securities being offered, where the purchaser's total purchase price does not exceed 20 percent of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following: (i) Cash, (ii) securities for which market quotations are readily available, (iii) an unconditional obligation to pay cash or securities for which market quotations are readily available which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (iv) the cancellation of any indebtedness owed by the issuer to the purchaser;

Note: The Washington state securities administrator's interpretation of (e) of this subsection varies from that of the Securities and Exchange Commission. For the purpose of sales in this state, the net worth of the general partners in an investment partnership may not be aggregated in determining whether the partnership is an accredited investor.

(f) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000;

(g) Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years and who reasonably expects an income in excess of \$200,000 in the current year; and

(h) Any entity in which all of the equity owners are accredited investors under WAC 460-44A-501 (1)(a), (b), (c), (d), (f), or (g);

(2) "Affiliate" an "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified;

(3) "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration received by an issuer for issuance of its securities. Where securities are being offered for both cash and noncash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard;

(4) "Business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Securities Act of 1933 and any transaction involving the acquisition by one issuer, in exchange for

all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition);

(5) "Calculation of number of purchasers." For purposes of calculating the number of purchasers under WAC 460-44A-505 and 460-44A-506((f2)) the following shall apply:

(a) The following purchasers shall be excluded:

(i) Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(ii) Any trust or estate in which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(iii) Any corporation or other organization of which a purchaser and any of the persons related to him as specified in WAC 460-44A-501 (5)(a)(i) or (iii) collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(iv) Any accredited investor.

(b) A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under WAC 460-44A-501 (1)(h), then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of WAC 460-44A-501 through 460-44A-506.

Note: The issuer must satisfy all the other provisions of WAC 460-44A-501 through 460-44A-506 for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker-dealer shall be considered the "purchasers" under WAC 460-44A-501 through 460-44A-506 regardless of the amount of discretion given to the investment adviser or broker-dealer to act on behalf of the client or customer.

(6) "Executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy making functions for the issuer.

(7) "Issuer" as defined in Section 2(4) of the Securities Act of 1933 or RCW 21.20.005(7) shall apply, except that in the case of a proceeding under the Federal Bankruptcy Code (11 U.S.C. 101 et seq.), the trustee or debtor in possession shall be considered the issuer in an offering under a plan or reorganization, if the securities are to be issued under the plan.

(8) "Purchaser representative" shall mean any person who satisfies all of the following conditions or who the

issuer reasonably believes satisfies all of the following conditions:

(a) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the purchaser is:

(i) A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;

(ii) A trust or estate in which the purchaser representative and any person related to him as specified in WAC 460-44A-501 (8)(a)(i) or (iii) collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or

(iii) A corporation or other organization of which the purchaser representative and any persons related to him as specified in WAC 460-44A-501 (8)(a)(i) or (ii) collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests;

(b) Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;

(c) Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and

(d) Discloses to the purchaser in writing prior to the acknowledgment specified in WAC 460-44A-501 (8)(c) any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1: A person acting as a purchaser representative should consider the applicability of the registration and antifraud provisions relating to broker-dealers under chapter 21.20 RCW and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended) and relating to investment advisers under chapter 21.20 RCW and the Investment Advisers Act of 1940.

Note 2: The acknowledgment required by paragraph (8)(c) and the disclosure required by paragraph (8)(d) of this WAC 460-44A-501 must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements," is not sufficient.

Note 3: Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer of its affiliates does not relieve the purchaser representative of his obligation to act in the best interest of the purchaser.

AMENDATORY SECTION (Amending Order SDO-98-82, filed 10/15/82)

WAC 460-44A-502 GENERAL CONDITIONS TO BE MET. The following conditions shall be applicable to offers and sales made under WAC 460-44A-505 or 460-44A-506:

(1) "~~((Intergration))~~ Integration." All sales that are part of the same offering under these rules must meet all of the terms and conditions of these rules. Offers and sales that are made more than six months before the start of an offering or are made more than six months after completion of an offering, will not be considered part of that offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under these rules, other than those offers or sales of securities under an employee benefit plan.

Note: The term "offering" is not defined in the securities acts. If the issuer offers or sells securities for which the safe harbor rule in WAC 460-44A-502(1) is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e. are considered "integrated") depends on the particular facts and circumstances.

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under these rules:

- (a) Whether the sales are part of a single plan of financing;
- (b) Whether the sales involve issuance of the same class of securities;
- (c) Whether the sales have been made at or about the same time;
- (d) Whether the same type of consideration is received; and
- (e) Whether the sales are made for the same general purpose.

See Securities and Exchange Commission Release No. 33-4552 (November 6, 1962).

(2) Information requirements.

(a) When information must be furnished.

(i) If the issuer sells securities only to accredited investors, WAC 460-44A-502(2) does not require that specific information be furnished to purchasers.

(ii) If the issuer sells securities under WAC 460-44A-505 or 460-44A-506 to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in WAC 460-44A-502 (2)(b) to all purchasers during the course of the offering and prior to sale.

(b) Type of information to be furnished.

(i) If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934, the issuer shall furnish the following information to the extent material to an understanding of the issuer, its business, and the securities being offered:

(A) Offerings up to \$5,000,000. The same kind of information as would be required in Part I of Form S-18 under the Securities Act of 1933, except that only the financial statements for the issuer's most recent fiscal

year must be certified by an independent public or certified accountant. If Form S-18 is not available to an issuer, then the issuer shall furnish the same kind of information as would be required in Part I of a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use, except that only the financial statements for the most recent two fiscal years prepared in accordance with generally accepted accounting principles shall be furnished and only the financial statements for the issuer's most recent fiscal year shall be certified by an independent public or certified accountant. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(B) Offerings over \$5,000,000. The same kind of information as would be required in Part I of a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(ii) If the issuer is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, the issuer shall furnish the information required by Securities and Exchange Commission Regulation D, Rule 502 (b)(2)(ii).

(iii) Exhibits required to be filed with the administrator of securities or the securities and exchange commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K report, need not be furnished to each purchaser if the contents of the exhibits are identified and the exhibits are made available to the purchaser, upon his written request, prior to his purchase.

(iv) At a reasonable time prior to the purchase of securities by any purchaser that is not an accredited investor in a transaction under WAC 460-44A-505 or 460-44A-506, the issuer shall furnish the purchaser a brief description in writing of any written information concerning the offering that has been provided by the issuer to any accredited investor. The issuer shall furnish any portion or all of this information to the purchaser, upon his written request, prior to his purchase.

(v) The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under WAC ~~460-44A-505~~ or ~~460-44A-506~~ the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under WAC ~~460-44A-502~~ (2)(b)(i) or (ii).

(vi) For business combinations, in addition to information required by WAC ~~460-44A-502~~ (2)(b), the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transaction that are materially different from those for all other security holders.

(3) Limitation on manner of offering. Neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:

(a) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio, and

(b) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(4) Limitations on resale. Securities acquired in a transaction under these rules shall have the status of restricted securities acquired in a nonpublic offering transaction under section 4(2) of the Securities Act of 1933 and RCW 21.20.320(1) and cannot be resold without registration under the Securities Act of Washington or an exemption therefrom. The issuer shall exercise reasonable care to assure that the securities are restricted and that the purchasers of the securities are not underwriters within the meaning of Section 2(11) of the Securities Act of 1933, which reasonable care shall include, but not be limited to, the following:

(a) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

(b) Written disclosure to each purchaser prior to sale that the administrator of securities has not reviewed the offering or offering circular and the securities have not been registered under the Securities Act of Washington, chapter 21.20 RCW, and, therefore, cannot be resold unless they are registered under the Securities Act of Washington chapter 21.20 RCW or unless an exemption from registration is available; and

(c) Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Securities Act of Washington chapter 21.20 RCW and setting forth or referring to the restrictions on transferability and sale of the securities.

(d) A written disclosure or legend will be deemed to comply with the provisions of WAC ~~460-44A-502~~ (4)(b) or (c) if it substantially states that the offering

has not been reviewed or approved by state securities administrators and that the securities offering is not registered under applicable state securities laws.

AMENDATORY SECTION (Amending Order SDO-98-82, filed 10/15/82)

WAC ~~460-44A-503~~ FILING OF NOTICE AND PAYMENT OF FEE PRIOR TO ((OFFERING)) SALE. (1)((~~1~~)) The issuer shall file with the administrator of securities of the department of licensing a notice ((prescribed by the administrator and pay a filing fee of \$300 ten business days (or such lesser period as the administrator may allow) prior to making any offer or sale of securities in the state of Washington)) and pay a filing fee as follows:

(a)(i) The issuer shall file the initial notice on Securities and Exchange Commission Form D checking box 505 or 506, as applicable, and pay a filing fee of three hundred dollars no later than ten business days prior to the receipt of consideration or the delivery of a signed subscription agreement by an investor in the state of Washington which results from an offer being made in reliance on the exemption of WAC ~~460-44A-505~~ or ~~460-44A-506~~;

(ii) The issuer shall also file with or on the initial notice a representation that the issuer has reviewed all the conditions of WAC ~~460-44A-505~~ or ~~460-44A-506~~ and such conditions shall be met; and

(iii) Unless previously filed, the issuer shall include with the initial notice an executed uniform consent to service of process on Form U-2.

(b) The issuer shall file with the administrator such other notices on Form D as are required to be filed with the Securities and Exchange Commission.

(c) The issuer shall file a report of sales in the state of Washington on a form prescribed by the administrator no later than ((~~30~~)) thirty days after the last sale of securities in the offering.

((~~c~~)) (d) The notice or report of sales shall be manually signed by a person duly authorized by the issuer.

(2) By filing for the exemption of WAC ~~460-44A-505~~ or ~~460-44A-506~~, the issuer undertakes to furnish to the administrator, upon ((the written)) request ((of the staff)), the information to be furnished or furnished by the issuer under WAC ~~460-44A-502~~ (2)(b) to any purchaser that is not an accredited investor, or the information required to be retained under WAC ~~460-44A-505~~ (2)(c) or ~~460-44A-506~~ (2)(b)(ii). Failure to submit the information in a timely manner will be a ground for denial or revocation of the exemption of WAC ~~460-44A-505~~ or ~~460-44A-506~~.

((~~3~~)) The form of notice and report of sales may be obtained from the Securities Division, P.O. Box 648, Olympia, Washington 98504.

(4) Issuers filing with the Securities and Exchange Commission under Regulation D, Rule 506, may file the notice required by WAC ~~460-44A-503~~ (1)(a) on Form D if accompanied by a representation of the issuer that all conditions of rule WAC ~~460-44A-506~~ shall be met.))

NEW SECTION

WAC 460-44A-505 UNIFORM OFFERING EXEMPTION FOR LIMITED OFFERS AND SALES OF SECURITIES NOT EXCEEDING \$5,000,000. (1) *Exemption.* Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.503 and 230.505 as made effective in Release No. 33-6389 that satisfy the conditions in subsection (2) of this section shall be exempt transactions under RCW 21.20.320(17).

(2) *Conditions to be met.*

(a) *General conditions.* To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503.

(b) *Specific conditions.*

(i) *No commission, fee, or other remuneration shall be paid or given directly or indirectly, to any person for soliciting any prospective purchaser that is not an accredited investor in the state of Washington unless such person is registered in this state as a broker-dealer or salesperson.*

(ii) *It is a defense to a violation of (b)(i) of this subsection if the issuer sustains the burden of proof to establish that he did not know and in the exercise of reasonable care could not have known that the person who offered or sold the security was not appropriately registered in this state.*

(c) *In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:*

(i) *The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable, or*

(ii) *The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.*

The issuer shall prepare and retain for three years following termination of an offering in reliance of this section, written documentation supporting the qualification of each nonaccredited investor, as meeting the conditions of (c)(i) or (ii) of this subsection.

(d) *No exemption under this rule shall be available for the securities of any issuer if any of the parties described in Securities Act of 1933, Regulation A, Rule 230.252 sections (c), (d), (e), or (f):*

(i) *Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to the Securities Act of Washington, chapter 21.20 RCW, or any other state's securities law, within five years prior to the filing of the notice required under this exemption.*

(ii) *Has been convicted within ten years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.*

(iii) *Is currently subject to any state administrative enforcement order or judgment entered by the Washington state administrator of securities or any other state's securities administrator within five years prior to the filing of the notice required under this section or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five years prior to the filing of the notice required under this exemption.*

(iv) *Is subject to an order or judgment of the Washington state administrator of securities or any other state's administrative enforcement order or judgment which prohibits, denies or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities.*

(v) *Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining, such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any filing with this or any state entered within five years prior to the filing of the notice required under this exemption.*

(vi) *The prohibitions of (d)(i), (ii), (iii), and (v) of this subsection shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in this state and the Form B-D filed with this state discloses the order, conviction, judgment or decree relating to such person. No person disqualified under (c) of this subsection may act in a capacity other than that for which the person is licensed or registered.*

(vii) *Any disqualification caused by (c) of this subsection is automatically waived if the Washington state administrator of securities or the state securities administrator or other agency which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption of this section be denied.*

(e) *The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.*

(3) *Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.*

(4) *The Washington state administrator of securities may, by rule or order, waive the conditions of this section.*

(5) *The exemption authorized by this section shall be known and may be cited as the "Washington Uniform Limited Offering Exemption."*

WSR 86-14-088

EMERGENCY RULES

DEPARTMENT OF COMMUNITY DEVELOPMENT

[Order 85-15—Filed July 1, 1986]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, Olympia, Washington, the annexed rules relating to the conditions and procedures under which state funds will be made available to assist local food banks and food distribution centers.

I, Chuck Clarke, 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 has directed the department to implement a program of state funding assistance for local emergency food programs (section 217, chapter 6, Laws of 1985 1st ex. sess.) for the 1985-87 biennium. The second program year begins July 1, 1986. The immediate implementation of the amendments to the existing rules is necessary to ensure compliance with program changes.

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 Community Development as authorized in RCW 43.63A.060 and chapter 34.04 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 July 1, 1986.

By Chuck Clarke

AMENDATORY SECTION (Amending Order 85-15, filed 3/27/86)

WAC 365-140-030 **DEFINITIONS.** (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Food bank" means a site where food is collected and distributed to clients at no charge.

(4) "Food distribution center" means a site where food is collected, warehoused, and distributed to food banks without charge on a regional, county, or statewide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients.

(6) "Emergency food assistance program" means the statewide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local food banks and food distribution centers.

(7) "Applicant" means a public or private nonprofit organization, which applies for state emergency food assistance.

(8) "Grantee" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community development to provide emergency food assistance to individuals.

(9) "Lead (~~(organization)~~) agency grantee" means a grantee which may subcontract with one or more local organizations to provide emergency food assistance to individuals.

(10) "Religious service" means any sectarian or nondenominational service, rite, or meeting that involves worship of a higher being.

(11) "Unmet need" means an area of the state, region, or county that is currently not being adequately served by existing emergency food assistance providers.

(12) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a lead agency grantee to provide emergency food program services.

AMENDATORY SECTION (Amending Order 85-15, filed 3/27/86)

WAC 365-140-040 **GRANTEE FUNDING ALLOCATION AND AWARD OF CONTRACTS.** \$475,000 for FY 1986 and \$475,000 for FY 1987 has been allocated to food banks and food distribution centers statewide by the legislature.

(1) (~~(60)~~) Sixty percent of total funds shall be provided to Food Banks by county according to the following formula:

(a) Two thousand dollars minimum allocation to a public or private nonprofit organization in every county for food banks to offset the limited resources and higher costs of providing services in rural areas.

(b) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred twenty five percent of poverty using federal guidelines; and

(c) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year.

(2) (~~(40)~~) Forty percent of total funds shall be provided to food distribution centers by county according to the following formulas:

(a) Two thousand dollars minimum allocation to a public or private nonprofit organization in every county for food distribution centers to offset the limited resources and higher costs of providing services in rural areas;

(b) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the

state's population with an income of one hundred twenty five percent of poverty using federal guidelines, and

(c) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year.

(3) The department may award the combined allocation for two or more counties to a single applicant.

(4) The department shall award a food bank contract to one lead ((organization)) agency grantee in each county, with the exception of Pierce County, ((Snohomish, and Spokane counties)) where there may be two lead ((organization)) agency grantees, and King County, where there may be ((three)) five lead ((organization)) agency grantees to administer subcontracts with one or more local providers of emergency food bank services.

(5) The department shall award a contract to food distribution centers which are designated by the emergency food assistance program and the food bank lead ((organization)) agency grantees.

(6) The department shall pay for services provided under the emergency food assistance program after the grantee submits a monthly report of expenditures incurred and a request for reimbursement.

(7) In the event that funds are not claimed by a eligible organization in a county or that a portion of the funds allocated to a county remain unspent, the ((emergency food assistance program task force will determine a method for reallocation of those funds at its April, 1986 meeting)) county with the highest rate of unemployment which was allocated no more than two thousand dollars for the contract year will receive unspent funds not to exceed two thousand dollars. Unspent funds exceeding two thousand dollars will be reallocated to a county with the next highest rate of unemployment which was allocated no more than two thousand dollars for the contract year.

AMENDATORY SECTION (Amending Order 85-15, filed 3/27/86)

WAC 365-140-050 APPLICANT ELIGIBILITY CRITERIA. (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, have a sponsor providing 501(c)3 status, or be a public nonprofit agency.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency food.

(3) The applicant must provide food to individuals in an emergency, regardless of residency.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny food to an individual because of his or her inability to pay.

(6) Applicants for funding as participating agency or food distribution center must have had a food bank program or food distribution center in operation for one year prior to the beginning date of the contract year, except in areas with unmet need.

(7) The applicant for lead agency grantee may or may not actually provide emergency food program services.

AMENDATORY SECTION (Amending Order 85-15, filed 3/27/86)

WAC 365-140-060 FINANCIAL SUPPORT APPLICATION PROCESS. (1) Potential applicants will be notified by the department that in order to be considered for state emergency food financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period July 1 - June 30((, except for the first year, which will be for January 1, 1986 - June 30, 1986, for food banks, and February 1, 1986 - June 30, 1986, for food distribution centers)). Failure of an applicant to make application in a timely manner, as specified by the department, may result in denial of the funding request.

(3) Department funds may not supplant other existing funding sources.

(4) The total amount of funds provided to a grantee under this program may not exceed the total funding received from other sources for emergency food services during the fiscal year.

(5) Administrative costs under this program are limited to five percent of the total award for providing direct emergency food assistance services. The administrative costs of a lead organization grantee are limited to five percent of the organization's award for providing direct services plus ((five)) eight percent of the multi-agency service provider contract total.

(6) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

(7) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.

WSR 86-14-089

EMERGENCY RULES

DEPARTMENT OF COMMUNITY DEVELOPMENT

[Order 85-19—Filed July 1, 1986]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, Olympia, Washington, the annexed rules relating to the conditions and procedures under which state funds will be made available to assist local emergency shelter programs.

I, Chuck Clarke, 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 has directed the department to implement a program of state funding assistance for local emergency shelter programs (section 217, chapter 6, Laws of 1985 1st ex. sess.) for the 1985-87

biennium. The second program year begins July 1, 1986. The immediate implementation of the amendments to the existing rules is necessary to ensure compliance with program changes.

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 Community Development as authorized in RCW 43.63A.060 and chapter 34.04 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 July 1, 1986.

By Chuck Clarke
Deputy Director

AMENDATORY SECTION (Amending Order 85-19, filed 1/6/86)

WAC 365-120-030 DEFINITIONS. (1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Emergency shelter assistance program" means the statewide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local emergency shelter programs.

(4) "Emergency shelter program" means a program within a local agency or organization that provides emergency shelter services.

(5) "Applicant" means a public or private nonprofit organization (~~or agency~~) including local government entities, or a combination thereof, which applies for state emergency shelter funds.

(6) "Grantee" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to provide emergency shelter services.

(7) "Lead agency grantee" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to administer subcontracts with one or more local agency providers of emergency shelter services.

(8) "Homeless" means persons, including families, who, on one particular day or night, do not have a decent and safe shelter nor sufficient funds to purchase a place to stay.

(9) "Voucher system" means a method of purchasing emergency shelter services by the night using a notification coupon.

(10) "Religious service" means any sectarian or nondenominational service, rite, or meeting that involves worship of a higher being.

(11) "Short-term" means one to thirty-one days.

(12) "Families" means one or more adults with dependent children under 18.

(13) "Congregate care facility" means a licensed boarding home or a licensed private establishment which has entered into a congregate care contract with the department of social and health services (WAC 388-15-560).

(14) "Group care facility" means an agency maintained and operated for the care of a group of children on a 24-hour basis (WAC 388-73-014(1)).

(15) "Crisis residential center" means an agency operated under contract with the department of social and health services to provide temporary protective care to children in a semi-secure residential facility in the performance of duties specified and in a manner provided in RCW 13.32A.010 through 13.32A.200 and RCW 74.13.032 through 74.13.036 (WAC 388-73-014(6)).

(16) "Detoxification center" means a public or private agency or program of an agency which is operated for the purpose of providing residential detoxification services for those suffering from acute alcoholism.

(17) "Current or continuous provider" means an agency or organization that currently provides or has provided emergency shelter services for some period during the most recent fiscal year.

(18) "Participating agency" means a local public or private nonprofit organization which enters into a sub-contract with a lead agency grantee to provide emergency shelter services.

(19) "Safe home" means a private home where short term emergency shelter is provided primarily to victims of domestic violence.

AMENDATORY SECTION (Amending Order 85-19, filed 1/6/86)

WAC 365-120-040 GRANTEE FUNDING ALLOCATION. Each county of the state is allocated a portion of the total grantee appropriation by the legislature according to the following formula:

(1) Five thousand dollars minimum allocation to every county to offset the limited resources and higher costs of providing services in rural areas;

(2) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred percent of poverty using federal guidelines; and

(3) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year.

The department may award the combined allocation of two or more counties to a single applicant (~~or divide a single county's allocation among two or more applicants~~).

The department may award a contract to ((a)) one lead agency grantee in each county with the exception of Pierce County, where there may be two lead agency grantees, and King County, where there may be five lead agency grantees to administer subcontracts with one or more local agency providers of emergency shelter services.

The department will give priority in the awarding of allocations to applicants who serve families and children in need of shelter.

In the event that funds are not claimed by an eligible organization in a county, or that a portion of the funds allocated to a county remain unspent, two thirds of those funds will be awarded to shelters serving the homeless mentally ill in King County and one third of the funds will be awarded to shelters serving the homeless mentally ill in Pierce County.

The department will pay for services provided under the state emergency shelter assistance program after the grantee submits a monthly report of expenditures incurred and a request for reimbursement.

AMENDATORY SECTION (Amending Order 85-19, filed 1/6/86)

WAC 365-120-050 **APPLICANT ELIGIBILITY CRITERIA.** (1) The applicant for funding as a participating agency must ((be a current or continuous)) have been a provider of emergency shelter ((or emergency services)) for one year prior to the beginning date of the contract year.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency shelter.

(3) The applicant must not require residency in the designated service area as a requirement for a homeless person to receive services.

(4) The applicant must practice non-discrimination in providing services and employment.

(5) The applicant must not deny shelter to a homeless person because of his or her inability to pay.

(6) The applicant for funding as a participating agency must provide short-term emergency shelter services either directly through a shelter facility ((or)), through a voucher system, or through a safe home.

(7) The applicant for lead agency grantee must be authorized by the applicant participating agencies within each county for which funds are applied.

(8) The applicant for lead agency grantee may or may not actually provide emergency shelter program services.

(9) The applicant must be a public or private non-profit organization, or a local government entity.

~~((7))~~ (10) Group care facilities, crisis residential centers, congregate care facilities, and detoxification centers are not eligible to receive emergency shelter assistance funding.

AMENDATORY SECTION (Amending Order 85-19, filed 1/6/86)

WAC 365-120-060 **FINANCIAL SUPPORT APPLICATION PROCESS.** (1) Potential applicants will be notified by the department that in order to be considered for state emergency shelter financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period July 1 -

~~June 30((, except for the first year, which will be for November 1, 1985 - June 30, 1986)). Failure of an applicant to make application in a timely manner, as specified by the department, will result in denial of the funding request.~~

(3) Department funds may not be substituted for other existing funding sources.

(4) The total amount of funds provided to a grantee under this program may not exceed the total funding received from other sources for emergency shelter services during the fiscal year.

(5) Administrative costs under this program are limited to five percent of the total contract award. The administrative costs of a grantee that provides direct emergency shelter services and also serves as a lead agency grantee are limited to five percent of the grantee award for providing direct services plus ((five)) eight percent of the multi-agency service provider contract total.

(6) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

WSR 86-14-090

NOTICE OF PUBLIC MEETINGS

DEPARTMENT OF COMMUNITY DEVELOPMENT

[Memorandum—June 27, 1986]

The Washington State Department of Community Development (DCD) plans to hold a public hearing on the proposed 1987 state plans for the low-income home energy assistance program (LIHEAP) and the community services block grant (CSBG) program.

It will be held on Friday, July 25, 1986, in the DCD Fifth Floor Conference Room, Ninth and Columbia Building, Fifth Floor, Olympia, Washington. The LIHEAP segment of the hearing will begin promptly at 9:00 a.m. and close at 10:00 a.m., unless participation requires more time. The CSBG segment will follow, beginning at 10:00 a.m. and scheduled to end by 2:00 p.m.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m. on Thursday, July 24, 1986, sent to the attention of Katherine Friedt, Assistant Director, Division for Community Services, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151.

If you have any questions or need additional information, please contact Steve Payne at (206) 586-8980, scan 321-8980 for LIHEAP, or Gloria Jacobs at (206) 586-1362, scan 321-1362 for CSBG.

WSR 86-14-091
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed July 2, 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 Career executive program—Appointment status, amending WAC 356-47-046;

that the agency will at 10:00 a.m., Thursday, August 14, 1986, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98507-1789, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 12, 1986.

Dated: July 1, 1986
 By: Leonard Nord
 Secretary

STATEMENT OF PURPOSE

Amending WAC 356-47-046 Career executive program—Appointment status.

Purpose: Defines appointment status of appointees into the career executive program.

Statutory Authority: RCW 41.06.150.

Summary: Clearly establishes the effective date of provisions of WAC 356-47-046 (1) and (2). These subsections establish probationary and trial service periods for the career executive program.

Reasons: Concern was expressed as to possible confusion as to when new probationary and trial service begins.

Responsibility for Drafting: Dick Merchant, Department of Personnel, 1400 Evergreen Park Drive S.W., Mailstop FX-12, Olympia, WA 98504, phone 586-0153; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

AMENDATORY SECTION (Amending Order 250, filed 5/30/86, effective 7/1/86)

WAC 356-47-046 CAREER EXECUTIVE PROGRAM—APPOINTMENT STATUS. (1) Employees without permanent status shall serve a twelve-month probationary period once appointed to classified career executive positions. Persons appointed prior to July 1, 1986, shall serve an eighteen-month probationary period.

(2) Permanent employees receiving a promotional appointment to classified career executive positions shall serve a twelve-month trial service period. Employees appointed prior to July 1, 1986, shall serve a six-month trial service period.

(3) Employees who successfully complete probationary or trial service periods in the classified career executive positions to which they are appointed shall attain permanent status in that classification, unless the appointment was made under the provisions of subsection (4) of this section.

(4) The employee shall not attain permanent status in the class to which the position is allocated if so advised in writing by the appointing authority at the time of appointment. Employees with permanent status within classified service shall have return rights from career executive program positions as specified in WAC 356-47-065.

WSR 86-14-092
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed July 2, 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 affirmative action program in Washington state employment;

that the agency will at 10:00 a.m., Thursday, August 14, 1986, in the Board Hearings Room, Department of Personnel, 600 South Franklin, Olympia, WA 98507-1789, 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 ESSB 3346.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 12, 1986.

Dated: July 1, 1986
 By: Leonard Nord
 Secretary

STATEMENT OF PURPOSE

New WAC 356-05-013 Affirmative action; new WAC 356-05-157 Equal employment opportunity; new WAC 356-05-327 Protected group members; new WAC 356-05-333 Reasonable accommodation; amending WAC 356-05-390 Seniority, defines the term "seniority" as used throughout Title 356 WAC; new WAC 356-05-447 Underutilization; amending WAC 356-05-470 Veteran's ((widow)) spouse, defines the term "veteran's widow" as used throughout Title 356 WAC; amending WAC 356-06-001 Declaration of purpose, establishes general purpose of the merit system rules (Title 356 WAC); amending WAC 356-07-040 General method of operation, states the general conduct of agency business as pursuant to the charter established in chapters 41.06 and 41.05 RCW and Title 356 WAC; amending WAC 356-07-060 Records availability—Copies obtained, establishes public records, as defined in Title 356 WAC, that will be made available to the Director of Personnel or designee; new chapter 356-09 WAC, Affirmative action program; amending WAC 356-18-050 Sick leave credit—Purpose—Accrual—Conversion, outlines sick leave credit accrual and conversion; amending WAC 356-18-060 Paid sick leave—Use, defines when sick leave shall be granted; amending WAC 356-18-115 Leave due to inclement weather, defines what types of leave, order of leave, and amount of

leave that may be used due to inability to report to work due to inclement weather; amending WAC 356-18-116 Leave due to child care emergencies, outlines types of leave that may be used when an employee is absent due to emergency child care; amending WAC 356-18-140 Leave without pay, defines when leave without pay may be granted; amending WAC 356-18-220 Leave(~~Effect~~ without pay—~~Effect~~ on anniversary date(~~Effect~~)) and periodic increment date(~~Effect~~—~~Effect~~)), defines the effect of leave without pay on anniversary date and periodic increment date; amending WAC 356-22-010 Recruitment—Examination notices, defines how recruitment shall be conducted; amending WAC 356-22-040 Applications—Contents—Restrictions, defines the contents and restrictions of application forms; amending WAC 356-22-070 Applications—Disqualification, defines the conditions under which the Director of Personnel may disqualify an applicant; amending WAC 356-22-100 Examinations—Time and place, defines time and place requirements of state examinations; amending WAC 356-22-180 Examination—Oral examining board, defines the responsibilities and make up of oral examining boards; amending WAC 356-22-190 Examinations—Physical, defines when applicants may be required to take physical exams; amending WAC 356-26-010 Registers—Responsibility—Duration—Maintenance, establishes responsibility of register maintenance; amending WAC 356-26-020 Registers—Appointments—How made, defines how appointments are made from established registers; amending WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements, stipulates the grounds by which a name may be removed from a register; amending WAC 356-26-060 Certification—General methods, defines the general methods of certification from registers; amending WAC 356-26-070 Certification—Registers—Order of rank—Exception, defines the normal order of certifying names from a register; amending WAC 356-26-080 Certification—(~~Exhausted~~) Incomplete registers—Procedure, outlines procedures to be used when a register is incomplete; amending WAC 356-26-090 Certification—(~~Exhausted or incomplete registers~~) Underfill, defines procedure for underfilling a position; amending WAC 356-26-130 Certification—Selective—When permitted, defines when selective certification is permitted; amending WAC 356-30-010 Appointments—Prohibition of discrimination—Exceptions, prohibits discrimination in appointments except when a bona fide occupational qualification has been approved; new WAC 356-30-011 Appointments—Affirmative action; amending WAC 356-30-050 Appointments—Emergency—How made—Status, defines when and how emergency appointments are made; amending WAC 356-30-075 Appointments—Veterans—Noncompetitive, defines hiring preference for veterans, their widows, widowers, and spouses in non-competitive service; amending WAC 356-30-300 Performance evaluation—Requirements—Monitoring, defines the requirement for performance evaluations of employees; amending WAC 356-30-310 Trial service—Counseling—Training, defines the supervisors' responsibility for counseling employees during the trial service

period; amending WAC 356-34-010 Disciplinary actions—Causes for demotion—Suspension—Reduction in salary—Dismissal, defines what disciplinary actions can be taken against an employee and under what circumstances; amending WAC 356-35-010 Disability—Separation—Appeals—Procedures, establishes procedures for separation of a disabled employee, and to explain the employees right to appeal; amending WAC 356-39-070 Agency evaluation of human resource development, establishes the requirement for agencies to evaluate their human resource development activities; and amending WAC 356-46-020 Discrimination—Prohibitions, establishes a policy of nondiscrimination in all terms and conditions of classified employment.

Statutory Authority: RCW 41.06.150.

Specific Statute: ESSB 3346.

Summary and Reasons: To implement the provisions of Engrossed Substitute Senate Bill 3346, which mandated the State Personnel Board to adopt rules on affirmative action as it relates to state boards, commissions, and agencies.

Responsibility for Drafting: Russell Scott, Affirmative Action Officer, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98507-1789, phone 753-3758; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

NEW SECTION

WAC 356-05-013 AFFIRMATIVE ACTION. Those results-oriented actions which an employer must take to ensure equal employment opportunity.

NEW SECTION

WAC 356-05-157 EQUAL EMPLOYMENT OPPORTUNITY. The opportunity to obtain employment and promotions without discrimination because of race, color, religion, sex, marital status, national origin, age, disabled and Vietnam Era veterans, and physical, sensory, or mental handicap.

NEW SECTION

WAC 356-05-327 PROTECTED GROUP MEMBERS. Groups or persons who have experienced disparate treatment in gaining meaningful employment and promotions within a designated labor market. Groups or persons are designated as protected group members based on the following: Race, color, sex, national origin, disabled and Vietnam Era veterans, and physical, sensory, or mental handicap.

NEW SECTION

WAC 356-05-333 REASONABLE ACCOMMODATION. Alterations, adjustments, or changes in the job, workplace and/or term or condition of employment which will enable an otherwise qualified handicapped individual or disabled veteran to perform a particular job successfully, as determined on a case-by-case basis depending on individual circumstances.

AMENDATORY SECTION (Amending Order 237, filed 10/23/85, effective 12/1/85)

WAC 356-05-390 SENIORITY. A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the state personnel board. Service in positions brought under the jurisdiction of the state personnel board by statute is counted as though it had previously been under the jurisdiction of the state personnel board. Leaves of absence granted by agencies and separations due to reduction in force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is

for educational leaves, or statutes require it be credited; or it is taken at the specific request of an agency so employees may perform work specifically related to state work. Time spent off the state payroll due to reduction in force will be credited for that period of time the employee is eligible to be placed on the reduction in force register. Leaves without pay granted to directly or indirectly reduce the possible effect of reduction in force will be credited in accordance with WAC 356-18-140 and 356-18-220. Leaves of absence without pay granted to employees who are drawing worker's compensation because of injury or illness while employed by the state will be credited. Leaves of absence without pay due to disability (as defined in WAC 356-05-120) shall be credited to an employee's seniority. Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(26), WAC 356-06-055 and 356-30-330. Time spent under the jurisdiction of the higher education personnel board will be added when the employee comes under the jurisdiction of the state personnel board through the provisions of WAC 356-49-040. The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or his widow.

NEW SECTION

WAC 356-05-447 UNDERUTILIZATION. Employment of protected group members in a job or job group at a rate below their availability in the workforce.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-470 VETERAN'S ((WIDOW)) SPOUSE. For the purpose of granting preference during layoffs and subsequent reemployment, the unremarried ((wife)) spouse of a deceased veteran as defined in WAC 356-05-465 except that such veteran's one-year minimum length of active military service shall be disregarded.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-06-001 DECLARATION OF PURPOSE. The general purpose of these rules is to establish for the state a system of personnel administration based on merit principles and scientific methods of governing the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plan, removal, discipline and welfare of its civil employees, and other incidents of state employment. All appointments and promotions to positions, and the retention therein, in the state service shall be made on the basis of policies hereinafter specified. All rules shall be applied without regard to race, creed, color, national origin, age, sex, marital status, sexual orientation, veteran's status, or the presence of a sensory, mental, or physical disability.

AMENDATORY SECTION (Amending Order 60, filed 12/13/73)

WAC 356-07-040 GENERAL METHOD OF OPERATION. (1) The general conduct of agency business is pursuant to the charter established in chapters 41.06 and 41.05 RCW, and Title 356 WAC.

(2) Provisions for all interested parties to participate in formulation of rules governing administration of the law is assured by a twenty-day notice requirement prerequisite to formal state personnel board action on any jurisdictional matter, except appeals.

(3) Special meetings may be called by the board subject to twenty-four hour notice, as required by law.

(4) Informal work sessions with interested parties are conducted by staff of the department of personnel as necessary to ensure representation from interested parties before proposals are made to the board.

(5) All business of the department of personnel must be conducted in facilities which are accessible and/or in a manner which accommodates the needs of persons of disability.

AMENDATORY SECTION (Amending Order 60, filed 12/13/73)

WAC 356-07-060 RECORDS AVAILABILITY—COPIES OBTAINED. (1) Copies of all public records defined in WAC 356-08-020 and identified in current indexes maintained in the Olympia office of the department of personnel shall be made available upon request to the staff member designated by the director or his designee. Response to such requests will be in the order received.

(2) Available indexes shall include the following:

- (a) Merit system rules;

- (b) Twenty-day notice and minutes of meetings – regular and special;

- (c) Board orders;

- (d) Department of personnel budget and planning documents;

- (e) Staff administrative procedures manuals;

- (f) Department of personnel classification and compensation plans;

- (g) Factual staff reports and studies;

- (h) Documents filed with department of personnel as required by merit system rules or board order, e.g., affirmative action plans, reduction in force procedures, collective bargaining agreements, and ((hot-day schedules)) policies relating to the retention and confidentiality of personnel records.

(3) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the director and must be accomplished without excessive interference with the essential functions of the agency.

(4) Copies of records will be made available at not more than actual cost to the department of personnel as determined by the director. Rules and regulations will be made available without charge.

Chapter 356-09 WAC
AFFIRMATIVE ACTION PROGRAM

WAC

- 356-09-010 Affirmative action program—Purpose.
- 356-09-011 Affirmative action program—Equal employment opportunity policy statement.
- 356-09-013 Affirmative action program—Affirmative action plan—Elements.
- 356-09-030 Affirmative action program—Application of rules.
- 356-09-050 Affirmative action program—Responsibilities—Department of personnel.
- 356-09-070 Affirmative action program—Responsibilities—Agencies.
- 356-09-090 Affirmative Action Program—Testing.

NEW SECTION

WAC 356-09-010 AFFIRMATIVE ACTION PROGRAM—PURPOSE. The purpose of this chapter is to ensure compliance with the provisions of chapters 41.06 and 49.60 RCW and executive orders, providing for affirmative action and equal employment opportunity in appointment, promotion, transfer, recruitment and career development; development and implementation of affirmative action goals and timetables, and monitoring progress against those goals and timetables.

NEW SECTION

WAC 356-09-011 AFFIRMATIVE ACTION PROGRAM—EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. (1) Each agency shall publish an equal employment opportunity policy statement that reflects the agencies' policy of equal opportunity and nondiscrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, veteran status, or the presence of any sensory, mental or physical disability. Other elements of the statement will be in accordance with the affirmative action guidelines.

(2) The equal employment opportunity policy statement must be endorsed by the agency head.

NEW SECTION

WAC 356-09-013 AFFIRMATIVE ACTION PROGRAM—AFFIRMATIVE ACTION PLAN—ELEMENTS. (1) Agencies that are required to maintain an affirmative action plan shall develop them in accordance with department of personnel guidelines. Affirmative action plans will be subject to review by the department of personnel and the human rights commission. When plans are in compliance with department of personnel guidelines, they will be recommended for approval to the governor's affirmative action policy committee by the department of personnel.

(2) Affirmative action plan updates will be submitted annually to the department of personnel for review and approval in accordance with department of personnel guidelines.

(3) Affirmative action plans must contain, but are not limited to the following elements:

- (a) Equal employment opportunity affirmative action policy statement endorsed by the agency head.

- (b) Designation of responsibility for implementation and maintenance of the plan.
- (c) Dissemination of plan and policy.
- (d) Utilization analysis.
- (e) Goals and timetables.
- (f) Identification of problem areas.
- (g) Action programs to achieve goals.
- (h) Monitoring and reporting procedures.

NEW SECTION

WAC 356-09-030 AFFIRMATIVE ACTION PROGRAM—APPLICATION OF RULES. (1) Discrimination based upon race, creed, color, national origin, age, sex, marital status, sexual orientation, veterans status, or the presence of any sensory, mental, or physical disability is contrary to the provisions of these rules.

(2) Insofar as they do not conflict with the provisions of chapter 356-09 WAC, the remainder of the merit system rules shall apply. If there is an apparent conflict between chapter 356-09 WAC and the remainder of the merit system rules, the provisions of chapter 356-09 WAC shall apply.

NEW SECTION

WAC 356-09-050 AFFIRMATIVE ACTION PROGRAM—RESPONSIBILITIES—DEPARTMENT OF PERSONNEL. The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

- (1) Provide agencies with the data required to develop and implement affirmative action goals and timetables.
- (2) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirmative action guidelines, and recommend changes as appropriate.
- (3) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.
- (4) With the assistance of state agencies recruit protected group members for job classes for which the department of personnel is responsible and, upon request, assist agencies with local list recruitment.
- (5) Monitor for adverse impact on protected group members in the areas of recruitment, appointment, promotion, transfer, termination, training and career development. Records in these areas will be maintained by protected group status.
- (6) Monitor and record all formal disciplinary actions taken against protected group members for disparate effect.
- (7) Monitor protected group participation in agencies' human resource development activities.
- (8) Monitor submission of board actions for possible disparate effect on protected group members or negative effect on affirmative action.
- (9) Review all selective certification requests for possible disparate effect on protected group members. When disparate effect is identified, the department of personnel and the agency will explore alternatives which will meet the agency's legitimate business needs as well as eliminate or lessen the disparate effect.
- (10) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.

NEW SECTION

WAC 356-09-070 AFFIRMATIVE ACTION PROGRAM—RESPONSIBILITIES—AGENCIES. Agencies shall develop an affirmative action program (in accordance with department of personnel guidelines) which will be subject to review by the department of personnel and the human rights commission. The program will, at a minimum, contain the following elements:

- (1) An approved affirmative action plan or equal employment opportunity policy statement.
- (2) A sexual harassment policy statement endorsed by the agency head.
- (3) A reasonable accommodation policy for persons of disability, endorsed by the agency head.
- (4) A discrimination complaint/grievance procedure for applicants and employees.

- (5) Provisions for training in equal employment opportunity issues including sexual harassment awareness and prevention.
- (6) Provisions to monitor local list employee selection procedures.

NEW SECTION

WAC 356-09-090 AFFIRMATIVE ACTION PROGRAM—TESTING. (1) The department of personnel will make reasonable accommodations for applicants who require such during the test procedure.

- (2) The department of personnel will ensure that test sites are accessible to persons of disability.
- (3) The department of personnel will provide special testing for protected group members under the following conditions:
 - (a) No open bulletin for a specified classification exists.
 - (b) A valid open competitive or promotional register exists that has not been open for recruitment for over a year.
 - (c) The specific protected group member is underrepresented on the register in comparison to availability in the recruitment area, and/or identified agency is below affirmative action goals for the specified protected group member in the job classification or category.
 - (d) The applicant meets minimum qualifications for the last open bulletin for the specified register.

AMENDATORY SECTION (Amending Order 197, filed 1/24/84)

WAC 356-18-050 SICK LEAVE CREDIT—PURPOSE—ACCRUAL—CONVERSION. (1) Sick leave credits are granted as a form of insurance to minimize loss of compensation to employees due solely to reasons specified in WAC 356-18-060.

(2) Eight hours of sick leave credit shall be granted for each month in which a full-time employee is in pay status for ~~((+5))~~ fifteen or more calendar days. Sick leave credit for other than full-time employees whose payroll hours are less than forty hours a week shall be computed and accrued at the ratio of payroll hours to payroll hours required for full-time employment.

(3) Employees shall be eligible to receive monetary compensation for accrued sick leave as follows:

(a) In January of each year, and at no other time, an employee whose sick leave balance at the end of the previous year exceeds ~~((480))~~ four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(i) No sick leave hours may be converted which would reduce the calendar year-end balance below ~~((480))~~ four hundred eighty hours.

(ii) Monetary compensation for converted hours shall be paid at the rate of ~~((25%))~~ twenty-five percent and shall be based upon the employee's current salary.

(iii) All converted hours will be deducted from the employee's sick leave balance.

(b) Employees who separate from state service on or after September 1, 1979, due to retirement or death shall be compensated for their total unused sick leave accumulation at the rate of ~~((25%))~~ twenty-five percent. Compensation shall be based upon the employee's salary at the time of separation. For the purpose of this subsection, retirement shall not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(c) No contributions are to be made to the department of retirement systems (DRS) for such payments in (a) or (b) ~~((above))~~ of this subsection, nor shall such payments be reported to DRS as compensation.

(4) ~~((An))~~ Employees who ((separates)) separate for any reason other than retirement or death shall not be paid for ~~((his/her))~~ their accrued sick leave.

(5) Former employees who are again employed within two years of their separation from service shall be granted all unused sick leave credits, if any, to which they were entitled at time of separation for the purpose of using sick leave for the reasons prescribed in WAC 356-18-060. Upon any subsequent retirement or death of a reemployed retiree, only that unused sick leave accrued since the original retirement minus that taken within the same period may be compensated per the conversion provisions of ~~((WAC 356-18-050))~~ subsection (3)(b) of this section.

(6) Employees coming under the jurisdiction of the state personnel board from the jurisdiction of the higher education personnel board by the provisions of WAC 356-06-055(6) shall be credited with their sick leave accumulated with the higher education system.

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-18-060 PAID SICK LEAVE—USE. (1) Personal illness: Accumulated sick leave shall be granted when an employee is required to be absent from work for any of the following reasons:

- (a) Illness or injury of the employee or for preventative health care.
 - (b) Exposure of the employee to contagious disease when attendance at work would jeopardize the health of others.
 - (c) Disability of the employee due to pregnancy or childbirth.
- (2) Illness of relatives or household members: Accumulated sick leave shall be granted up to five days for each occurrence or as extended by the agency when an employee is required to be absent from work for any of the following reasons:

(a) Illness, injury or preventative health care of members of the employee's household or relatives of the employee that requires the employee's attendance.

(b) For purposes of the provisions of subsection (2)(a) of this section, "relatives" shall include:

- ~~((+))~~ (i) Spouse.
- ~~((+))~~ (ii) Son, daughter, grandchild, or foster child.
- ~~((+))~~ (iii) Grandparent or parent.

(c) For purposes of the provisions of subsections (2) and (3)(a) of this section:

Members of household means "persons who reside in same home, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune."

(3) Bereavement: Accumulated sick leave shall be granted up to three days for each occurrence or as extended by the agency for reasons of travel when an employee is required to be absent from work for any of the following reasons:

(a) Death of members of the employee's household or relatives of the employee or the employee's spouse.

(b) For purposes of the provisions of subsection (3)(a) of this section, "relatives" shall include:

- ~~((+))~~ (i) Spouse.
- ~~((+))~~ (ii) Son, daughter, grandchild, foster child, son-in-law, or daughter-in-law.
- ~~((+))~~ (iii) Grandparent, parent, brother, sister, niece, nephew, aunt, uncle, first cousin, brother-in-law, or sister-in-law.

(4) Inability of employee to report for scheduled work because of severe inclement weather. (Such use of sick leave shall be limited to three days in any calendar year and shall be used only as specified in WAC 356-18-115.)

(5) In addition to the reasons listed above, ~~(emergency care of a child in the custody of and residing in the home of an employee)~~ absence due to an employee's inability to report for scheduled work because of emergency child care requirements as set forth in WAC 356-18-116. (Such use of sick leave shall normally be limited to a maximum of one day per incident, and to three days in any calendar year, unless extended by the appointing authority, and shall be used only as specified in WAC 356-18-116.)

(6) When a condition listed under subsection (1)(a) or (c) ~~(above)~~ of this section arises while the employee is on vacation leave, the employee shall be granted accrued sick leave as provided above for the condition (in lieu of the approved vacation leave) provided that the employee requests such sick leave within fourteen days after return to work. Such conversion rights shall not extend to vacation leave taken prior to an employee's separation as provided in WAC 356-18-100(2).

AMENDATORY SECTION (Amending Order 64, filed 3/20/74)

WAC 356-18-115 LEAVE DUE TO INCLEMENT WEATHER. (1) Absence due to an employee's inability to report for scheduled work because of severe inclement weather or conditions caused by severe inclement weather shall be charged to the following in the order listed:

- (a) Any earned compensatory or exchange time;
- (b) Any accrued vacation leave;
- (c) Accrued sick leave up to a maximum of three days in any calendar year;
- (d) Leave without pay.

(2) Although the types of paid time off shall be used in the alphabetical order listed in ~~(paragraph)~~ subsection (1) ~~(above)~~ of this section, and each type of paid time off shall be exhausted before the next (in alphabetical order) is used, employees shall be permitted to use leave without pay rather than paid time off at their request.

(3) Tardiness due to an employee's inability to report for scheduled work because of severe inclement weather or conditions caused by severe inclement weather will be allowed up to one hour at the beginning of the work day. Inclement weather tardiness in excess of one hour shall be charged as provided in subsection (1) ~~(above)~~ of this section.

AMENDATORY SECTION (Amending Order 84, filed 10/20/75)

WAC 356-18-116 LEAVE DUE TO CHILD CARE EMERGENCIES. Absence due to an employee's inability to report for scheduled work because of emergency child care requirements shall be authorized in any of the leave categories listed below at the employee's desire:

- (1) Compensatory or exchange time.
- (2) Vacation leave.
- (3) Accrued sick leave.
- (4) Leave without pay.

AMENDATORY SECTION (Amending Order 223, filed 5/22/85)

WAC 356-18-140 LEAVE WITHOUT PAY. (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service.

(2) Leave without pay may be authorized for any reasons applicable to:

- (a) Leave with pay.
- (b) Educational leave.
- (c) Newborn or adoptive child care leave as provided in WAC 356-18-150.
- (d) Military and U.S. Public Health Service and Peace Corps leave.
- (e) Specific leaves granted for government service in the public interest upon specific request of an employee, concurred in by the appointing authority and approved by the director of personnel.
- (f) Leave taken voluntarily to reduce the effect of an agency reduction in force, leaving the employee's standing with regard to the RIF register in tact.
- (3) Authorized leave without pay shall be limited to not more than ~~((+))~~ twelve months in any consecutive five-year period, except for:
 - (a) Leaves without pay for military, U.S. Public Health Service or Peace Corps;
 - (b) Authorized government leave not exceeding two years;
 - (c) Employees receiving time loss compensation;
 - (d) Educational leaves under provisions of WAC 356-39-120;
 - (e) Newborn or adoptive child care leave under provisions of WAC 356-18-150; or
 - (f) Leave taken voluntarily to reduce the effect of an agency reduction in force under the provisions of WAC 356-30-335;
 - (g) Leave granted in order to provide a reasonable accommodation for an employee's disability.
- (4) Leave without pay exceeding twelve months in a consecutive five-year period, not covered by the exceptions noted in subsection (3) of this section, shall be treated as unauthorized absence.

AMENDATORY SECTION (Amending Order 161, filed 10/5/81)

WAC 356-18-220 LEAVE ~~(=EXTENSION OF)=~~ WITHOUT PAY—EFFECT ON ANNIVERSARY DATE ~~(=)~~ AND PERIODIC INCREMENT DATE ~~(=EFFECT EXCEPTIONS)~~. ~~(When an employee is on leave of absence without pay for any period in excess of 15 consecutive calendar days, except military and U.S. Public Health Service leave, state service in an exempt position, or from government service which had director of personnel approval or on leave following injuries sustained while performing the state position duties, the anniversary date and periodic increment date of such employees shall be moved forward in amount equal to the entire duration of that leave of absence. A leave of absence without pay of 15 calendar days or less will not affect the anniversary date. The periodic increment date and anniversary date will be continued if the leave of absence was an educational leave of absence in accordance with the provisions of WAC 356-39-120, or if the leave without pay is taken voluntarily by an employee to help reduce the effect of an agency reduction in force. When an employee is in a position assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a 12-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations without adjusting the employee's anniversary and periodic increment dates.)~~ (1)

Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date or periodic increment date.

(2) When an employee is on leave without pay for more than fifteen consecutive days, the employee's anniversary date and periodic increment date will not be affected when the absence is due to any of the following reasons:

- (a) Military or United States public health service;
- (b) Government service which had the director of personnel's approval;
- (c) Injuries sustained while performing the employee's state job;
- (d) The employee's disability;
- (e) Educational leave in accordance with the provisions of WAC 356-39-120;

(f) Leave without pay taken voluntarily to reduce the effect of an agency reduction-in-force.

(3) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed in subsection (2) of this section, the employee's anniversary date and periodic increment date shall be moved forward in an amount equal to the duration of the leave of absence.

(4) When an employee's position is assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a twelve-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations without adjusting the employee's anniversary and periodic increment dates.

AMENDATORY SECTION (Amending Order 63, filed 2/26/74)

WAC 356-22-010 RECRUITMENT—EXAMINATION NOTICES. (1) Recruitment shall be conducted publicly in any manner which will attract a ~~((sufficient number))~~ diversity of qualified persons to meet the needs of the classified service. Recruitment will be coordinated through the director. ~~((Examination notices))~~ Recruitment announcements shall be posted publicly, as selected by the director, and at all offices of the department of personnel. ~~((Public notice, hereinafter defined as an examination))~~ Each recruitment announcement ~~((;))~~ shall specify title and salary range of the class, information of the duties performed, applicable minimum or desirable qualifications, ~~((and))~~ type of examination, and shall encourage protected group members to apply.

(2) The director may limit recruitment to applicants meeting selection criteria.

(3) The director may limit open competitive recruitment to applicants available for employment to specific geographic locations.

(4) Registers established under subsections (2) and (3) ~~((above))~~ of this section will be used exclusively for filling positions for which such recruitment has been conducted.

AMENDATORY SECTION (Amending Order 81, filed 8/21/75, effective 9/21/75)

WAC 356-22-040 APPLICATIONS—CONTENTS—RESTRICTIONS. (1) All applications shall be on a form prescribed by the department of personnel. The applicant's signature shall certify the truth of the stated information.

(2) The application shall include pertinent information regarding experience, training, and other information as deemed necessary by the director of personnel. A certificate of physical fitness from one or more licensed physicians based upon job-related criteria may be required by the director ~~((if necessary))~~ of personnel.

(3) No information shall be solicited or accepted which reveals religious or political affiliations of the applicant. Information regarding the race ~~((or color))~~, ethnicity, sex, Vietnam Era or disabled veteran status, age, and handicapped status of applicants shall be solicited only for use in an affirmative action ~~((minority employment))~~ program and shall be accepted only if it is voluntarily given by the applicant.

(4) Information regarding the nature and extent of a handicap including a physician's statement, may be requested for affirmative action purposes and/or admittance to modified examinations under conditions specified in Merit System Rule 356-22-130.

AMENDATORY SECTION (Amending Order 207, filed 6/22/84)

WAC 356-22-070 APPLICATIONS—DISQUALIFICATION. The director of personnel is expected to follow accepted standards of personnel practice in screening applicants and may refuse to examine

an applicant, or, after examination, may disqualify such applicant or remove his/her name from a register or refuse to certify any person otherwise eligible on a register if:

(1) The applicant is found to lack any of the requirements established for the register (as defined in WAC 356-26-030) or the class.

~~((The applicant is so disabled as to be rendered unfit to perform the duties of the class.~~

~~((3) The applicant is addicted to the use of narcotics, or the habitual excessive use of intoxicating liquors.~~

~~((4))~~ The applicant has been convicted of any infamous crime, a crime involving moral turpitude, or any crime which would be grounds for dismissal from the position for which he/she is applying.

~~((5))~~ (3) The applicant has made a false statement of material fact in the application.

~~((6))~~ (4) The applicant has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other such cause directly bearing upon fitness as an employee.

~~((7))~~ (5) The applicant has used, or attempted to use, bribery to secure an advantage in the examination or appointment.

~~((8))~~ (6) The applicant has directly or indirectly obtained information regarding examinations to which he/she was not entitled.

~~((9))~~ (7) The applicant has otherwise violated provisions of these rules.

~~((10))~~ (8) The applicant has taken part in the compilation, administration or correction of the examination.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

WAC 356-22-100 EXAMINATIONS—TIME AND PLACE. Examinations shall be held at such times and places as are necessary to meet the requirements of the state service, provide economical administration, and be generally convenient for applicants. Examination sites shall be accessible to persons of disability.

AMENDATORY SECTION (Amending Order 117, filed 3/9/78)

WAC 356-22-180 EXAMINATION—ORAL EXAMINING BOARD. The members of oral examining boards shall be chosen primarily for their ability to judge the technical and personal qualifications of people in their general field of work, impartially and objectively. At least one member by past experience and training shall be generally familiar with the nature of work in the class. No examining board may have less than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such board. If conditions require establishing multiple boards, tests and instructions shall be structured to insure uniformity of examining conditions and rating standards. Members of an oral examination board shall disclose each instance in which they know an applicant to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify themselves without rating the applicant or biasing the remaining members. The membership of the oral boards will contain protected group members, if available.

AMENDATORY SECTION (Amending Order 120, filed 5/12/78)

WAC 356-22-190 EXAMINATIONS—PHYSICAL. Before appointment, applicants may be required to pass a health examination relevant to the physical demands of the work. Applicants with a disability that may affect their physical performance should be considered for reasonable accommodation prior to taking a health examination. The cost of such examination will be borne by the employing agency.

AMENDATORY SECTION (Amending Order 77, filed 5/7/75)

WAC 356-26-010 REGISTERS—RESPONSIBILITY—DURATION—MAINTENANCE. (1) The establishment, maintenance, and adequacy of all ranked and unranked registers shall be the responsibility of the director of personnel.

(2) A person's standing on a register shall be measured from the date that person's name is placed on the register.

(3) Each register shall ~~((be established by appropriate class. The availability of persons according to geographic area))~~ indicate the person's geographic availability, information on protected group status, if available, and other appropriate considerations as determined by the director ~~((, shall be indicated on each register))~~ of personnel.

(4) The director of personnel may, as requested, designate agency personnel officers to act in his/her behalf as agents of the department

of personnel for the purposes of establishing and/or maintaining ranked and unranked local list registers unique to the employing agency and certifying names therefrom under the merit system rules. The director of personnel will be responsible for establishing the necessary procedures which shall include a yearly audit of agency activity including affirmative action accomplishments. Applicants shall have appeal rights to the director in accordance with all other provisions of the rules.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-26-020 REGISTERS—APPOINTMENTS—HOW MADE. (1) When a vacancy occurs, the appointing authority may appoint any person referred from the register maintained for that class of position after making reference to lists of employees who have been officially notified they are scheduled for reduction in force. Such appointments will be made in accordance with the agency's affirmative action plan.

(2) Requests for appointments from unranked registers will be made on the prescribed form and forwarded to the director together with a completed official application. The director shall ascertain that the appointment was made from the appropriate register and will notify the agency of approval or disapproval of appointment.

AMENDATORY SECTION (Amending Order 237, filed 10/23/85, effective 12/1/85)

WAC 356-26-040 REGISTERS—NAME REMOVAL FOR CAUSE—GROUNDS ENUMERATED—REQUIREMENTS. (1) Upon notifying the personnel board of the intended action, the director of personnel or designee may remove the name of an eligible from a register for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived the first offer of employment, or a candidate from a promotional register has twice waived consideration for a position in the class for which the register was established.

(e) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(f) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(g) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for possible disparate treatment of protected group members.

(h) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(i) On evidence that an eligible is addicted to the use of narcotics, or the habitual excessive use of intoxicating liquors.

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b) or (c) of this section. The director of personnel ~~((should))~~ or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the personnel board upon appeal.

AMENDATORY SECTION (Amending Order 238, filed 11/18/85)

WAC 356-26-060 CERTIFICATION—GENERAL METHODS. Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to four more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction-in-force register, the service-wide reduction-in-force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

(a) The criteria were approved when the position was established, reallocated, or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: **PROVIDED**, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute five names per vacancy to be filled.

(3) When more than one candidate has the same examination rating and when necessary to limit the number of names to four more than the number of vacancies, ties shall be broken by lot upon each instance of certification.

(4) An unranked register may be used to complete a certification. In such cases, all names appearing on that register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) The director of personnel, upon request and after consultation with the employing department and employee representatives, may declare positions, groups of positions or classes of positions as in-training positions. Such positions may be filled from the next lower level register in the class series or from an allied register (as provided for in WAC 356-26-080) as designated by the director of personnel ~~((with)).~~ The employee((s-being)) shall automatically ((advanced)) advance after completion of one year's service in the ((lower-level)) approved class.

(6) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers or allied registers and who are members of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, state law against discrimination, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veteran's Readjustment Act of 1974, Title 41, CFR, Chapter 60, Part 60-250, "Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era." This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

~~((Agencies shall request from the department of personnel a determination prior to the utilization of this rule as to))~~ Prior to the utilization of this rule, agencies shall determine whether there are ((members-of-the)) protected group((s)) members on existing registers. If there are no such members on the registers, ((active)) the department of personnel will initiate additional targeted recruitment ((will-be initiated)).

(7) The director of personnel or designee may refer, for the following classes, a sufficient number of names to assure that requesting agencies have not less than five names available to fill the position:

Messenger clerk
Receptionist
Clerk 1
Clerk 2
Clerk—Steno 1 visually handicapped
Clerk—Steno 2 visually handicapped
Clerk—Typist 1
Clerk—Typist 2
Dictating machine transcriber
Word processing operator 1
Word processing operator 2

Clerk-Steno 1
 Clerk-Steno 2
 PBX operator
 Data entry operator 1
 Data entry operator 2

If such certification contains five or more available promotional candidates, agencies shall appoint from the promotional candidates.

(8) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

AMENDATORY SECTION (Amending Order 204, filed 5/23/84, effective 9/1/84)

WAC 356-26-070 CERTIFICATION—REGISTERS—ORDER OF RANK—EXCEPTION. The director of personnel will normally certify names from the registers in the following order:

- (1) Agency reduction in force register.
- (2) Service-wide reduction in force register.
- (3) Dual-agency reversion register.
- (4) Agency promotional register.
- (5) Service-wide reversion register.
- (6) Transfer register.
- (7) Voluntary demotion register.
- (8) Service-wide promotional register.
- (9) Reemployment unranked register.
- (10) Inter-system employment register.
- (11) Open competitive register.

However, if the director of personnel and appointing authority establish that it is in the best interest of the state to broaden the competition and/or to comply with an agency's approved affirmative action plan, agencies may request the director of personnel to certify names combined from registers (4), (8), (10), and (11) provided:

(a) That the written request to the director shall be evidence of assurance that:

(i) Such a request will not harmfully affect utilization of protected group members who are applicants for this class.

(ii) If the position is within a collective bargaining unit, the exclusive representative will be provided copy of the request.

(iii) That the request is in the best interest of the state and not solely intended to circumvent the policy of promotion from within the state as provided in WAC 356-30-150.

(b) Request for combined registers must be made on a position-by-position or a class basis and prior to recruitment.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-26-080 CERTIFICATION—~~((EXHAUSTED))~~ INCOMPLETE REGISTERS—PROCEDURE. (1) While all names need not be taken from the same register, ~~((each))~~ a register must be ~~((exhausted))~~ incomplete before using the next register.

(2) When there are fewer names than constitute a complete certification for the class, the director may substitute an allied series of registers if he determines the allied registers are sufficiently similar.

(3) When there are fewer names than constitute a complete certification for the class and no allied register is determined appropriate, the remaining names on all incomplete registers will be certified. However, an appointing authority may request a provisional appointment providing full and fair consideration has been given to those names certified, and the director determines that the person meets the announced qualifications and grants approval.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-26-090 CERTIFICATION—~~((EXHAUSTED OR INCOMPLETE REGISTERS))~~ UNDERFILL. (1) The director of personnel may authorize the underfilling of a position if he determines a register to be ~~((exhausted or))~~ incomplete following active recruiting. Upon such authorization, a certification shall be made from the next lower class in the series or ~~((a related))~~ an allied class as determined by the director of personnel. ~~((For incomplete registers:))~~ Only the number of eligibles needed to complete the certification will be referred.

(2) Eligibles so certified shall be advised during the employment interview with the appointing authority of the underfill status of the appointment, which shall be confirmed in writing.

(3) An underfilled position shall not be certified against from a subsequently developed higher register unless:

~~((a))~~ The employee does not successfully complete the probationary or trial service period or the employee does not qualify for the higher level class within four months after being admitted to the examination.

(4) Should the employee not qualify for promotion, the rules regarding transfer, promotion, demotion, or reduction in force shall apply.

AMENDATORY SECTION (Amending Order 219, filed 3/20/85)

WAC 356-26-130 CERTIFICATION—SELECTIVE—WHEN PERMITTED. An appointing authority may request a selective certification of eligibles who have specialized qualifications that are required for the successful performance of the duties of the position. This request must be made prior to certification.

If the director of personnel determines that the facts and reasons justify the request, the highest ranking eligibles who have the specialized qualifications shall be certified.

(1) Selective certification of eligibles of only one sex shall not be made ~~((unless there is clear evidence that efficient performance of duties to be assigned could be performed by only the sex specified))~~ without a bona fide occupational qualification approved by the human rights commission.

(2) Notwithstanding any other provision of these Rules, selective certification from the open competitive register may be initiated by the director of personnel to increase employment of ~~((minority personnel; which for purposes of this regulation shall include Blacks, Orientals, Indians, other nonwhites, and Mexican and Spanish-Americans))~~ protected group members. Such selective certification may be initiated when the director of personnel determines that ~~((minority personnel))~~ protected group members are, in proportion to the total ~~((minority))~~ protected group member population of the state, under-represented either within state employment as a whole or in a geographical area of work. Such selective certification shall apply only when all names are from the open competitive register.

(3) The director of personnel may selectively certify eligibles who are filling project positions to fill permanent positions. Such selective certification shall apply only from names on an open competitive register.

(4) Selective certification of eligibles who possess an appropriate, valid motor vehicle operator's license may be required for positions whose duties require specific driving skills.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-30-010 APPOINTMENTS—PROHIBITION OF DISCRIMINATION—EXCEPTIONS. All appointments, promotions, and assignments of work in the state service shall be made on the basis of merit and fitness without regard to race, ~~((color:))~~ creed, color, national origin, ((sex or)) age, sex, marital status, sexual orientation, veteran's status, or the presence of a sensory, mental, or physical disability; except that such restrictions on appointments, promotions and assignments of work may be considered by appointing authorities only after ~~((adoption))~~ approval by the ((board of)) human rights commission that such a restriction ((as)) is a bona fide occupational qualification necessary to the performance of work in a particular employment classification.

NEW SECTION

WAC 356-30-011 APPOINTMENTS—AFFIRMATIVE ACTION. All appointments, promotions, and assignments of work in the state service shall be made in accordance with the agency's approved affirmative action plan.

AMENDATORY SECTION (Amending Order 130, filed 7/16/79)

WAC 356-30-050 APPOINTMENTS—EMERGENCY—HOW MADE—STATUS. (1) When an emergency occurs requiring the immediate services of a person or persons, the appointing authority may appoint a person without following the normal procedures governing appointment. However, the appointment shall be based on the availability and fitness of the applicant without regard to race, ~~((religion;~~

~~sex, age~~) creed, color, national origin, ((political affiliation or other nonjob related considerations)) age, sex, marital status, sexual orientation, veteran's status, or the presence of a sensory, mental, or physical disability. Emergency appointments and their justification shall be reported immediately to the director of personnel on the approved form.

(2) An emergency appointment of an individual shall not exceed 60 calendar days.

(3) Service in an emergency appointment shall not constitute a part of the employee's probationary service.

AMENDATORY SECTION (Amending Order 136, filed 10/15/79, effective 1/1/80)

WAC 356-30-075 APPOINTMENTS—VETERANS—NON-COMPETITIVE. (1) Appointing authorities shall prefer veterans, as defined in subsection (2)(a) ((below)) of this section, and their widows, widowers and spouses, as defined in subsection (2) (b) and (c) of this section, during their initial entrance into state service when considering selecting persons from eligible lists to fill vacancies in the noncompetitive service as described in WAC 356-22-230(1). Those veterans, widows, widowers and eligible spouses determined to be at least equal to nonveterans shall be preferred over the nonveterans. Except appointing authorities ((may)) shall, with the approval of the director of personnel, consider ~~((sex, race, national origin, handicaps, and periods of military service))~~ affirmative action goals when endeavoring to satisfy their established and approved agency affirmative action plans.

(2) For the purpose of defining the eligible veterans and their widows, widowers and spouses referred to in subsection (1) ((above)) of this section:

(a) "Veteran" means honorably discharged persons following active service in any war of the United States or in any military campaign for which a campaign ribbon shall have been awarded.

(b) "Widow" and "widower" means the person who was married to the veteran defined in (a) (((above))) of this subsection at the time of the veteran's death and who has not since remarried.

(c) "Spouse" means the person married to the veteran as defined in (a) above, when that veteran has a service connected permanent and total disability.

(3) "Equal" as referred to in subsection (1) ((above)) of this section shall be determined by the appointing authorities as follows:

(a) Filling vacancies from the lists in the noncompetitive service. The appointing authority shall use a score resulting from an established systematic evaluation of the applicant's work and/or educational and training background, evaluated both for length of time and quality of experiences. Also, appointing authorities may uniformly use other merit factors that are specifically job-related in making determinations. When appointing authorities do select persons other than those listed in subsection (2) of this section who have lesser scores than those persons listed in subsection (2) of this section, they shall forward to the director of personnel an explanation and the relative standing of the eligibles selected.

(b) A description of the established systematic evaluation system by agencies must be submitted to the director of personnel. Upon request, the director of personnel will make the services of the department of personnel available, to recommend the merit and job-related factors and procedures for judging relative qualities.

AMENDATORY SECTION (Amending Order 230, filed 9/18/85)

WAC 356-30-300 PERFORMANCE EVALUATION—REQUIREMENTS—MONITORING. (1) Agencies shall evaluate the performance of their employees during their probationary or trial service periods and at least once a year thereafter.

(2) The annual evaluation will be conducted during the sixty-day period following the employee's anniversary date, except an agency can establish, on a consistent basis, a due date which better accommodates the agency's particular needs. The evaluation will cover the period ending with the established due date.

(3) Agencies will utilize the standardized employee performance evaluation procedures and forms prescribed by the director of personnel, supplement shall include provisions whereby individual agencies may, with the approval of the director of personnel, supplement the process with special performance factors peculiar to the specific organizational needs.

(4) The procedures and forms shall:

(a) Be designed to aid in communications between supervisors and subordinates and clarify duties and expectations.

(b) Be designed to inform employees of their performance strengths and weaknesses.

(c) Be based on performance toward the goals and objectives of the agency and its subunits.

(d) Include provisions for the counseling and the development of employees.

(e) Include an evaluation of all supervisors' efforts in achieving the objectives of their department's affirmative action plan.

(5) Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

(6) Allowing probationary employees to gain permanent status or trial service employees to gain permanent status in the class to which they have been promoted without completion of an evaluation may be regarded as neglect of duty, incompetence or insubordination on the part of the supervisor and may be cause for disciplinary action.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-30-310 TRIAL SERVICE—COUNSELING—TRAINING. (1) At the beginning of the trial service period, supervisors shall provide the employee with a current classification questionnaire emphasizing areas that will be evaluated. During the trial service period, supervisor shall counsel the trial service employees to inform them of their work performance. The counseling will inform the employees of their strengths, weaknesses, and methods of improvement. In addition, it shall include a signed acknowledgment by the employee of the supervisory evaluation.

(2) The agency shall make appropriate training available to help ensure that the employee has the opportunity to successfully complete trial service.

(3) The director of personnel shall make the training services of the department of personnel available to all agencies requesting aid in developing a training program for trial service personnel.

AMENDATORY SECTION (Amending Order 230, filed 9/18/85)

WAC 356-34-010 DISCIPLINARY ACTIONS—CAUSES FOR DEMOTION—SUSPENSION—REDUCTION IN SALARY—DISMISSAL. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss a permanent employee under their jurisdiction for any of the following causes:

(a) Neglect of duty.

(b) Inefficiency.

(c) Incompetence.

(d) Insubordination.

(e) Indolence.

(f) Conviction of a crime involving moral turpitude.

(g) Malfeasance.

(h) Gross misconduct.

(i) Willful violation of the published employing agency or department of personnel rules or regulations.

Application of disciplinary actions shall be without regard to race, creed, color, national origin, age, sex, marital status, sexual orientation, veteran's status, or the presence of a sensory, mental, or physical disability.

(2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to warrant dismissal.

(3) Appointing authorities shall remove from supervisory positions those supervisors who, in violation of subsection (2) of this section, have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

AMENDATORY SECTION (Amending Order 224, filed 6/24/85)

WAC 356-35-010 DISABILITY—SEPARATION—APPEALS—PROCEDURES. (1) When a permanent employee becomes disabled, employment may be terminated by the appointing authority after a minimum of ~~((60))~~ sixty calendar days written notice, provided ~~((that))~~:

(a) The agency has made all reasonable accommodations necessary to comply with chapter 162-22 WAC, Employment—Handicapped persons; and

(b) The employee shall be allowed to exhaust accrued sick leave before separation if the disability prevents attendance at work. If the employee is unable to work due to the disability during the notice period and there is no paid leave available, the absence shall be considered approved leave without pay; and

(c) The agency has undertaken to identify other positions agency-wide for which the employee is both minimally qualified and able, with reasonable accommodations if necessary, to perform. This reasonable accommodation will be done in accordance with a written procedure developed by the agency and approved by the department of personnel's affirmative action unit; and

(d) The agency has notified the department of personnel's affirmative action unit of its intent to separate a permanent employee because of disability. The affirmative action unit will attempt to place the employee on all available, active registers for which he/she is qualified.

Separations due to disability shall not be considered disciplinary actions and shall be appealable to the personnel appeals board on grounds that a disability does not exist. The ~~((60))~~ sixty calendar days notice shall not be required when the employee requests and the appointing authority approves a shorter notice period.

(2) For purposes of this rule, determinations of disability shall be made by an appointing authority only at the employee's written request or after obtaining a written statement from a physician or ~~((a))~~ other licensed ~~((mental))~~ health care professional. The appointing authority may require an employee to obtain a medical examination at agency expense from a physician or ~~((a))~~ licensed ~~((mental))~~ health care professional of the agency's choice. In such cases, the agency shall provide the physician or licensed ~~((mental))~~ health care professional with the specification for the employee's class and a current description of the employee's ~~((position))~~ job duties. Evidence may be requested from the physician or licensed ~~((mental))~~ health care professional regarding the employee's ability to perform the specified duties.

(3) At the time of notification that their employment will be terminated because of disability, such employees shall be informed—in writing—by the appointing authority of their right to appeal. The appeal must be filed in writing to the personnel appeals board as provided in Title 358 WAC within ~~((30))~~ thirty calendar days after written notice of separation is given.

(4) During the notice period required by subsection (1) of this section the agency shall inform employees being separated due to disability that they may be eligible for benefits/assistance programs such as employees' insurance plans, Social Security, worker's compensation, veteran's benefits, public assistance, disability retirement, and vocational rehabilitation.

(5) The names of permanent employees who have been separated because of disability shall be placed on reduction in force and promotional registers by the director of personnel as provided in WAC 356-26-030 for the class they occupied at the time of disability separation upon submission of a statement from a physician or licensed ~~((mental))~~ health care professional that they are able to perform—with reasonable accommodation as appropriate—the duties of the class~~((es))~~ for which the register~~((s are))~~ is established.

AMENDATORY SECTION (Amending Order 150, filed 12/12/80)

WAC 356-39-070 AGENCY EVALUATION OF HUMAN RESOURCE DEVELOPMENT ACTIVITIES. Each agency shall develop an evaluation process to determine the effectiveness of its human resource development activities.

(1) This evaluation process shall include an assessment of:

- (a) The effectiveness of the training
- (b) The impact of the training on job performance
- (c) The contribution of the training to achievement of career development goals

(d) Participation of protected group members.

(2) The department of personnel shall assist agencies in the development of their evaluation process upon their request.

(3) Each agency shall submit to the department of personnel an annual fiscal year summary of evaluation data on its human resource development activities and costs. Costs to be reported are for direct learning activities and include:

- (a) Participants' travel, per diem, registration, and tuition reimbursement fees.
- (b) All administrative and operational costs of the training and development unit(s) of the agency including:
 - (i) Staff salaries and benefits (prorated, if required)
 - (ii) Development costs
 - (iii) Audio-visual aids

(iv) Facility rental

(v) Other materials.

(c) All costs of training programs, equipment, materials, and consultant fees purchased or leased from a vendor.

AMENDATORY SECTION (Amending Order 123, filed 9/26/78)

WAC 356-46-020 DISCRIMINATION—PROHIBITIONS. No discrimination shall be exercised, threatened, or promised by any person in the employ of the agency or the state personnel board against or in favor of any applicant, eligible, or employee because of political or religious opinions or affiliations, or race, creed, color, national origin, age, sex, ~~((age, handicap or))~~ marital status, sexual orientation, veteran's status, or the presence of a sensory, mental or physical disability.

WSR 86-14-093

REVIEW OF RULES

DEPARTMENT OF REVENUE

[Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Revenue intends to review the following rules: WAC 458-20-179 public utility tax. Continuance of matter previously noticed: WSR 86-14-020, filed June 24, 1986.

The agency will at 9:00 a.m., Wednesday, August 26, 1986, in the Main Conference Room, First Floor, General Administration Building, conduct a public hearing on the rules.

Dated: July 2, 1986

By: Gary O'Neil

Assistant Director

WSR 86-14-094

PROPOSED RULES

BUILDING CODE COUNCIL

[Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Building Code Council intends to adopt, amend, or repeal rules concerning state regulations for barrier-free facilities, chapter 51-10 WAC;

that the agency will at 9:00 a.m., Friday, August 8, 1986, in the Conference Room, Angle Lake Fire Hall, 2929 South 200th Street, Seattle, WA, and at 9:00 a.m., Friday, September 12, 1986, at the Eagles Club, 1510 9th Street, Wenatchee, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on November 14, 1986.

The authority under which these rules are proposed is chapters 19.27 and 70.92 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 24, 1986.

Dated: June 20, 1986

By: Lynn Carmichael

Chair

STATEMENT OF PURPOSE

Title: Chapter 51-10 WAC.

Statutory Authority: Chapters 19.27 and 70.92 RCW.

Summary of the Rule and Statement of the Reasons Supporting the Proposed Action: To update the state regulations for barrier-free facilities to reflect the changes in format and standards between the 1982 edition of the Uniform Building Code and 1985 edition. The proposed update of the regulations incorporates the section numbering and organization of the Uniform Building Code to facilitate its use as a part of the building permit process. It should be noted that although the format reflects the most recent changes of the 1985 Uniform Building Code the content and intent of the regulations are essentially the same as adopted in the 1983 update.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Lynn Carmichael, Chair, State Building Code Council, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, phone (206) 753-0738.

Name of the Organization Proposing the Rule: State Building Code Council.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: The proposed changes are necessary to maintain the regulations for barrier-free facilities in a manner which is consistent with the 1985 edition of the Uniform Building Code which is currently in use in the state pursuant to chapter 51-16 WAC.

Whether the Rule is Necessary as a Result of Federal Law or Federal or State Court Action: None.

Small Business Economic Impact Statement: Not applicable. The proposed rules update existing codes only and do not substantially change them or impose economic hardships on small businesses.

Reviser's note: The amendments to the state regulations for barrier-free facilities filed with this notice are not capable of being reproduced in the Register and are therefore omitted pursuant to RCW 34.04.050(3). Copies may be obtained from the Department of Community Development, Ninth and Columbia Building, MS: GH-51, Olympia, Washington 98504.

WSR 86-14-095

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 2, 1986]

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

- Amd WAC 192-28-105 Recovery of benefit overpayment—Notification to individual.
- Amd WAC 192-28-110 Recovery of benefit overpayment—Fault provisions.
- Amd WAC 192-28-115 Recovery of benefit overpayment—Equity and good conscience provisions.
- Amd WAC 192-28-120 Recovery of benefit overpayment—By repayment or offset against future benefits.

Amd WAC 192-28-125 Recovery of benefit overpayment—Notification of right to appeal;

that the agency will at 10:00 a.m., Tuesday, August 5, 1986, in the Commissioners' Conference Room, 212 Maple Park, 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 August 6, 1986.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

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

Dated: July 1, 1986

By: Isiah Turner
Commissioner

STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

WAC 192-28-105 through 192-28-125, Recovery of benefit overpayments.

These regulations have been drafted to clearly state the intent of the department as it relates to the recovery of benefit overpayments.

WAC 192-28-105 defines the notification and time limits that the department will give to individuals prior to the establishment of an overpayment assessment. This section was amended to describe the account adjustment process which may be requested by an individual to repay an overpayment without an overpayment assessment; WAC 192-28-110 describes the conditions under which the department will find an individual to be at fault in a benefit overpayment. The department's finding of fault or nonfault will be based on information provided by the individual, the employer and from information in department records and/or the individual's experience with claiming unemployment insurance benefits. This section was amended to explain that an individual will now be considered at fault even though he or she provided the department with all material information prior to the issuance of a benefit eligibility decision, if the overpayment is the result of payment that the individual should reasonably have known was improper; WAC 192-28-115 describes the conditions under which the department will waive the repayment of a benefit overpayment and the individual's responsibility to provide the requested information regarding such waiver. Failure on the part of the individual to provide the requested information will result in the department making a decision based on available information. All information provided by the individual is subject to verification by the department. This section was amended to describe the payment agreement process which may be requested by an individual who cannot immediately repay the overpayment in full. The offer in compromise process which may be requested by an individual who was initially denied waiver but whose financial circumstances have changed; by an individual who is at fault, or an individual who was unable to reach a payment agreement,

but for whom it would be against equity and good conscience to require repayment of the full amount of the overpayment. Offers in compromise are not available for individuals who are denied pursuant to RCW 50.20.060(2) or 50.20.070; WAC 192-28-120 describes the amount of each future week(s) payable that will be offset in repayment of a benefit overpayment. This section was amended to describe the accounts adjustment process which allows the individual to authorize deductions from past and/or future weeks or to pay in cash without an overpayment assessment being written; WAC 192-28-125 describes the right to appeal a benefit overpayment by the individual and interested employers. This section was amended to further define an interested employer. For the purposes of this section, an interested employer is any employer who provides information that results in an overpayment assessment, and where waiver has been allowed, those affected base year employers who make payments in lieu of contributions to the department. All interested employers will be notified of the overpayment assessment and their right to appeal; and WAC 192-12-134 has been repealed. Offsets are now account adjustments and have been included in chapter 192-28 WAC.

WAC 192-28-105 through 192-28-125 relate to RCW 50.20.190. It is anticipated that any future regulations relating to benefit overpayment recovery will be placed in this chapter.

WAC 192-28-105 through 192-28-125 were drafted by Karen White, Benefit Processing, Overpayment and Investigation Branch, Employment Security Department. Her office is located in the Employment Security Department Building, 212 Maple Park, Olympia, Washington 98504, phone 753-5138. Jim Wolfe, Assistant Commissioner (UI) and Mark Mochel, Chief, Benefit Processing, Overpayments and Investigations, are responsible for the implementation and enforcement of these rules. Their office is located in the Employment Security Department Building, 212 Maple Park, Olympia, Washington 98504, phone 753-5120 and 753-5170.

AMENDATORY SECTION (Amending Order 6-85, filed 10/10/85)

WAC 192-28-105 RECOVERY OF BENEFIT OVERPAYMENT—NOTIFICATION TO INDIVIDUAL. (1) When the department has information which causes it to believe that an individual has been paid more benefits than he or she is entitled to receive, ~~((it))~~ the department will provide that individual with a written notice, the overpayment advice of rights, explaining that a potential overpayment exists. This notice shall contain the following:

(a) The reasons for the department's belief that the individual has been overpaid benefits.

(b) The amount of the overpayment as of the mailing or delivery date of the overpayment advice of rights.

(c) The fact that the department will collect overpayments in accordance with WAC 192-28-120.

(d) The fact that final overpayment assessments constitute legally enforceable debts which individuals are liable to repay whether or not they are claiming or receiving unemployment benefits. These debts can be used to obtain warrants which could result in liens, garnishment of salaries, and possible sale of real and personal properties.

(e) An explanation that if an individual is found to be not at fault, he or she has the right to request a waiver of the overpayment and that waiver means the individual would not have to repay the overpayment because it would be against the principles of equity and good conscience.

(f) An explanation that at the individual's request, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action whether formal or informal, will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment, even after an account adjustment has been completed.

(g) A statement that an individual has 10 days to submit information to the local job service center regarding or disputing the existence of an overpayment and whether or not he or she was at fault. Failure to do so will result in the department making a decision, based on available information, regarding the existence of the overpayment and the individual's eligibility for waiver.

AMENDATORY SECTION (Amending Order 6-85, filed 10/10/85)

WAC 192-28-110 RECOVERY OF BENEFIT OVERPAYMENT—FAULT PROVISIONS. (1) ~~((in each instance where))~~ When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by the individual and/or by the employer and from information contained in ((its)) the department's records. After reviewing all such information, the individual will be considered to be at fault when the overpayment is:

(a) The result of fraud, misrepresentation, wilful nondisclosure; or

(b) The result of a disqualification for a felony or gross misdemeanor pursuant to the provisions of RCW 50.20.060(2), or if all of the following three elements are established:

(i) The individual was paid benefits in an amount greater than he or she was entitled to receive and he or she accepted and retained those benefits; and

(ii) The payment of these benefits was based on incorrect information or a failure to furnish information which the individual should have provided as outlined in the ~~((EMS 8139--))~~ Information for Claimants ((Booklet)) booklet, The Presentation of Benefit Rights, claimant directives and other reasonable written communications issued by the department; or information which the individual caused another to fail to disclose; and

(iii) The individual had sufficient notice that the information should have been reported.

(2) In accordance with WAC 192-23-900, an individual who is overpaid as the result of a conditional payment is liable for repayment.

(3) The individual will be considered to be ~~((without))~~ at fault, even though ((in situations where)) he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision, if ((and)) the overpayment is ~~((:~~

~~((a) The result of agency error or omission, employer error or omission; or~~

~~((b) The result of the reversal of a lower level decision by the office of administrative hearings, the commissioner or a court; or~~

~~((c) Not a payment that the individual should have known was improper. Examples of nonfault situations where an individual would not reasonably have known that an overpayment of benefits had been made would include, but not be limited to, overpayments resulting from: Back pay awards, receipt of retroactive pensions, claims filed improperly against the state of Washington instead of against another state, or the receipt of extended benefits when the individual was entitled to regular benefits in this or another state))~~ the result of payment that the individual should reasonably have known was improper. Following are some, but not all examples of instances in which an individual should reasonably have known that a payment was improper and therefore, is at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The individual correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) The individual reported that he or she was unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) The individual received a retroactive pension payment that he or she had applied for and was reasonably sure would be awarded.

(d) The individual did not inform the department that he or she was eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner or a court because of new information that the individual failed to disclose to the department.

(f) Other circumstances in which department fact finding indicates that the individual knew the payment was improper.

(4) The individual will be considered without fault when he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision and the overpayment is the result of payment that the individual would not reasonably have known was improper. Following are some, but not all examples of instances in which an individual may not reasonably have known that a payment was improper and therefore, is not at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) The individual received a retroactive pension which was backdated by the pension source, not at the individual's request.

(d) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(c) Extended benefits were paid by the department when the individual would have been eligible for a new claim against this or another state.

(d) A lower level decision, in which all information was provided by the individual, was reversed by the office of administrative hearings, the commissioner or a court.

(e) Other circumstances in which department fact finding indicates that the individual did not know the payment was improper.

(5) In determining whether or not an individual is at fault, the department shall also consider education, mental abilities, emotional state, the individual's experience with claiming unemployment insurance and other elements of the individual's personal situation which affect his or her knowledge and ability to comply with reporting all material information that is relevant to benefit eligibility. This includes information contained in the ((EMS 8139-)) Information for Claimants ((Booklet)) booklet, The Presentation of Benefit Rights, claimant directives and other reasonable written communications issued by the department.

(6) Fault and waiver are not considered if the individual agrees to an account adjustment as explained in WAC 192-28-120(5).

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

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

AMENDATORY SECTION (Amending Order 6-85, filed 10/10/85)

WAC 192-28-115 RECOVERY OF BENEFIT OVERPAYMENT—EQUITY AND GOOD CONSCIENCE PROVISIONS. (1) The department will grant waiver of an overpayment when it is found that the individual was without fault in the overpayment and when it is determined that to require repayment would be against equity and good conscience. It will be against equity and good conscience to deny waiver ~~((in situations where))~~ when repayment of the overpayment would deprive the individual of income required for ~~((ordinary and))~~ necessary living expenses unless there are unusual circumstances which would militate against waiver.

(2) The individual will be required to provide financial information for the determination of waiver of the overpayment. Failure on the part of the individual to provide such information within 10 days from the request date will result in ~~((a denial of))~~ the department making a decision, based on available information, regarding the individual's eligibility for waiver. All such information is subject to verification by the department ~~((and, upon request, will be provided to interested employers as defined in WAC 192-28-125)).~~ Any overpayment amount waived on the basis of information which is later determined to be ~~((based on fraud, malfeasance or misrepresentation))~~ fraudulent or misrepresented shall be restored to the overpayment balance.

(3) The financial information requested shall include:

(a) An account of the individual's income and to the extent available to the individual, other financially contributing members of the household ~~((= income;))~~ for the month preceding, the current month

and the month following the date ~~((that))~~ the ~~((overpayment))~~ financial information is ~~((assessed))~~ requested.

(b) An account of the individual's current and readily available liquid assets. Liquid assets may include, but are not limited to, checking and savings account balances, stocks, bonds and cash on hand.

(c) An account of the individual's expenses for the month preceding, the current month and the month following the date ~~((that))~~ the ~~((overpayment))~~ financial information is ~~((assessed))~~ requested.

(4) If average monthly expenses equal or exceed average monthly income and there are no substantial liquid assets available, waiver of the overpayment will be considered. ~~((If average monthly income exceeds average monthly expenses and unemployment insurance is considered as projected income in this calculation, either in the current or the next month, then the department will recalculate average monthly income based on potential benefits that would be paid considering the 50% offset provisions contained in WAC 192-28-120. If based on this recalculation, average monthly expenses exceed average monthly income, waiver of the overpayment will be considered.))~~ The presence of unusual circumstances may justify waiver on other than a financial basis when not to waive would be unconscionable.

~~((5) ((In cases where an individual has been denied waiver but at a later date there is a change in his or her financial situation, the individual may request the consideration of an offer in compromise pursuant to the provisions of RCW 50.24.020. Individuals who are found to be at fault, with the exception of those denied pursuant to RCW 50.20.060(2) or RCW 50.20.070, may also request consideration of an offer in compromise, based on their financial situation. Prior to the acceptance of an offer in compromise all base year employers will be provided with a copy of the individual's completed offer in compromise form and will be allowed 10 days to provide information to the department regarding the offer in compromise request. The allowance or denial of a request for consideration of an offer in compromise will be in accordance with the financial criteria used by the department for the allowance or denial of waiver of an overpayment together with other factors deemed pertinent in the individual case. Any overpayment amount compromised which is later determined to have been based on fraud, malfeasance or misrepresentation shall be restored to the overpayment balance.)) When an individual has been denied waiver or waiver was not considered, the individual may enter into a payment agreement with the department.~~

(6) When an individual has been denied waiver or has been unable to reach a payment agreement with the department, he or she may make an offer in compromise pursuant to the provisions of RCW 50.24.020. The allowance or denial of an offer in compromise will be in accordance with the same criteria used by the department for allowance or denial of waiver of an overpayment. Any overpayment amount compromised on the basis of information which is later determined to be fraudulent or misrepresented shall be restored to the overpayment balance.

AMENDATORY SECTION (Amending Order 6-85, filed 10/10/85)

WAC 192-28-120 RECOVERY OF BENEFIT OVERPAYMENT—BY REPAYMENT OR OFFSET AGAINST FUTURE BENEFITS. (1) An overpayment may be recovered either by offset or repayment by the individual. If not repaid by the individual, the amount assessed shall be deducted from benefits payable for any future week(s) claimed. If any recovery procedure is in conflict with federal regulations, the federal regulations shall apply.

(2) For overpayments ~~((assessed under))~~ brought about by a denial pursuant to RCW 50.20.070 for fraud, misrepresentation, or willful nondisclosure, the amount to be deducted will be 100% of benefits payable for each future week(s) claimed. Such overpayments will be repaid before any other overpayment the individual may have.

~~((3) ((For all other overpayments that are not waived, the amount to be deducted will be 50% of benefits payable for each future week(s) claimed.)) For overpayments assessed pursuant to RCW 50.20.010 because the individual asked to have his or her claim for unemployment insurance cancelled, the amount to be deducted will be 100% of benefits payable for each future week(s) claimed. The department will ensure that the individual was properly informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.~~

(4) ((For combined wage claims, the amount to be deducted for an other state will be 100 percent of the benefits payable for each future week(s) claimed for fraud overpayments and 50 percent of the benefits payable for each future week(s) claimed for all other overpayments. The individual will be issued prior written notice that the overpayment will be offset.)) For all other overpayments that are not waived, the

amount to be deducted will be 50% of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at 100% of benefits payable for each future week claimed.

(5) ~~((A repayment contract will be suspended whenever an individual is in current claim status and the overpayment is being offset from future week(s) payable in accordance with (2) or (3) above. When the individual is no longer in offset status, the provisions of the repayment contract will become enforceable:))~~ At the request of the individual, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment even after an account adjustment has been completed.

(6) For an overpayment assessed by another state, the amount to be deducted for the other state will be deducted in accordance with WAC 192-28-120.

(7) Those individuals who have been denied waiver, as well as those individuals for whom waiver was not considered, will be notified in writing of their right to enter into a payment agreement with the department or to make an offer in compromise. Offers in compromise will not be approved for individuals whose overpayment was brought about by a denial pursuant to RCW 50.20.060(2) or RCW 50.20.070.

AMENDATORY SECTION (Amending Order 6-85, filed 10/10/85)

WAC 192-28-125 RECOVERY OF BENEFIT OVERPAYMENT—NOTIFICATION OF RIGHT TO APPEAL. (1) The department shall ensure that all interested employers and the individual to whom the overpayment is assessed are notified in writing of the overpayment assessment and their right to appeal any or all of the following elements of the overpayment assessment:

- (a) The reason for the overpayment;
- (b) The amount of the overpayment;
- (c) The finding of fault or nonfault;
- (d) The reason for waiver or denial of waiver of the overpayment.

(2) For the purposes of this chapter, interested employer means (1) any employer who provides information to the department which results in an overpayment assessment and (2) ~~((in the case of an overpayment where))~~ when waiver has been ~~((considered, whether))~~ allowed ~~((or denied))~~ all base year employers ~~((on which the claim is based))~~ who make payments in lieu of contributions to the department.

~~(((3) The department shall also ensure that those individuals who have been denied waiver, as well as those individuals who were found to be at fault and waiver was not considered, are notified in writing of their right to apply for consideration of an offer in compromise. Offers in compromise will not be entertained from an individual whose overpayment was brought about by a final denial pursuant to RCW 50.20.060(2) or RCW 50.20.070. All base year employers on which a claim is based will be notified in writing of the acceptance of an offer in compromise:))~~

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 192-12-134 OVERPAYMENTS—OFFSETS—RIGHT TO HEARING.

WSR 86-14-096

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 2, 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 certified seed potato certification, chapter 16-324 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 16, 1986.

The authority under which these rules are proposed is chapter 15.14 RCW.

This notice is connected to and continues the matter in Notice No. WSR 86-11-063 filed with the code reviser's office on May 21, 1986.

Dated: July 2, 1986

By: Art G. Losey
Assistant Director

WSR 86-14-097

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1896—Filed July 2, 1986]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the enforcement of honeybee tracheal mite quarantine, chapter 16-470 WAC.

This action is taken pursuant to Notice No. WSR 86-10-048 filed with the code reviser on May 7, 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 chapters 15.60 and 17.24 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 June 30, 1986.

By C. Alan Pettibone
Director

NEW SECTION

WAC 16-470-240 HONEY BEE TRACHEAL MITE - ENFORCEMENT. The following shall apply to the enforcement of rules in this chapter relating to honey bee tracheal mite and Chapter 15.60 RCW:

(1) Enforcement may be carried out by the Washington state department of agriculture and/or with cooperation from other government or law enforcement agencies.

(2) Vehicles carrying regulated articles, as specified in Chapter 15.60 RCW and WAC 16-470-210 through 16-470-230, may be stopped to verify compliance.

(3) Vehicles carrying regulated articles without a health certificate as required by Chapter 15.60.100 RCW, from states of origin other than Washington may be refused entry and the person transporting such articles required to remove them from Washington state.

(4) Regulated articles not in compliance with this chapter may be removed from the transporting vehicle and placed under quarantine pending sampling and laboratory analysis as prescribed by the department. Costs incurred by the department in the enforcement of this section shall be paid prior to the release of the required articles from quarantine.

(5) Regulated articles found to be infested with honeybee tracheal mites and placed under quarantine may be transported to a depopulation, fumigation site or other site as prescribed by the department on a vehicle as designated by the department. Such vehicle carrying quarantined regulated articles shall be deemed under quarantine during such transportation.

WSR 86-14-098

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 2, 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 hop grading and chemical analysis fees, chapter 16-218 WAC;

that the agency will at 10:00 a.m., Wednesday, August 13, 1986, in the USDA Conference Room, 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 August 29, 1986.

The authority under which these rules are proposed is chapter 22.09 RCW.

Dated: July 2, 1986

By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapter 16-218 WAC.

Description of Purpose: To amend hop grading and analysis fees.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rules: Fees are established by the department for providing grading and chemical analysis of hops.

Reasons for Supporting Proposed Actions: Would allow the department to increase fees to cover increased expenses. Fees have not been increased since 1980.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Glenn E. Smerdon, Program Supervisor, Agricultural Chemical Branch, 406 General Administration Building, AX-41, Olympia, WA 98504, (206) 753-5062.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1710, filed 6/30/80)

WAC 16-218-010 SCHEDULE OF FEES FOR PHYSICAL GRADING. The schedule of fees, payable to the department for certification of hops pursuant to the standards established by the Federal Grain Inspection Service of the United States Department of Agriculture ((as authorized by the Agricultural Marketing Act of 1946, as amended:)) shall be as follows:

(1) Lot inspection. (~~Seventy-five~~) One dollar and ten cents per bale in each lot, minimum charge shall be ((fifteen)) thirty dollars.

(2) Sample inspection. (~~Fifteen~~) Thirty dollars per unofficial sample submitted.

(3) Supplemental certificates. (~~Two~~) Five dollars per certificate.

(4) Appeal inspection. Charges for appeal inspections (~~will~~) shall be made by the Federal Grain Inspection Service, Portland, Oregon, and payment for appeal inspections shall be made to them.

(5) Retyping certificates. A charge of (~~two~~) five dollars ((will)) shall be made for retyping certificates if through no fault of the inspection service the information is submitted incorrectly.

(6) Extra copies. A charge of (~~fifty cents~~) two dollars per set ((will)) shall be made for typing extra copies of a certificate when requested by the original applicant or other financially interested party.

(7) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage ((rates will be in accordance with current applicable fees charged by the department)) shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, ((it is necessary that)) each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

AMENDATORY SECTION (Amending Order 1596, filed 3/30/79)

WAC 16-218-02001 SCHEDULE OF CHARGES FOR CHEMICAL ANALYSES OF HOPS, HOP EXTRACT, HOP PELLETS OR HOP POWDER. The following is the schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder:

(1) (~~When samples are submitted to the Yakima Chemical and Hop Laboratory, the charges will be: Twenty-five dollars per certificate for the Wollmer hop analysis method; fifteen dollars per certificate for the ASBC spectrophotometric or conductometric methods; and fifteen dollars per certificate for the EBC conductometric method. A submitted sample certificate will be issued.~~)

(~~2~~) Official samples of hops drawn by department personnel ((are)) shall be composited either from the cores drawn for grade analysis, or from cores specially drawn on federal sampling schedule for brewing value only. Charges for analysis are: ((Fifteen cents per bale, with a minimum of twenty-five dollars for the Wollmer hop analysis method; fifteen)) Thirty cents per bale, with a minimum charge of ((fifteen)) thirty dollars for the ASBC or EBC spectrophotometric ((or conductometric)) methods((; and fifteen cents per bale, with a minimum of fifteen dollars for the EBC conductometric method)). An official brewing value certificate ((will)) shall be used.

(~~3~~) (2) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage ((rates will be in accordance with current applicable fees charged by the department)) shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, ((it is necessary that)) each and every bale in the lot of hops shall be readily

accessible so that each bale may be properly stenciled and samples drawn from ((these)) those bales selected by the inspector.

~~((4)) The fee to be charged by the department for analyses for tannin, isoconversion products from alpha and beta resins, oil analysis and other components, and possible adulterants such as residues, when requested, shall be the actual cost to the department. Such fee shall be based on and include man hour costs, necessary material costs, laboratory equipment use and depreciation costs, and administrative and overhead costs of such tests:))~~

(3) A fee shall be charged by the department of five cents per bale to cover travel expenses incurred by the department for all hop samples drawn at any location other than at a dealer warehouse.

(4) A fee shall be charged by the department of ten cents per bale for samples drawn for only brewing value or chemical analysis.

(5) The following fees shall be charged by the department for samples submitted to the chemical and hop laboratory for analysis:

<u>(a) ASBC spectro.....</u>	<u>\$25.00</u>
<u>(b) ASBC conducto</u>	<u>\$30.00</u>
<u>(c) EBC conducto (using regular extraction).....</u>	<u>\$30.00</u>
<u>(d) EBC conducto (Wollmer, Zurich, Mebak, Verzele, Ganzlin and hard and/or soft resins)</u>	<u>\$45.00</u>
<u>(e) Spectro of tannins, Wollmer, etc.....</u>	<u>\$45.00</u>
<u>(f) Methylene chloride.....</u>	<u>\$75.00</u>
<u>(g) Tannin</u>	<u>\$30.00</u>
<u>(h) Ash.....</u>	<u>\$15.00</u>
<u>(i) SO₂.....</u>	<u>\$25.00</u>
<u>(j) H₂O.....</u>	<u>\$10.00</u>

(6) A fee shall be charged by the department for any other analysis not listed in this section such as oil analysis, isoconversion products from alpha and beta resins, and possible adulterants such as residues. Fees shall be based on labor costs, laboratory equipment costs, chemical and material costs, administrative and overhead costs.

WSR 86-14-099
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2397—Filed July 2, 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 inpatient hospital care, amending WAC 388-86-050.

This action is taken pursuant to Notice No. WSR 86-11-045 filed with the code reviser on May 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 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 July 2, 1986.

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

AMENDATORY SECTION (Amending Order 2321, filed 12/27/85)

✓ WAC 388-86-050 INPATIENT HOSPITAL CARE. (1) The department will provide hospitalization

for recipients under age sixty-five and for recipients sixty-five and over who have exhausted Medicare benefits. With exceptions and limitations the recipient will have free choice of hospitalization.

(2) Prior approval is required for nonemergent hospital admissions.

(3) The division of medical assistance will certify hospital admission, length of stay and/or services for all recipients.

(4) Department authorization for inpatient hospital care, in hospitals excepted from the diagnosis-related group based pricing system, for eligible individuals shall be limited to the number of days established at the ((50th)) 75th percentile in the 1983 edition of the publication Length of Stay in PAS Hospitals, by Diagnosis United States Western Region, unless prior contractual arrangements are made by the department for a specified length of stay. When hospitalization of a recipient exceeds the number of days as limited by this subsection, the hospital shall submit to the local medical consultant a request with adequate justification and signed by the attending physician within sixty days of final service for approval of the extension.

(a) Eligible recipients are covered for involuntary admissions for acute psychiatric conditions up to a maximum of seventeen days under the Involuntary Treatment Act in hospitals certified as evaluation and treatment facilities. If an involuntarily committed recipient reverts to voluntary status, PAS days are computed from day of admission and applied to any period exceeding the mandatory seventeen days. If PAS days are less than seventeen, the maximum of seventeen days will prevail.

(b) No payment will be made for care in a private psychiatric hospital that has not been certified under Title XVIII. Authorization for admission of an eligible individual to a private psychiatric hospital shall be under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(c) Medicaid payment will be made for care in a state mental institution for categorically needy and medically needy individuals under age twenty-one and age sixty-five and older.

(d) Medicaid payments will be made for care in an approved psychiatric facility for categorically needy and medically needy individuals under age twenty-one.

(5) Hospitalization for the treatment of acute and chronic renal failure shall be provided, except that the department shall pay only deductibles and coinsurance for a recipient who is a Medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) Nonemergent hospital admissions shall not be made on Friday or Saturday for scheduled surgery on Monday. The attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.

(7) Approval for hospitalization of a recipient shall be based on the recipient's need for semi-private accommodations and reimbursement made at the multiple occupancy rate regardless of accommodations provided by the hospital. Special rates may be established for recipients covered by the Involuntary Treatment Act. Semi-

private accommodations shall mean not less than two nor more than a four-bed room.

(8) The department covers medically necessary services provided in a hospital in connection with the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization in connection with the provision of such services. Services covered under this subsection must be furnished under the direction of a physician or dentist.

WSR 86-14-100
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed July 2, 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:

Amd	WAC 314-20-100	Beer wholesale price posting.
Amd	WAC 314-20-105	Beer suppliers' price filings, contracts and memoranda.
Amd	WAC 314-24-190	Wine wholesale price posting.
Amd	WAC 314-24-200	Wine suppliers' price filings, contracts and memoranda.
Amd	WAC 314-52-114	Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost—Prohibited—Exceptions;

that the agency will at 9:30 a.m., Tuesday, August 5, 1986, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 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 and 66.08.060.

The specific statute these rules are intended to implement is RCW 66.24.250, 66.24.200, 66.24.210, 66.08.030, 66.08.060, 66.08.010, 66.24.170 and 66.24.230.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 5, 1986.

This notice is connected to and continues the matter in Notice Nos. WSR 86-04-084 and 86-07-021 filed with the code reviser's office on February 5, 1986, and March 13, 1986.

Dated: July 2, 1986
By: L. H. Pedersen
Chairman

WSR 86-14-101
PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and

Women's Business Enterprises intends to adopt, amend, or repeal rules concerning:

Amd	WAC 326-02-030	Definitions.
New	WAC 326-08-095	Burden of proof at a hearing.
Amd	WAC 326-20-110	Application process.
New	WAC 326-20-171	Denial of certification—Show cause review.
New	WAC 326-20-172	Revocation of certification.
Amd	WAC 326-20-220	Resubmission of applications.
New	WAC 326-30-038	Goals for 1986-87;

that the agency will at 1:00 p.m., Tuesday, August 5, 1986, in the Office Building 2 Auditorium, 12th and Franklin Streets, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 11, 1986.

The authority under which these rules are proposed is chapter 39.19 RCW.

The specific statute these rules are intended to implement is chapter 39.19 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 29, 1986.

Dated: July 2, 1986
By: Ralph C. Ruff
Director

STATEMENT OF PURPOSE

Title: WAC 326-02-030 Definitions; 326-08-095 Burden of proof at a hearing; 326-20-110 Application process; 326-20-171 Denial of certification—Show cause review; 326-20-172 Revocation of certification; 326-20-220 Resubmission of applications; and 326-30-038 Goals for 1986-87.

Description of Purpose: WAC 326-02-030 is to clarify the definition of "commercially useful function" and to add definitions of "common industry practices," "conduit," "front," "pass-through," "manufacturer," "supplier," and "switch business"; 326-08-095 is to clarify that the burden of proof is on the applicant to demonstrate why the business qualifies for certification; 326-20-110 is to clarify the application process; 326-20-171 is to provide applicants an opportunity for a show cause review by the director to refute the reasons given for denial of certification; 326-20-172 is to provide certified MWBEs an opportunity for a show cause review by the director prior to revocation of certification; 326-20-220 is to clarify when applicants whose certification has been denied must reapply for certification; and 326-30-038 is to establish the MWBE participation goals for fiscal year 1986-87.

Statutory Authority: Chapter 39.19 RCW.

Specific Statute Rule is Intended to Implement: Chapter 39.19 RCW.

Summary of Rule: WAC 326-02-030 clarifies the definition of "commercial useful function" and to add definitions of "common industry practices," "conduit," "front," "pass-through," "manufacturer," "supplier," and "switch business"; 326-08-095 establishes that the burden of proof is on the applicant to demonstrate why they qualify for certification at a contested case hearing; 326-20-110 clarifies the application process and revises procedures for requesting additional information from

applicants; 326-20-171 provides applicants whose certification has been denied an opportunity to show cause why the office's decision is incorrect. The applicant may request a show cause meeting with the director and/or provide additional information or request a contested case hearing after notification by the office of its reasons for denial of certification; 326-20-172 provides an opportunity for the certified MWBE to show cause why their firm's certification should not be revoked. It also allows the certification of an MWBE to remain in effect until the appeal process is completed; 326-20-220 requires applicants who have been denied certification and who have appealed the denial and then experienced a substantial change in ownership, control or organization of the business to reapply for certification rather than continuing with the appeal process; and 326-30-038 establishes the MWBE participation goals for FY 1986-87. The goals are established by class of contract in order to ensure that the goals are achievable, traceable and realistic. The goals were set based on the availability of certified MWBEs, previous goal attainment and projected opportunities available by class of contract.

Agency Personnel Responsible for Drafting: Ralph C. Ruff, Director, Office of Minority and Women's Business Enterprises, and Mary Tennyson, Senior Assistant Attorney General; Implementation: State agencies and educational institutions; and Enforcement: Ralph C. Ruff, Office of Minority and Women's Business Enterprises and staff.

Person or Organization Proposing Rule: Washington State Office of Minority and Women's Business Enterprises.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

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

Small Business Economic Impact Statement: WAC 326-30-038, the new goals will increase MWBE participation in the bidding process for construction, architecture, engineering and consultant contracts, as well as encourage MWBE participation in state purchasing of goods and services.

AMENDATORY SECTION (Amending Order 85-6, filed 7/2/85)

WAC 326-02-030 DEFINITIONS. Words and terms used in these rules shall have the same meaning as each has under chapter 120, Laws of 1983, unless otherwise specifically provided in these rules, or the context in which they are used clearly indicates that they be given some other meaning.

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(3) "Combination minority and women's business enterprise" means a business organized for profit, performing a commercially useful function, that is fifty percent owned and controlled by one or more minority men or MBEs certified by this office and fifty percent owned and controlled by one or more nonminority women or WBEs certified by this office. The owners must be United States citizens or lawful permanent residents.

(4) "Commercially useful function" means ~~((being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing and supervising the work involved))~~ the performance of real and actual services in the discharge of any contractual endeavor.

(a) In determining whether a business is or will be performing a commercially useful function, factors, including but not limited to the following, will be considered:

(i) Whether the business is or will be responsible for executing a distinct element of work as defined in a bid or proposal;

(ii) Whether principals or employees of the business actually perform, manage, and supervise the work for which the business is or will be responsible;

(iii) Whether the business could be considered a "conduit," "front," or "pass-through" as defined in this section.

(b) For the purpose of these rules, a supplier will be considered to be performing a commercially useful function when:

(i) It either assumes the actual and contractual responsibility for furnishing goods or materials and is the manufacturer of those goods or materials; or

(ii) Is recognized as a distributor of goods or materials by representatives of the industry involved in the supply of such goods or materials; and

(iii) It owns or leases warehouses, yard buildings, or other facilities which are viewed as customary or necessary by the industry; and

(iv) It distributes or delivers goods or materials with its own staff or employees.

(5) "Contract" means a mutually binding legal relationship, including a lease, or any modification thereof, obligating the seller to furnish goods or services, including construction, and the buyer to pay for them.

(6) "Contract by contract basis" means a single contract within a specific class of contracts.

(7) "Contractor" means a party who enters into a contract to provide a state agency or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(8) "Director" means the director of the office of minority and women's business enterprises.

(9) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(10) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume for participation by minority and women-owned businesses, and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. Goals shall be met on a contract by contract or class of contract basis. In meeting their goals on either a contract by contract or a class of contract basis state agencies and educational institutions should facilitate the entry of minority and women's business enterprises into types of businesses in which MBE's and WBE's are underrepresented.

(11) "Goods and/or services" means all goods and services, including professional services.

(12) "Joint venture" means a single enterprise partnership of two or more persons or businesses created to carry out a single business enterprise for profit for which purpose they combine their capital, efforts, skills, knowledge or property and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(13) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black: Having origins in any of the black racial groups of Africa;

(b) Hispanic: Of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American: Having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or

(d) American Indian or Alaskan Native: Having origins in any of the original peoples of North America.

Persons who are visibly identifiable as a minority need not provide documentation of their racial heritage but may be required to submit a photograph. Persons who are not visibly identifiable as a minority must provide documentation of their racial heritage which will be determined on a case-by-case basis. The final determination will be in the sole discretion of the office.

(14) "Minority business enterprise," "minority-owned business enterprise," or "MBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more minority individuals or minority business enterprises certified by this office. Owned and controlled means a business in which one or more minorities or MBE's certified by this office own at least fifty-one percent, or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The minority owners must be United States citizens or lawful permanent residents.

(15) "MWBE" means a minority-owned business enterprise, a women-owned business enterprise; and/or a combination minority and women's business enterprise certified by the office of minority and women's business enterprises of the state of Washington.

(16) "Office" means the office of minority and women's business enterprises of the state of Washington.

(17) "Procurement" means the purchase, lease, or rental of any goods or services.

(18) "Public works" means all work, including construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

(19) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(20) "Women's business enterprise," "women-owned business enterprise," or "WBE" means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more women or women's business enterprises certified by this office. Owned and controlled means a business in which one or more women or WBE's certified by this office own at least fifty-one percent or in the case of a corporation at least fifty-one percent of the voting stock, and control at least fifty-one percent of the management and daily business operations of the business. The women owners must be United States citizens or lawful permanent residents.

(21) "Common industry practices" mean those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(22) "Conduit" means a WBE, MBE, or combination MWBE which agrees to be named as a subcontractor on a contract in which such WBE, MBE, or combination MWBE does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other non-MWBE business.

(23) "Front" means a business which purports to be: (a) A WBE but is in fact owned or controlled by a man or men; (b) a MBE but is owned or controlled by a nonminority person or persons; or (c) a combination MWBE but is owned or controlled by a man or men or by a nonminority person or persons to a greater extent than is allowed by WAC 326-02-030(3).

(24) "Pass-through" means a business which buys goods from a non-WBE, non-MBE, or noncombination MWBE without materially changing the configuration of the goods and resells those goods to the state, state contractors or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of WBE or MBE goals.

(25) "Manufacturer" means a business which owns, operates, or maintains a factory or establishment that produces or creates goods from raw materials or substantially alters goods before reselling them.

(26) "Supplier" means a business which provides or furnishes goods or materials, performs a commercially useful function, and is not considered a conduit, front, or pass-through.

(27) "Switch business" means a business which was previously owned and controlled by a man, men or nonminorities, which has made technical changes to its business structure so that it is now purportedly owned and controlled by a woman or women or by a minority person or persons, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

NEW SECTION

WAC 326-08-095 BURDEN OF PROOF AT A HEARING. At a hearing held pursuant to WAC 326-08-010, the burden of proof shall be on the applicant to demonstrate why the applicant qualifies for

certification under RCW 39.19 and Title 326 WAC. The administrative law judge may consider evidence on the issue of whether OMWBE's decision to deny, revoke, or refuse to renew certification was correct at the time it was made.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-110 APPLICATION ((FORM)) PROCESS. (1) The office will develop and make available an application form for certification ((as a MWBE, which may be modified at any time:)) under Chapter 39.19 RCW, and WAC 326-20-010 and -020. The application form may be modified at any time. The form will solicit enough information to determine whether the applicant is eligible for MWBE certification for state-funded projects and may include supplemental questions necessary to determine whether the applicant is eligible for certification for a specific federally-funded project. As part of its investigation, the office may require minority and women owners to provide information in addition to that requested on the application forms.

(2) Where additional information is required from the applicant business to complete the investigation, the office may request the information by certified letter and may impose a time limit of not less than ((7)) 30 days in which the applicant must respond. ((If the applicant fails to provide the information in the time requested, the office may give notice to the applicant of its intention to close the file administratively. The notice shall be by certified letter and shall give the applicant 20 days after the mailing of the letter in which to provide the information requested by the office:)) The letter shall include notice to the applicant that, if the applicant fails to provide the information within the time requested, the file will be closed administratively. If all the requested information is not received by the office within the ((20)) 30 days, the office may administratively close the file. The applicant will be notified in writing that the file has been administratively closed.

(3) Upon receipt of a written request for extension of the time to respond to the request for additional information, received by OMWBE prior to expiration of the 30-day time period, an extension of time to respond may be granted by the director. A showing of extenuating circumstances may be required, and granting of such request for extension is in the sole discretion of the director.

(4) Administrative closure means that the file is placed in inactive status, and further processing of the application is suspended. An applicant may petition the agency for reopening or reactivation of the application file, by written request to the director. Requests to reopen will be granted in the sole discretion of the agency director. The applicant will be notified in writing of the director's decision to grant or deny the request to reactivate the file. If the request is denied, the applicant may resubmit an application pursuant to WAC 326-20-220. If the file is administratively reopened and processing resumed, the application will be processed as if it had been received on the date the request to reopen the file is granted by the director.

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

NEW SECTION

WAC 326-20-171 DENIAL OF CERTIFICATION - SHOW CAUSE REVIEW. (1) If the Office has reached the conclusion that an application for certification should be denied, the Office shall notify the applicant in writing, by certified mail, of its denial of certification. Within 30 days of receipt of this notification, the applicant must either: (a) submit a written request for a meeting with the director or designee, to show cause why the decision to deny is incorrect; (b) present additional written or documentary information to the director; or (c) submit a written request for a contested case hearing, pursuant to WAC 326-08-015.

(2) When an applicant requests a show cause review, by meeting or by providing additional written documentation within 30 days of receipt of the denial letter, the finality of the denial for appeal purposes is stayed until the show cause review is complete.

(3) Upon receipt of a timely request for the opportunity to submit additional information at a show cause meeting, the Office may schedule such a meeting. Subsequent to the meeting, the Office shall review any additional information provided at the meeting and may conduct further investigation. The Office will notify the applicant by certified mail of its decision either to affirm the denial or to grant certification. This notification is considered final for purposes of WAC 326-08-015.

(4) Upon timely receipt of additional written or documentary information by the applicant, the Office shall review such additional information and may conduct further investigation. The Office will then notify the applicant by certified mail of its decision either to affirm the denial or to grant certification. This denial letter is considered final for purposes of WAC 326-08-015.

(5) Supporting documentation which existed prior to the reconsideration period, but which is presented to OMWBE subsequent to the reconsideration period, will not be accepted by OMWBE. If the applicant desires such documentation to be considered for purposes of the application in question, then the applicant must request a contested case hearing pursuant to WAC 326-08-015.

(6) If a change in business circumstances occurs after the reconsideration period, then the applicant must submit a new application pursuant to WAC 326-20-220, and is not entitled to appeal the denial of the application in question on the basis of the change in business circumstances.

(7) "Reconsideration period," for purposes of this section, shall mean the 30 days after receipt of the denial letter, described in subsection (1) above, or the period between receipt of the denial letter and the show cause meeting, if requested pursuant to subsection (1) above, plus any additional time authorized by the director in writing.

NEW SECTION

WAC 326-20-172 REVOCATION OF CERTIFICATION. (1) When the Office has determined that a certified MWBE no longer meets the certification criteria and/or the certified MWBE fails to return the renewal of certification application forms or to supply additional information requested by the Office in a timely manner, the Office will notify the applicant in writing of its intent to revoke certification.

(2) Upon receipt of an "intent to revoke certification" letter, the MWBE may request a show cause review by the Director. The request must be in writing and must be received by the Office within thirty (30) calendar days of receipt of the notice of intent to revoke certification. The MWBE's request for a show cause review must set forth the reasons the MWBE believes the Office's decision to revoke certification is in error and must include any additional information and documentation the business has to offer.

(3) Upon receipt of the request for a show cause review, the Office shall review the request and any additional information provided and may conduct further investigation and/or request that the MWBE attend a show cause meeting with the Director. The Office will thereafter notify the MWBE by certified mail of its decision to either affirm or reverse its intent to revoke certification. This revocation decision is considered final for purposes of WAC 326-08-015.

(4) If a show cause review is requested and the revocation of certification is affirmed, any aggrieved party may request a hearing. The request must be made in writing and must be made within thirty (30) days of receipt of the Office's decision affirming the revocation of certification.

(5) If the Office has not received a request for a show cause review nor any additional written documentation within thirty (30) days of receipt of the "intent to revoke" letter, the Office will notify the MWBE by certified mail of its decision to affirm its previous intent to revoke certification. This revocation decision is considered final for purposes of WAC 326-08-015.

(6) A business shall remain certified until (a) the time provided by WAC 326-08-015 for appeal of the decision to revoke has expired without action by the MWBE, or (b) the entry of a final revocation order issued by the Director pursuant to WAC 326-08-130. Revocation shall be effective immediately upon the occurrence of (a) or (b) above, and will not be stayed pending review by any court.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-220 RESUBMISSION OF APPLICATIONS. (1) An applicant which has withdrawn its application or whose application has been denied may file a new application if there has been a substantial change in ownership, control, or organization of the business. However, no business may file more than two applications in any calendar year.

(2) An applicant which has experienced a substantial change in ownership, control, or organization of the business after the reconsideration period shall not be entitled to certification based on such changed circumstances, and must file a new application.

(3) "Reconsideration period," for purposes of this section, shall mean the 30 days after receipt of the denial letter, described in WAC 326-20-175(1), or the date of the show cause meeting if requested pursuant to WAC 326-20-175(1), plus any additional time authorized in writing by the director.

NEW SECTION

WAC 326-30-038 GOALS FOR 1986-87. The annual overall goals for each state agency and educational institution for each of the following classes of contracts for the period July 1, 1986 through June 30, 1987, shall be:

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

These MWBE participation goals are based on the state agency's or educational institution's total contracts subject to this chapter within each of the above noted classes of contracts, less excluded contracts.

**WSR 86-14-102
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed July 2, 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 232-28-616 1987-88 Washington game fish regulations.
- New WAC 232-12-168 Fishing contests.
- Amd WAC 232-12-001 Definition of terms.
- Rep WAC 232-28-615 1986 Washington game fish seasons and catch limits.
- Rep WAC 232-12-167 Hunting and fishing contest rules;

that the agency will at 9 a.m., Sunday-Monday, August 10-11, 1986, in the Spokane Ridpath, 515 West Sprague, Spokane, WA 99204, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 10-11, 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 (for all sections listed above) and RCW 77.16.010 (for WAC 232-12-168, 232-12-167 and 232-12-001).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: July 2, 1986
By: Jim DeShazo, Chief
Fisheries Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section(s): WAC 232-28-616 1987-88 Washington game fish regulations; 232-28-615 1986 Washington game fish seasons and catch limits; 232-12-168 Fishing contests; 232-12-167 Hunting and fishing contest rules; and 232-12-001 Definition of terms.

Statutory Authority: RCW 77.12.040 (for all sections listed above).

Specific Statute that Rule is Intended to Implement: RCW 77.12.040 (for all sections listed above) and RCW 77.16.010 (for WAC 232-12-168, 232-12-167 and 232-12-001).

Summary of the Rule: WAC 232-28-616 will provide for the establishment of seasons and catch limits for game fish during 1987-88. The 1986 seasons and catch limits (WAC 232-28-615) will be repealed; 232-12-168 will provide the rules concerning fishing contests; 232-12-167 will be repealed upon adoption of WAC 232-12-168. The new section delegates authority to regulate contests to the director, and makes it unlawful for permittees to fail to comply with the conditions of a fishing contest permit; and 232-12-001 is to delete the definition of hunting and fishing contests.

Reasons Supporting the Proposed Rule(s): WAC 232-28-616 will provide fishing opportunity throughout the state while protecting the game fish resource by establishing seasons and catch limits; 232-12-168 will help to deregulate game fishing contests and will establish guidelines necessary for the protection of game fish; and 232-12-001, currently, the definition of hunting and fishing contests is supplemental to commission definitions in RCW 77.08.010 and is not necessary.

Agency Personnel Responsible for Drafting: Paul Mongillo, Resident Fish Program Manager (WAC 232-12-168, 232-12-167 and 232-12-001), and Jim DeShazo, Division Chief (WAC 232-28-616 and 232-28-615), Fisheries Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5713; Implementation: Jim DeShazo, Division Chief, Fisheries Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5713; and Enforcement: Dave Schultz, Division Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): No comments.

The 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: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-12-168 FISHING CONTESTS. The director is authorized to establish guidelines for issuance of contest permits and determine conditions under which a contest must be conducted. The conditions of a fishing contest permit may include time, location, species, number of contestants, prize limits and disposition of fish taken. It is unlawful for the fishing contest permittee to fail to comply with the conditions of a fishing contest permit.

NEW SECTION

WAC 232-28-616 1987-88 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS.

Reviser's note: The text and accompanying pamphlet comprising the 1987-88 Washington game fish seasons and catch limits proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the 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.

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

WAC 232-12-001 DEFINITION OF TERMS. Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless the context clearly requires otherwise:

(1) Snagging, gaffing, or spearing means: An effort to impale game fish in a part of its body other than its mouth by use of hooks or other devices.

(2) A valid license, permit, tag, stamp or punchcard means: A license, permit, tag, stamp, or punchcard that was issued to the bearer for the current season by the commission and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(3) Hook means: One single, double, or treble hook.

(4) Barbless hook means: A single, pointed hook from which all barbs have been filed off, pinched down, removed or deleted when manufactured.

(5) Falconry means: Possession, control, or use of a raptor for the purpose of hunting and free flight training.

~~((6) Hunting or fishing contests mean: Hunting for wild animals or wild birds or fishing for game fish under a competitive arrangement that offers a prize. The assignment of an ornamental or symbolic award shall not be considered a prize.)~~

((7))6 Anadromous game fish means:

(a) Steelhead trout, *Salmo gairdnerii*

(b) Searun cutthroat, *Salmo clarkii*

(c) Searun Dolly Varden, *Salvelinus malma*

((8))7 Handgun means: Any pistol, revolver or short firearm with a barrel length of less than sixteen inches and does not have a shoulder stock.

((9))8 A lure means: A manufactured article with one or more hooks attached, utilized for attraction or enticement of game fish.

((10))9 Bait means: A natural substance, fresh or processed, utilized for attraction or enticement of wildlife and game fish.

REPEALER

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

(1) WAC 232-12-167 Hunting and fishing contest rules

(2) WAC 232-28-615 1986 Washington Game Fish Seasons and Catch Limits

WSR 86-14-103
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed July 2, 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 requirements for license dealers, amending WAC 232-12-241;

that the agency will at 9 a.m., Sunday, August 10, 1986, in the Ridpath Motor Inn, West 515 Sprague,

Spokane, WA 99204, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 10, 1986.

The authority under which these rules are proposed is RCW 77.04.020.

The specific statute these rules are intended to implement is RCW 77.32.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: June 16, 1986

By: James R. Carlin
Game License Manager

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-241 Requirements for license dealers.

Statutory Authority: RCW 77.04.020.

Specific Statute that Rule is Intended to Implement: RCW 77.32.050.

Summary of the Rule: In order to guarantee full and complete payment to the department, in lieu of a bond requirement, each license dealer shall pay to the director a nonrefundable yearly fee of \$50.00. The money generated by this fee shall be placed in a special account within the game fund known as the "license dealer account," and shall be used to reimburse the department in the event a license dealer fails to timely remit to the department full and complete payment for all licenses, permits, tags, stamps and punchcards sold or not remitted by the dealer.

Reasons Supporting the Proposed Rule: During the last year many existing license dealers and new license dealers have expressed concerns about the cost of the license dealer surety bond. It appears that many bonding companies have substantially increased the bond premiums and are now requiring personal income statements. As a result license dealers are faced with increased paperwork and high costs. We have had numerous dealers approved but after trying to obtain an affordable bond, declined the dealership. In the last two months six game license dealers have terminated their dealerships due to increases in bond renewal fees.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: James R. Carlin, Game License Manager, Management Services Division, Department of Game, 600 North Capitol Way, Olympia, Washington 98504, phone (206) 753-5719.

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: Carol Rainey, Assistant Attorney General, drafted the WAC amendment proposal. Bob Rasmussen, Enforcement, this amendment would cause no impact on the enforcement division.

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

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 268, filed 1/15/86)

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

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

(a) In order to guarantee full and complete payment to the department, in lieu of a bond requirement, each license dealer shall pay to the director a non-refundable yearly fee of \$50.00. The money generated by this fee shall be placed in a special account within the game fund known as the "license dealer account," and shall be used to reimburse the department in the event a license dealer fails to timely remit to the department full and complete payment for all licenses, permits, tags, stamps and punchcards sold or not remitted by the dealer.

(b) A license dealer remains liable for money owed to the department from the sale of licenses, permits, tags, stamps and punchcards whether or not the game fund has been reimbursed by the license dealer account. The director shall take appropriate action to attempt to secure payment in full from all license dealers. In the event the department prevails in any legal action initiated to collect money owed, the defendant license dealer shall be liable to the department for all costs and reasonable attorneys fees incurred as a result of the litigation. Money paid by a license dealer after reimbursement has occurred shall be placed in the license dealer account.

(c) The director may increase or decrease the yearly fee as needed to maintain the viability of the license dealer account.

(d) In the event the amount of money in the license dealer account exceeds the amount believed by the director to be necessary to guarantee full and complete payment in any given year, the director may transfer the excess amount into the game fund.

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

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

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

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

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

WSR 86-14-104
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed July 2, 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 Sprague Lake Game Reserve, amending WAC 232-16-380;

that the agency will at 9:00 a.m., Sunday-Monday, August 10-11, 1986, in the Spokane Ridpath, 515 West

Sprague, Spokane, WA 99204, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 10-11, 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 August 8, 1986.

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

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

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

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

Judy Hildebrandt
600 North Capitol Way
Olympia, WA 98504
(206) 753-5710

Dated: June 27, 1986

By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-16-380
Sprague Lake Game Reserve.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Modifies the boundary of game reserve.

Reasons Supporting the Proposed Rule: Modification at request of person owning land within reserve. Boundary change will not affect function of reserve.

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.

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 federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

AMENDATORY SECTION (Amending Order 3, filed 4/20/70)

WAC 232-16-380 SPRAGUE LAKE GAME RESERVE. Beginning at the point where the easterly right of way line of Interstate Highway No. 90 crosses the Lincoln-Adams County line; thence southwesterly along ~~((the freeway to the Keystone Road, thence southerly along the Keystone Road to Old U.S. Highway No. 10, thence easterly and northerly along Old U.S. Highway No. 10 to the point where it crosses))~~ said right of way to the intersection of the west boundary line of Section 12, Township 20 north, Range 38 EWM; thence south along said section line to the southwest corner of Section 12; thence east to the southeast corner of Section 12; thence south along the east boundary line of Section 13 to the intersection of the northerly right of way line of Danckas Road; thence northeasterly along said right of way to the intersection of the Adams-Lincoln County line; thence westerly along said county line across Sprague Lake to ~~((the freeway))~~ Interstate Highway No. 90 easterly right of way line and point of beginning.

WSR 86-14-105
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed July 2, 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:

Rep	WAC 232-16-289	Quincy Lake Game Reserve.
Rep	WAC 232-16-630	Rocky Ford Springs Game Reserve.
Rep	WAC 232-16-650	Harris Lake Game Reserve.
Rep	WAC 232-16-670	Lower Crab Creek Game Reserve;

that the agency will at 9:00 a.m., Sunday-Monday, August 10-11, 1986, in the Spokane Ridpath, 515 West Sprague, Spokane, WA 99204, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 10-11, 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 August 8, 1986.

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

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

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

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

Judy Hildebrandt
600 North Capitol Way
Olympia, WA 98504
(206) 753-5710

Dated: June 27, 1986

By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Sections: WAC 232-16-289 Quincy Lake Game Reserve; 232-16-630 Rocky Ford Springs Game Reserve; 232-16-650 Harris Lake Game Reserve; and 232-16-670 Lower Crab Creek Game Reserve.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rules: Abolishes game reserve designation on the four listed areas.

Reasons Supporting the Proposed Rules: All four game reserves are ineffective at holding or attracting sufficient numbers of wintering waterfowl. Their designation, therefore, as game reserves should be rescinded.

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) 753-5740.

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 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.

REPEALER

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

- WAC 232-16-289 QUINCY LAKE GAME RESERVE
- WAC 232-16-630 ROCKY FORD SPRINGS GAME RESERVE
- WAC 232-16-650 HARRIS LAKE GAME RESERVE
- WAC 232-16-670 LOWER CRAB CREEK GAME RESERVE

**WSR 86-14-106
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed July 2, 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 232-28-410 1986-87 Upland game bird and migratory waterfowl seasons.
- Rep WAC 232-28-409 1985-86 Upland game bird and migratory waterfowl seasons;

that the agency will at 9:00 a.m., Sunday-Monday, August 10-11, 1986, in the Spokane Ridpath, 515 West Sprague, Spokane, WA 99204, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 10-11, 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 August 8, 1986.

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

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

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

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

Judy Hildebrandt
600 North Capitol Way
Olympia, WA 98504
(206) 753-5710

Dated: June 23, 1986
By: Jack L. Smith, Chief
Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-410 1986-87 Upland game bird and migratory waterfowl seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts 1986-87 Upland game bird and migratory waterfowl seasons in the manner outlined in the 1985-86 pamphlet. Dates and hunting hours will change dependent upon calendar and regional recommendations.

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) 753-5740.

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 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 232-28-410 1986-87 UPLAND GAME BIRD AND MIGRATORY WATERFOWL SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1986-87 Upland game bird and migratory waterfowl seasons proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

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

WAC 232-28-409 1985-86 UPLAND GAME BIRD AND MIGRATORY WATERFOWL SEASONS

WSR 86-14-107

REVIEW OF RULES

CHIROPRACTIC EXAMINING BOARD

[Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Chiropractic Examining Board intends to review the following rules:

WAC 114-12-155 Board approved continuing education subject matter.

WAC 114-12-165 Prior approval not required.

The agency will at 9:00 a.m., Thursday, August 28, 1986, in the Sea-Tac Travelodge, 2824 South 188th, Seattle, WA, conduct a public hearing on the rules.

The rules review committee's findings and the reasons for the findings were stated to this agency as follows:

At its meeting on May 20, 1986, the Joint Administrative Rules Review Committee, by a majority vote upon formal review, determined that your recently adopted

rule relating to chiropractic continuing education (WAC 114-12-155 and 114-12-165; WSR 86-06-043) fails to meet the legislative intent of RCW 18.25.070.

RCW 18.25.070 provides that the Board of Chiropractic Examiners shall "recognize and approve" chiropractic symposia which are submitted to the board by chiropractors in satisfaction of their continuing education requirements for license renewal. By rule, the board has provided blanket approval of all symposia falling within certain subject matter areas, subject to a random audit.

Under RCW 34.04.230, the Board of Chiropractic Examiners must file a notice of hearing on the rule within 30 days of its receipt of this notice. The board must fully consider all written and oral submissions and notify the Joint Administrative Rules Review Committee of its action on the rule within seven days of the hearing. Further committee action will be required if the board fails to hold the required hearing and refuses to modify, amend, or repeal the rule.

Dated: July 2, 1986

By: John H. Keith
Assistant Attorney General
Board Counsel

WSR 86-14-108

PROPOSED RULES

BOARD OF PHARMACY

[Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning WAC 360-20-200, hard gelatin capsule restrictions, which restricts the sale of nonprescription drug products in unsealed two-piece hard gelatin capsules;

that the agency will at 9:30 a.m., Thursday, August 14, 1986, in the South Auditorium, Federal Building, 915 Second Avenue, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.64.005(11).

The specific statute these rules are intended to implement is RCW 18.64.005(11).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 11, 1986.

Dated: July 2, 1986

By: Donald H. Williams
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Rule Title, Summary and Purpose: WAC 360-20-200 Hard gelatin capsule restrictions, restricts the sale of

nonprescription drugs in unsealed, two-piece hard gelatin capsules.

Statutory Authority: RCW 18.64.005(11).

Reason Proposed: In consideration of the recent discovery of the death of two persons as the result of cyanide placed in unsealed two-piece hard gelatin capsules coupled with the discovery of other similarly tampered drug capsules; the Washington State Board of Pharmacy has determined that current technology has not provided for the development of tamper evidence or tamper resistant packaging for over-the-counter (OTC) drugs which is sufficient to prevent tampering with unsealed two-piece hard gelatin capsules. Therefore, in order to protect the health and safety of the citizens of this state, the board has developed this rule banning the sale of such capsules in Washington state to prevent further loss of life.

Responsible Departmental Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents: Washington State Board of Pharmacy.

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

NEW SECTION

WAC 360-20-200 HARD GELATIN CAPSULE RESTRICTIONS. Effective immediately, no pharmacy, shopkeeper or other drug outlet may offer for sale in this state any nonprescription drug which is manufactured in unsealed, two-piece, hard gelatin capsules. All such products must be removed from the store shelves and returned to the manufacturer or be destroyed, unless restricted to sale by prescription only.

**WSR 86-14-109
PROPOSED RULES
BOARD OF PHARMACY
[Filed July 2, 1986]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning the distribution of sample controlled substances or legend drugs in the state of Washington:

- New WAC 360-60-010 Definitions.
- New WAC 360-60-020 Registration requirements.
- New WAC 360-60-030 Records and reports.
- New WAC 360-60-040 Storage of sample drugs by manufacturer's representative.
- New WAC 360-60-050 Requirements for distribution of sample drugs by manufacturer's representative.
- New WAC 360-60-060 Disposal of sample drugs by manufacturer's representatives.
- New WAC 360-60-070 Manufacturers responsible for distribution of sample drugs by representatives.
- New WAC 360-60-080 Seizure of drugs in violation;

that the agency will at 1:30 p.m., Thursday, August 14, 1986, in the South Auditorium, Federal Building, 915 2nd Avenue, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.64.005.

The specific statute these rules are intended to implement is RCW 18.64.005(11).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986.

Dated: July 2, 1986
By: Donald H. Williams
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Rule Title, Summary and Purpose: WAC 360-60-010 defines the key terms used in the sample drugs regulation, including, "drug samples," "controlled substance," "dispense," "distribute," "legend drug," "practitioner," and "manufacturer's representative." These definitions will aid in understanding the scope and application of these rules; 360-60-020 explains the reporting and registration requirements for manufacturers who will be distributing sample drugs in the state of Washington; 360-60-030 explains the recordkeeping requirements and the reports or records manufacturers distributing sample drugs must submit to the Board of Pharmacy; 360-60-040 will explain the storage requirements so as to minimize loss of drugs or their contamination, deterioration or adulteration; 360-60-050 is intended to inform manufacturer's representatives of the conditions under which the affected sample drugs can be distributed; 360-60-060 explains the disposition of unneeded, outdated or damaged sample drugs; 360-60-070 clarifies the manufacturers responsibilities for the actions of its agents or employees; and 360-60-080 provides for seizure or confiscation of any drugs distributed in violation of the rules.

Statutory Authority: RCW 18.64.005(11).

Reason Proposed: To regulate the possession and distribution of drug samples for the protection of the public health, safety and welfare.

Responsible Departmental Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents: Washington State Board of Pharmacy.

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

**Chapter 360-60 WAC
LEGEND DRUGS AND DRUG SAMPLES**

NEW SECTION

- WAC 360-60-010 DEFINITIONS. (1) "Board" means the Washington State Board of Pharmacy.
- (2) "Drug samples" means any F.D.A. approved controlled substance, legend drug, or products requiring prescriptions in the state of

Washington, exclusive of drugs under FDA approved clinical investigation, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative.

(3) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW, of the Uniform Controlled Substances Act.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Legend drug" means any drug which is required by state law or regulation of the board to be dispensed on prescription only or is restricted to use by practitioners only; including chapter 69.41 RCW and chapter 69.50 RCW.

(8) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(9) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces, or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse under chapter 18.88 RCW when authorized to prescribe by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in the state of Washington to appropriately authorized health care practitioners.

NEW SECTION

WAC 360-60-020 REGISTRATION REQUIREMENTS. A manufacturer that intends to distribute drug samples in the state of Washington shall:

(1) Register annually with the board and shall:

(a) Provide the board with a twenty-four hour telephone number and the name of the individual(s) who shall respond to the board's inquiries regarding required records, reports or requests for information; Provided, That requests for the address of sites in the state of Washington where drug samples will be stored by the manufacturer's representative and the names and addresses of the individuals who will be responsible for the storage or distribution of the drug samples will be responded to within four (4) hours; or,

(b) If a twenty-four hour telephone number is not available, provide the board with the addresses of sites in the state of Washington where drug samples will be stored by the manufacturer's representative, and the names and addresses of the individuals who will be responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the board.

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

NEW SECTION

WAC 360-60-030 RECORDS AND REPORTS. (1) The following records shall be maintained by the manufacturer distributing drug samples in the state of Washington and shall be available for inspection by authorized representatives of the board.

(a) An inventory of drug samples held in the state of Washington for distribution taken no less than annually by a representative of the manufacturer other than of the individual in direct control of the drug samples;

(b) Records or documents to account for all drug samples received, distributed, destroyed or returned to the manufacturer. The records shall include records for sample drugs signed for by practitioners, dates and methods of destruction and any dates of returns;

(c) Copies of all reports of lost or stolen drug samples;

(d) All required records shall be maintained for three (3) years and shall include transaction dates.

(e) Lists of all sites in the state of Washington where drug samples are stored by manufacturers' representatives; and,

(f) The list of names, addresses and telephone numbers of all individuals distributing drug samples in the state of Washington and all other individuals authorized by the manufacturer to have access to stored drug samples.

(2) Manufacturers shall promptly report to the board the discovery of any loss or theft of drug samples.

(3) Manufacturers shall report quarterly to the board the name and DEA registration number for each practitioner who has received controlled substances and the name, strength and quantity of the controlled substance(s) distributed. The report shall be submitted within thirty (30) days following the end of the quarter.

NEW SECTION

WAC 360-60-040 STORAGE OF LEGEND DRUGS BY MANUFACTURER'S REPRESENTATIVE. (1) All legend drugs shall be stored in compliance with the requirements of federal and state laws, rules, and regulations.

(2) Legend drugs shall be maintained in a locked area to which access is limited to persons authorized by the manufacturer.

(3) Legend drugs shall be stored and transported in such a manner so as to be free of contamination, deterioration and adulteration.

(4) Legend drugs shall be stored under conditions of temperature, light, moisture and ventilation so as to meet the USP Standards or the label instructions for each drug.

(5) Legend drugs which have exceeded the expiration date shall be physically separated from other legend drugs until disposed of or returned to the manufacturer.

NEW SECTION

WAC 360-60-050 REQUIREMENTS FOR DISTRIBUTION OF DRUG SAMPLES BY MANUFACTURER'S REPRESENTATIVES. (1) Drug samples may only be distributed to practitioners legally authorized to prescribe or dispense such drugs.

(2) Drug samples may only be distributed pursuant to a written request for such samples. This request shall contain the following:

(a) The recipient's name, address and professional designation;

(b) The name and quantity of the drug samples delivered;

(c) The name or identification of the manufacturer and of the individual distributing the drug sample; and,

(d) The dated signature of the practitioner requesting the drug sample.

(3) No fee or charge may be imposed for sample drugs distributed in the state of Washington.

(4) It shall be illegal for a manufacturer's representative to have possession of legend drugs or controlled substances other than those distributed by the manufacturer(s) they represent. Nothing in this section shall prevent a manufacturer's representative from being in possession of a properly prescribed legend drug or controlled substance.

NEW SECTION

WAC 360-60-060 DISPOSAL OF DRUG SAMPLES BY MANUFACTURER'S REPRESENTATIVES. Surplus, outdated or damaged drug samples shall be disposed of as follows:

(a) Returned to the manufacturer; or,

(b) Witnessed destruction by such means as to assure that the drug does not become available to unauthorized persons, provided that controlled substances shall be returned to the manufacturer or shall be disposed of in accordance with Drug Enforcement Administration Regulations (21 CFR 1307.21).

NEW SECTION

WAC 360-60-070 MANUFACTURERS RESPONSIBLE FOR DISTRIBUTION OF LEGEND DRUGS BY REPRESENTATIVES. The manufacturer of legend drugs is responsible for the actions and conduct of their representatives with regard to legend drugs including drug samples. Any failure to comply with these rules shall be

grounds for appropriate disciplinary action pursuant to RCW 18.64.165.

NEW SECTION

WAC 360-60-080 SEIZURE OF DRUGS IN VIOLATION OF THESE RULES. Specific drug samples which are distributed in the state of Washington in violation of these rules shall be subject to seizure by the board, under the provisions of RCW 69.41.060. The board may hold a public hearing to examine a violation of these rules and may require a designated representative of the manufacturer to attend.

**WSR 86-14-110
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed July 2, 1986]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Winthrop, town of, WAC 173-19-3210;

that the agency will at 2:00 p.m., Tuesday, August 5, 1986, in the Department of Ecology Headquarters, Room 273, St. Martin's College, Lacey, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place at 2:00 p.m., Thursday, August 28, 1986.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement is RCW 90.58.120 and 90.58.200.

Dated: July 2, 1986
By: Phillip C. Johnson
Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-3210 Winthrop, town of.

Description of Purpose: Adoption of a revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for the town of Winthrop.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Randlette, (206) 459-6762, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendation Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: On file at the Department of Ecology.

AMENDATORY SECTION (Amending Order DE 79-34 [85-08], filed 1/30/80 [3/28/85])

WAC 173-19-3210 WINTHROP, TOWN OF. Town of Winthrop master program approved December 16, 1975. Revision approved March 9, 1976. Revision approved February 2, 1979. Revision approved November 23, 1981. Revision approved January 31, 1985. Revision approved March 28, 1985. Revision approved August 28, 1986.

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

**WSR 86-14-111
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed July 2, 1986]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Snohomish County, WAC 173-19-390;

that the agency will at 2:00 p.m., Tuesday, August 5, 1986, in the Department of Ecology Headquarters, Room 273, St. Martin's College, Lacey, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place at 2:00 p.m., Thursday, August 28, 1986.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement is RCW 90.58.120 and 90.58.200.

Dated: July 2, 1986
By: Phillip C. Johnson
Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-390 Snohomish County.

Description of Purpose: Adoption of a revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts a revision to the shoreline master program for Snohomish County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Randlette, (206) 459-6762, WDOE, Mailstop PV-11, Olympia, WA 98504.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendation Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: On file at the Department of Ecology.

AMENDATORY SECTION (Amending Order DE 83-43, filed 1/4/84)

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. Revision approved August 28, 1986.

WSR 86-14-112
PROPOSED RULES
INSURANCE COMMISSIONER
 [Filed July 2, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner intends to adopt, amend, or repeal rules concerning the establishment of standards for alcoholism treatment benefit provisions in insurance contracts, including health care service contractors' and health maintenance organizations' agreements;

that the agency will at 10:00 a.m., Monday, August 11, 1986, in the John A. Cherberg Building, Hearing Room 1, 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 August 27, 1986, at 10:00 a.m. in the Insurance Commissioner's Office in Olympia, Washington.

The authority under which these rules are proposed is RCW 48.02.060, 48.44.050 and 48.46.200.

The specific statute these rules are intended to implement is RCW 48.21.160, 48.21.180, 48.44.240 and 48.46.350.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 15, 1986. Mailing address: Insurance Building, AQ-21, Olympia, WA 98504.

Dated: July 2, 1986
 By: Robert E. Johnson
 Deputy Commissioner

STATEMENT OF PURPOSE

Title: Chapter 284-53 WAC, establishing standards for alcoholism treatment benefit provisions in group contracts to effectuate RCW 48.21.180, 48.44.240 and 48.46.350, pursuant to RCW 48.02.060, 48.44.050 and 48.46.200.

The essential features of the rule are summarized as follows: The rule requires coverage for both inpatient and outpatient treatment, except to the extent that inpatient or outpatient treatment is not provided for other common illnesses or disease. It is believed the rule will give insureds the coverage that the legislature contemplated when it required coverage for alcoholism treatment. Some insurers now provide coverage for either inpatient or outpatient treatment, but not both, even

when inpatient as well as outpatient treatment is provided under the contract for other common illnesses or disease. Reasonable charges for services provided by an approved treatment facility must be paid toward any medically necessary treatment and service. Depending upon the situation, medically necessary treatment and services may include, but are not limited to, the types of treatment which are set forth in the rule as examples. These are recommended by the National Association of Insurance Commissioners. Detoxification must be included as an alcoholism benefit if it is not included elsewhere in the benefit package. The rule generally allows carriers to limit coverage by provisions of the contract which are applicable to other benefits or services under the contract. However, the rule prohibits denial of coverage by reason of contract provisions which are not pertinent to the treatment of alcoholism, as for example requiring that the treatment facility have surgical facilities, or be physically attached to a hospital, or have a physician in attendance. The rule requires benefits for alcoholism treatment in a minimum amount of \$5,000, not including deductibles, coinsurance and copayments, in any consecutive 24-month period, or if less, an amount equal to the benefit limit applicable to treatment of any other common major illness or disease other than alcoholism. This requirement will prevent insurers from limiting benefits to amounts so low as to give little effect to the intent of the legislature. For the purpose of meeting the minimum benefit limit, insurers may look back 24 months and give themselves credit for benefits paid by any insurer on behalf of the insured. Insurers may impose a waiting period for treatment to the extent that a waiting period is imposed for other common illnesses or disease. Insurers may impose no other waiting periods or preexisting condition limitations on coverage. This rule is necessary because of the unreasonable restrictions in this regard used by some carriers. The rule prohibits denial of reasonable benefits for inpatient treatment solely because an insured has not completed the course of treatment. This rule is necessary because of the unreasonable restrictions in this regard used by some carriers. The rule prohibits use of inappropriate comparative statistical measures which are lacking in statistical reliability when an insurer is determining expenses to be reimbursed. The rule allows insurers to require an insured to receive alcoholism treatment at a specified facility, but only if the insurer furnishes one or more conveniently located facilities which alone or in combination provide both inpatient and outpatient care. The rule will eliminate unfair requirements that have been imposed by carriers in the past. The rule allows insurers to require prenotification or a second opinion in all reasonable situations if such prenotification or a second opinion is required for other common illnesses or disease. This rule will allow the insured to become informed as to his or her coverage prior to incurring expense, and will allow insurers to be able to obtain additional evaluation of medical necessity. When an insured is under court order to undergo alcoholism assessment or treatment, or in situations related to deferrals or suspensions of prosecution or sentencing, or in situations pertaining to motor vehicle driving rights and the state

Department of Licensing, this rule allows insurers to require the insured to furnish at the patient's expense, not less than ten or more than thirty working days before start of treatment, an initial assessment of the need for alcoholism treatment and plan of treatment. This will permit carriers to weed-out people who are not truly alcoholics, but who are utilizing alcoholism treatment to lessen or avoid the penalties for drunk driving, reckless driving and driving offenses related to driving and alcohol. Finally, the rule prohibits provisions or procedures that would unreasonably restrict access to treatment, continuity of care or payment of claims.

The statutory basis for the rule is RCW 48.02.060 with respect to insurance companies to effectuate RCW 48.21.160 and 48.21.180; RCW 48.44.050 to effectuate RCW 48.44.240 with respect to health care service contractors; and RCW 48.46.200 with respect to health maintenance organizations to effectuate RCW 48.46.350.

Patricia D. Petersen, Deputy Insurance Commissioner, (206) 586-0800, was primarily responsible for drafting the rule. As deputy in charge of the Consumer Protection Division, Robert E. Johnson, Deputy Insurance Commissioner, and Edward H. Southon, Deputy Commissioner for Company Supervision, (206) 753-7303, will share responsibility for the implementation and enforcement of the proposed rule. The address for each is Insurance Building, AQ-21, Olympia, Washington 98504.

The rule is proposed by the Insurance Commissioner, a state public official.

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

Small Business Economic Impact Statement: With respect to the economic impact upon insurers as a result of this proposed regulation, some contracts at this time are already in compliance with this regulation. As to others, some insurers will have to revise their forms to provide for the coverage required by this proposed regulation, and some insurers will have to recalculate their rates to reflect changes in coverage for alcoholism treatment. That is the nature of conducting the business of insurance and must be done periodically, in any event, and it should not increase the cost per employee or per hour of labor for either a large or small insurer.

We [With] respect to other businesses, employers purchase the majority of the contracts affected by this rule. With regard to a potential economic impact on employers, obviously some will be required to pay more in cases where the contract previously did not provide benefits for alcoholism treatment sufficient to meet the requirements of this rule. On a cost per employee basis, a small business will probably pay proportionately more than a large business. However, any additional cost should be slight, and considering that this regulation requires alcoholism benefits which are mandated by the legislature with respect to all group health insurance contracts, the number of employees a business has should be irrelevant.

Chapter 284-53 WAC
STANDARDS FOR GROUP ALCOHOLISM COVERAGE

WAC

284-53-010 Standards for group alcoholism coverage.

NEW SECTION

WAC 284-53-010 STANDARDS FOR GROUP ALCOHOLISM COVERAGE. Contractual provisions for alcoholism benefits required by RCW 48.21.180, 48.44.240, or 48.46.350 shall meet the following standards and administrative requirements.

(1) The coverage for alcoholism treatment shall provide payment toward reasonable charges for any medically necessary treatment and services provided by an "approved treatment facility" licensed pursuant to RCW 70.96A.020(2), such as medical evaluations, psychiatric evaluations, room and board (inpatient only), psychotherapy (individual and group), counseling (individual and group), behavior therapy, recreation therapy, family therapy (individual and group), prescription drugs prescribed by an approved treatment facility, and supplies prescribed by an approved treatment facility. The coverage shall provide such payment whether the treatment or services are provided on an inpatient (resident) or an outpatient (nonresident) basis, except to the extent that inpatient or outpatient coverage is not provided under the contract(s) applicable to the individual insured for other common illnesses or disease. Inpatient coverage shall include detoxification if detoxification is not included in other contract coverage.

(2) Except to the extent prohibited by this section, the coverage may be limited by provisions of the contract that are applicable to other benefits or services including, but not limited to, provisions relating to deductibles, coinsurance and copayments. However, coverage shall not be denied by reason of contract provisions which are not pertinent to the treatment of alcoholism, such as provisions requiring a treatment facility to have surgical facilities or approval by the joint commission on accreditation of hospitals, that there be a physician in attendance, or that the exact date of onset be known.

(3) The minimum benefits for alcoholism treatment, services and detoxification shall be an amount which is the lesser of five thousand dollars, exclusive of deductibles, coinsurance and copayments, in any consecutive twenty-four-month period or an amount equal to the benefit limit in the contract applicable to the individual insured which would normally be applied to treatment of any common major illness or disease other than alcoholism. The benefits may be limited to a lifetime maximum of not less than ten thousand dollars exclusive of deductibles, coinsurance and copayments, notwithstanding WAC 284-44-040(2).

(4) Contract provisions subject to this rule:

(a) Shall not impose waiting periods or preexisting condition limitations on coverage, except that a carrier may impose a waiting period for treatment to the extent that a waiting period is imposed for other common illnesses or disease. Also, for purposes of determining the limitation allowed by subsection (3) of this section, a carrier may take credit for any benefits paid by any carrier on behalf of an individual for alcoholism treatment received in an immediately preceding twenty-four-month period.

(b) Shall not, when determining expenses to be reimbursed at the time of benefit determination, use comparative statistical measures which are lacking in statistical reliability. Because of the limited number of approved treatment facilities in this state and the diversity of methodologies and fee structures, a measure based on the application of usual, customary and reasonable charges is not currently acceptable.

(c) Shall not deny reasonable benefits for actual treatment and services rendered solely because a course of treatment was interrupted or was not completed.

(d) May limit coverage to specific facilities but only if the carrier provides in the patient's area of residence one or more reasonably available and conveniently located approved treatment facilities under RCW 70.96A.020(2) which alone or in combination offer both inpatient and outpatient care.

(e) May require prenotification or a second opinion in all reasonable situations if such prenotification or second opinion is required under the contract generally for other common illnesses and disease.

(5) In situations where an insured is under court order to undergo an alcoholism assessment or treatment, or in situations related to deferral of prosecution, deferral of sentencing or suspended sentencing, or in situations pertaining to motor vehicle driving rights and the Washington state department of licensing, the carrier may require the insured to furnish at the patient's expense no less than ten and no more

than thirty working days before treatment is to begin, an initial assessment of the need for alcoholism treatment and a treatment plan, made by an individual of the patient's choice who is a qualified alcoholism counselor employed by an approved treatment facility under RCW 70.96A.020(2) or licensed under chapter 18.57 or 18.71 RCW to enable the carrier to make its own evaluation of medical necessity prior to scheduled treatment.

(6) Except as provided in this section, contractual provisions subject to this section and the administration of such provisions shall not use definitions, predetermination procedures or other prior approval requirements, or other provisions, requirements or procedures, which unreasonably restrict access to treatment, continuity of care or payment of claims.

(7) This section applies to provisions for alcoholism benefits contained in contracts delivered or issued for delivery or renewed in this state on or after January 1, 1987.

WSR 86-14-113

ADOPTED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Order R-263, Cause No. U-86-42—Filed July 2, 1986]

In the matter of amending WAC 480-80-240 relating to gas companies.

This action is taken pursuant to Notice Nos. WSR 86-10-018, 86-13-040 and 86-14-048 filed with the code reviser on May 1, 1986, June 12, 1986, and June 27, 1986, respectively. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 86-10-018 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, June 11, 1986, but was continued by Notice No. WSR 86-13-040 to June 25, 1986, and by Notice No. WSR 86-14-048 to July 2, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, before Chairman Sharon L. Nelson and Commissioners Robert W. Bratton and Richard D. Casad.

Under the terms of Notice No. WSR 86-10-018, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to June 6, 1986. Under the terms of the notice continuing hearing until July 2, 1986, interested persons were afforded the opportunity to submit data, views, or arguments orally at 9:00 a.m., Wednesday, July 2, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington.

At the July 2, 1986, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-80-240 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-80-240 as amended will allow the gas companies to file on one day's notice the effect of any change in purchased gas costs where a maximum commodity rate was previously granted and the Federal Energy Regulatory Commission has authorized such changes.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-80-240 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 2nd day of July, 1986.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Robert W. Bratton, Commissioner
Richard D. Casad, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-238, Cause No. U-85-44, filed 9/19/85)

✓ WAC 480-80-240 WITHOUT STATUTORY NOTICE. (1) On every tariff that is to become effective on less than thirty days' notice by permission, or regulation or order of the commission, if it is not otherwise excluded from that requirement, notation must be made on the tariff that it is issued under special permission or by order of the commission as follows:

(a) By authority of W.U.T.C. W.S.N. Order No.

.....
(b) By authority of order of the Washington utilities and transportation commission, Cause No. U-.....

(2) Tariffs providing (a) rates for classes of service, etc. not heretofore rendered and covered by the utility's tariff, (b) tariff revisions which reflect no basic change affecting the public, (c) changes in banded rates as to which notice to customers has been or will be given in accordance with tariff rules applicable to such service, or (d) initial tariffs not affecting regulated service, may become effective on a minimum of one day's notice.

(3) Requests for permission to change tariffs without statutory notice will be granted by the commission only in instances where it deems that circumstances or conditions fully justify it. A complete explanation giving the reasons for such request will be required in connection with the tariff revision, which revision will bear an effective date not less than thirty days after the commission receives same and all notices relative thereto will

contain, in addition to the minimum requirements hereinbefore set forth, a statement to the effect that the utility is seeking an earlier effective date than the inserted effective date by means of a W.S.N. Order, which date is (date sought) . If such permission is granted by the commission, it will alter the inserted effective date in keeping therewith subsequent to which the utility affected thereby, after receiving advice to that effect, shall alter, to the same extent, the effective date on the tariff revision which is on file at its listed business offices in the territory affected thereby and on all posted notices relative thereto, with all such alterations bearing appropriate reference to the applicable W.S.N. Order. Said altered posted notice shall remain posted in that manner until the date originally inserted as the effective date thereof.

(4) (a) Any gas company engaged in the distribution of natural gas whereby the rates in its tariff are in part a function of purchased gas costs shall be entitled to an exemption to the thirty-day statutory notice period defined in subsection (1) of this section under the following conditions:

(i) When the federal energy regulatory commission has determined the maximum commodity rate to be charged the gas company based on prospective purchased gas costs of the pipeline supplier for the next six months, and any changes in purchased gas costs below the maximum commodity rate are authorized by tariff to take effect on one day's notice.

(ii) The gas company maintains a separate purchased gas cost schedule as a part of its general tariff defining its prospective maximum commodity rate for natural gas referred to in subsection (a)(i) of this subsection, and this schedule shall have a mechanism to reflect changes in purchased gas costs to any schedule that is a part of the distribution company's general tariff.

(iii) The mechanism within the purchased gas cost adjustment schedule shall delineate the maximum commodity rate, current incremental adjustment to the maximum commodity rate, and cumulative adjustment to the maximum commodity rate during the six-month period.

(iv) Each rate schedule which is to incorporate the instant changes in purchased gas costs shall be clearly identified.

(b) Rate changes under this section resulting from changes in purchased gas costs that occur during the six-month interval between determinations of the maximum commodity rate may take effect on a minimum of one day's notice.

(c) The establishment of the maximum commodity rate shall not be eligible for this exemption from the thirty-day statutory notice requirement.

WSR 86-14-114
PROCLAMATION NO. 86-04
OFFICE OF THE GOVERNOR

WHEREAS, on the 19th day of January, 1965, at the request of the Colville Confederated Tribes by resolution, a Proclamation was issued by Governor Evans of the State of Washington, proclaiming that "The criminal and civil jurisdiction of the state of Washington shall apply to the Colville Confederated Tribes, their people, reservation, territory, lands and country, and all persons being and residing therein"; and

WHEREAS, the Proclamation was issued under the provisions of Chapter 240, laws of 1957, enacted pursuant to the authority granted the state of Washington by Public Law 83-280, 67 stat. 588 (1953) which authorized the extension of law and order to any Indian reservation in the state of Washington when requested by the governing body of the tribe thereof; and

WHEREAS, under the provisions of Chapter 36, laws of 1963, the state of Washington assumed criminal and civil jurisdiction over certain specified matters on all reservations in the state whether requested by the tribes concerned or not; and

WHEREAS, under provisions of Chapter 267, laws of 1986, the Washington State Legislature authorized a process whereby the Colville Confederated Tribes may request a partial retrocession of state criminal jurisdiction over the Colville Indian reservation; and

WHEREAS, the governing authority of the Colville Confederated Tribes has transmitted by letter dated June 4, 1986, a copy of their Resolution 1986-245 adopted May 19, 1986, requesting a partial retrocession of state criminal jurisdiction over the Colville Indian reservation;

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, do hereby proclaim that Governor Evans' proclamation of the 29th day of January, 1965, proclaiming state criminal and civil jurisdiction over the Colville Confederated Tribes, their people, reservation, territory, lands and country, is hereby revoked and proclaimed null and void and superseded by this proclamation.

IT IS FURTHER PROCLAIMED, pursuant to Sec. 4, Chapter 267, laws of 1986, that any jurisdiction exercised by the state of Washington over the Colville Confederated Tribes except as provided in RCW 37.12.010 and Chapter 267, laws of 1986, is retroceded to the United States government in accordance with 25 USC Sec. 1323 (82 Stat. 78, 79), and in accordance with procedures established by the United States for acceptance of such partial retrocession of jurisdiction.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the seal of
the State of Washington be
affixed at Olympia this 1st
day of July, A.D. nineteen
hundred and eighty-six.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- 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

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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25-42-050	NEW 86-13-002	30-12-060	NEW 86-08-072	118-06-020	REP-P 86-06-037
25-42-060	NEW-P 86-09-038	30-12-070	NEW 86-08-072	118-06-030	REP-P 86-06-037
25-42-060	NEW 86-13-002	30-12-080	NEW 86-08-072	118-06-040	REP-P 86-06-037
25-42-070	NEW-P 86-09-038	30-12-090	NEW 86-08-072	118-06-050	REP-P 86-06-037
25-42-070	NEW 86-13-002	30-12-100	NEW 86-08-072	118-06-060	REP-P 86-06-037
25-42-080	NEW-P 86-09-038	30-12-110	NEW 86-08-072	118-06-070	REP-P 86-06-037
25-42-080	NEW 86-13-002	30-12-120	NEW 86-08-072	118-06-080	REP-P 86-06-037
25-42-090	NEW-P 86-09-038	30-12-130	NEW 86-08-072	118-07-010	REP-P 86-06-037
25-42-090	NEW 86-13-002	30-12-140	NEW 86-08-072	118-07-020	REP-P 86-06-037
25-42-100	NEW-P 86-09-038	30-12-150	NEW 86-08-072	118-07-030	REP-P 86-06-037
25-42-100	NEW 86-13-002	30-12-160	NEW 86-08-072	118-07-040	REP-P 86-06-037
25-42-110	NEW-P 86-09-038	30-12-170	NEW 86-08-072	118-07-050	REP-P 86-06-037
25-42-110	NEW 86-13-002	51-10	AMD-P 86-14-094	118-07-060	REP-P 86-06-037
25-42-120	NEW-P 86-09-038	51-12-102	AMD-P 86-06-058	118-08-010	REP-P 86-06-037
25-42-120	NEW 86-13-002	51-12-102	AMD-E 86-06-059	118-08-020	REP-P 86-06-037
25-42-130	NEW-P 86-09-038	51-12-102	AMD 86-11-013	118-08-030	REP-P 86-06-037
25-42-130	NEW 86-13-002	51-12-404	AMD-P 86-06-058	118-08-040	REP-P 86-06-037
25-48-010	NEW-P 86-09-039	51-12-404	AMD-E 86-06-059	118-08-050	REP-P 86-06-037
25-48-010	NEW 86-13-001	51-12-404	AMD 86-11-013	118-08-060	REP-P 86-06-037
25-48-020	NEW-P 86-09-039	51-12-411	AMD-P 86-06-058	118-08-070	REP-P 86-06-037
25-48-020	NEW 86-13-001	51-12-411	AMD-E 86-06-059	118-30-010	NEW-P 86-06-037
25-48-030	NEW-P 86-09-039	51-12-411	AMD 86-11-013	118-30-020	NEW-P 86-06-037
25-48-030	NEW 86-13-001	51-12-426	AMD-P 86-06-058	118-30-030	NEW-P 86-06-037
25-48-040	NEW-P 86-09-039	51-12-426	AMD-E 86-06-059	118-30-040	NEW-P 86-06-037
25-48-040	NEW 86-13-001	51-12-426	AMD 86-11-013	118-30-050	NEW-P 86-06-037
25-48-050	NEW-P 86-09-039	51-12-601	AMD-P 86-06-058	118-30-060	NEW-P 86-06-037
25-48-050	NEW 86-13-001	51-12-601	AMD-E 86-06-059	118-30-070	NEW-P 86-06-037
25-48-060	NEW-P 86-09-039	51-12-601	AMD 86-11-013	118-30-080	NEW-P 86-06-037
25-48-060	NEW 86-13-001	51-12-602	AMD-P 86-06-058	131-08-010	NEW 86-05-004
25-48-070	NEW-P 86-09-039	51-12-602	AMD-E 86-06-059	131-32-030	NEW-E 86-11-059
25-48-070	NEW 86-13-001	51-12-602	AMD 86-11-013	131-32-030	NEW-P 86-12-056
25-48-080	NEW-P 86-09-039	51-12-608	AMD-P 86-06-058	131-32-035	NEW-E 86-11-059
25-48-080	NEW 86-13-001	51-12-608	AMD-E 86-06-059	131-32-035	NEW-P 86-12-056
25-48-090	NEW-P 86-09-039	51-12-608	AMD 86-11-013	131-32-040	NEW-E 86-11-059
25-48-090	NEW 86-13-001	67-35-150	AMD-P 86-04-063	131-32-040	NEW-P 86-12-056
25-48-100	NEW-P 86-09-039	67-35-150	AMD 86-08-010	132H-120-060	REP-P 86-13-047
25-48-100	NEW 86-13-001	67-35-230	AMD-P 86-04-063	132H-120-062	NEW-P 86-13-047
25-48-105	NEW-P 86-09-039	67-35-230	AMD 86-08-010	132H-160-550	NEW-E 86-09-045
25-48-105	NEW 86-13-001	82-50-021	AMD-P 86-14-065	132H-160-550	NEW-P 86-09-046
25-48-110	NEW-P 86-09-039	98-20-020	NEW-P 86-12-068	132J-136-020	REP-P 86-06-044
25-48-110	NEW 86-13-001	100-100-010	REP-E 86-14-013	132J-136-025	REP-P 86-06-044
25-48-120	NEW-P 86-09-039	100-100-020	REP-E 86-14-013	132J-136-030	REP-P 86-06-044
25-48-120	NEW 86-13-001	100-100-030	REP-E 86-14-013	132J-136-040	REP-P 86-06-044
25-48-130	NEW-P 86-09-039	100-100-040	REP-E 86-14-013	132J-136-050	REP-P 86-06-044
25-48-130	NEW 86-13-001	100-100-050	REP-E 86-14-013	132K-04-001	AMD-P 86-11-047
25-48-140	NEW-P 86-09-039	100-100-060	REP-E 86-14-013	132K-04-050	AMD-P 86-11-047
25-48-140	NEW 86-13-001	100-100-070	REP-E 86-14-013	132K-04-080	AMD-P 86-11-047
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30-01-050	NEW 86-08-072	100-101-010	NEW-E 86-14-013	132K-16-010	AMD-P 86-11-047
30-01-060	NEW 86-08-072	100-101-020	NEW-E 86-14-013	132K-16-040	AMD-P 86-11-047
30-04-010	NEW 86-08-072	100-101-030	NEW-E 86-14-013	132K-16-060	AMD-P 86-11-047
30-04-020	NEW 86-08-072	100-101-040	NEW-E 86-14-013	132K-16-070	AMD-P 86-11-047
30-04-030	NEW 86-08-072	100-101-050	NEW-E 86-14-013	132K-20-010	AMD-P 86-11-047
30-04-040	NEW 86-08-072	100-101-052	NEW-E 86-14-013	132K-20-020	AMD-P 86-11-047
30-04-050	NEW 86-08-072	100-101-060	NEW-E 86-14-013	132K-20-070	AMD-P 86-11-047
30-04-060	NEW 86-08-072	100-101-070	NEW-E 86-14-013	132K-20-080	AMD-P 86-11-047
30-04-070	NEW 86-08-072	100-101-075	NEW-E 86-14-013	132K-116-010	AMD-P 86-11-047
30-04-080	NEW 86-08-072	100-101-080	NEW-E 86-14-013	132K-116-025	AMD-P 86-11-047
30-04-090	NEW 86-08-072	100-101-085	NEW-E 86-14-013	132K-116-065	AMD-P 86-11-047
30-04-100	NEW 86-08-072	100-101-1989	NEW-E 86-14-013	132K-116-135	AMD-P 86-11-047

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132K-120-010	AMD-P	86-11-047	173-14-064	AMD-P	86-05-052	173-22-0614	NEW	86-12-011
132K-120-015	AMD-P	86-11-047	173-14-064	AMD	86-12-011	173-22-0616	NEW-P	86-05-052
132K-120-020	AMD-P	86-11-047	173-14-090	AMD-P	86-05-052	173-22-0616	NEW	86-12-011
132K-120-025	AMD-P	86-11-047	173-14-090	AMD	86-12-011	173-22-0618	NEW-P	86-05-052
132K-120-045	AMD-P	86-11-047	173-14-130	AMD-P	86-05-052	173-22-0618	NEW	86-12-011
132K-120-065	AMD-P	86-11-047	173-14-130	AMD	86-12-011	173-22-0620	NEW-P	86-05-052
132K-120-085	AMD-P	86-11-047	173-14-140	AMD-P	86-05-052	173-22-0620	NEW	86-12-011
132K-122-010	AMD-P	86-11-047	173-14-140	AMD	86-12-011	173-22-0622	NEW-P	86-05-052
132K-122-020	AMD-P	86-11-047	173-14-150	AMD-P	86-05-052	173-22-0622	NEW	86-12-011
132K-122-030	AMD-P	86-11-047	173-14-150	AMD	86-12-011	173-22-0624	NEW-P	86-05-052
132K-122-040	AMD-P	86-11-047	173-14-180	AMD-P	86-05-052	173-22-0624	NEW	86-12-011
132K-122-080	AMD-P	86-11-047	173-14-180	AMD	86-12-011	173-22-0626	NEW-P	86-05-052
132K-122-100	AMD-P	86-11-047	173-19	AMD-C	86-08-098	173-22-0626	NEW	86-12-011
132K-122-120	AMD-P	86-11-047	173-19-020	AMD-P	86-05-052	173-22-0628	NEW-P	86-05-052
132K-122-130	AMD-P	86-11-047	173-19-020	AMD	86-12-011	173-22-0628	NEW	86-12-011
132K-276-040	AMD-P	86-11-047	173-19-044	AMD-P	86-05-052	173-22-0630	NEW-P	86-05-052
132K-995-990	AMD-P	86-11-047	173-19-044	AMD	86-12-011	173-22-0630	NEW	86-12-011
132Q-01-005	NEW	86-04-010	173-19-050	AMD-P	86-05-052	173-22-0632	NEW-P	86-05-052
132Q-01-010	NEW	86-04-010	173-19-050	AMD	86-12-011	173-22-0632	NEW	86-12-011
132Q-01-020	NEW	86-04-010	173-19-060	AMD-P	86-05-052	173-22-0634	NEW-P	86-05-052
132Q-01-030	NEW	86-04-010	173-19-060	AMD	86-12-011	173-22-0634	NEW	86-12-011
132Q-01-040	NEW	86-04-010	173-19-061	NEW-P	86-05-052	173-22-0636	NEW-P	86-05-052
132Q-01-050	NEW	86-04-010	173-19-061	NEW	86-12-011	173-22-0636	NEW	86-12-011
132S-30-011	AMD-P	86-10-033	173-19-062	AMD-P	86-05-052	173-22-0638	NEW-P	86-05-052
132S-30-042	AMD-P	86-10-033	173-19-062	AMD	86-12-011	173-22-0638	NEW	86-12-011
132S-30-044	REP-P	86-10-033	173-19-064	AMD-P	86-05-052	173-22-0640	NEW-P	86-05-052
132S-30-046	REP-P	86-10-033	173-19-064	AMD	86-12-011	173-22-0640	NEW	86-12-011
132S-30-048	REP-P	86-10-033	173-19-130	AMD	86-04-040	173-22-0642	NEW-P	86-05-052
132S-30-064	AMD-P	86-10-033	173-19-130	AMD-P	86-06-060	173-22-0642	NEW	86-12-011
132S-30-082	AMD-P	86-10-033	173-19-130	AMD-C	86-11-003	173-22-0644	NEW-P	86-05-052
132S-30-084	AMD-P	86-10-033	173-19-130	AMD	86-12-069	173-22-0644	NEW	86-12-011
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136-130-050	AMD	86-06-005	173-19-220	AMD-P	86-07-068	173-22-0646	NEW	86-12-011
136-130-070	AMD	86-06-005	173-19-220	AMD-C	86-11-032	173-22-0648	NEW-P	86-05-052
136-150-010	AMD	86-06-005	173-19-220	AMD	86-12-071	173-22-0648	NEW	86-12-011
136-150-020	AMD	86-06-005	173-19-2512	AMD-P	86-06-061	173-22-0650	NEW-P	86-05-052
136-150-024	NEW	86-06-005	173-19-2512	AMD-C	86-11-002	173-22-0650	NEW	86-12-011
136-150-040	AMD	86-06-005	173-19-2512	AMD	86-12-070	173-22-0652	NEW-P	86-05-052
136-160-060	AMD	86-06-005	173-19-3210	AMD-P	86-14-110	173-22-0652	NEW	86-12-011
137-08-060	AMD-P	86-07-066	173-19-330	AMD-P	86-11-068	173-22-0654	NEW-P	86-05-052
137-08-060	AMD	86-10-010	173-19-3514	AMD-P	86-11-067	173-22-0654	NEW	86-12-011
137-08-070	AMD-P	86-07-066	173-19-3701	AMD-C	86-06-057	173-22-0656	NEW-P	86-05-052
137-08-070	AMD	86-10-010	173-19-3701	AMD	86-07-049	173-22-0656	NEW	86-12-011
137-08-140	AMD-P	86-07-066	173-19-380	AMD-P	86-08-100	173-22-0658	NEW-P	86-05-052
137-08-140	AMD	86-10-010	173-19-380	AMD	86-12-072	173-22-0658	NEW	86-12-011
137-54-030	AMD-P	86-04-015	173-19-390	AMD-P	86-14-110	173-22-0660	NEW-P	86-05-052
137-54-030	AMD	86-07-034	173-19-3903	AMD-P	86-06-061	173-22-0660	NEW	86-12-011
137-56-010	AMD	86-06-012	173-19-3903	AMD-C	86-11-002	173-22-0662	NEW-P	86-05-052
137-56-015	NEW-E	86-03-058	173-19-3903	AMD	86-12-070	173-22-0662	NEW	86-12-011
137-56-015	NEW-P	86-03-059	173-19-430	AMD-C	86-06-057	173-22-0664	NEW-P	86-05-052
137-56-015	NEW	86-06-039	173-19-430	AMD	86-07-049	173-22-0664	NEW	86-12-011
137-56-095	NEW	86-06-012	173-22	AMD-C	86-08-098	173-22-0666	NEW-P	86-05-052
137-56-100	AMD	86-06-012	173-22-030	AMD-P	86-05-052	173-22-0666	NEW	86-12-011
137-56-110	NEW	86-06-012	173-22-030	AMD	86-12-011	173-22-0668	NEW-P	86-05-052
137-56-160	AMD	86-06-012	173-22-040	AMD-P	86-05-052	173-22-0668	NEW	86-12-011
137-56-170	AMD	86-06-012	173-22-040	AMD	86-12-011	173-22-0670	NEW-P	86-05-052
137-56-180	AMD	86-06-012	173-22-050	AMD-P	86-05-052	173-22-0670	NEW	86-12-011
137-56-190	AMD	86-06-012	173-22-050	AMD	86-12-011	173-22-0672	NEW-P	86-05-052
137-56-200	AMD	86-06-012	173-22-052	NEW-P	86-05-052	173-22-0672	NEW	86-12-011
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137-56-220	AMD	86-06-012	173-22-055	AMD-P	86-05-052	173-22-0674	NEW	86-12-011
137-56-230	AMD	86-06-012	173-22-055	AMD	86-12-011	173-22-0676	NEW-P	86-05-052
137-56-240	AMD	86-06-012	173-22-060	AMD-P	86-05-052	173-22-0676	NEW	86-12-011
137-56-250	AMD	86-06-012	173-22-060	AMD	86-12-011	173-22-0678	NEW-P	86-05-052
137-56-280	NEW	86-06-012	173-22-0602	NEW-P	86-05-052	173-22-0678	NEW	86-12-011
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139-08-601	NEW-E	86-14-014	173-22-0604	NEW-P	86-05-052	173-134A-085	NEW	86-04-057
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154-12-050	AMD-P	86-13-024	173-22-0606	NEW-P	86-05-052	173-216-020	AMD	86-06-040
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173-14-030	AMD-P	86-05-052	173-22-0608	NEW-P	86-05-052	173-216-050	AMD	86-06-040
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173-220-045	AMD	86-06-040	173-301-352	REP	86-03-034	173-303-230	AMD	86-12-057
173-220-060	AMD	86-06-040	173-301-353	REP	86-03-034	173-303-240	AMD-P	86-07-069
173-220-150	AMD	86-06-040	173-301-354	REP	86-03-034	173-303-240	AMD	86-12-057
173-222-010	NEW	86-06-040	173-301-355	REP	86-03-034	173-303-280	AMD-P	86-07-069
173-222-015	NEW	86-06-040	173-301-356	REP	86-03-034	173-303-280	AMD	86-12-057
173-222-020	NEW	86-06-040	173-301-357	REP	86-03-034	173-303-360	AMD-P	86-07-069
173-222-030	NEW	86-06-040	173-301-358	REP	86-03-034	173-303-360	AMD	86-12-057
173-222-040	NEW	86-06-040	173-301-359	REP	86-03-034	173-303-380	AMD-P	86-07-069
173-222-050	NEW	86-06-040	173-301-400	REP	86-03-034	173-303-380	AMD	86-12-057
173-222-060	NEW	86-06-040	173-301-401	REP	86-03-034	173-303-390	AMD-P	86-07-069
173-222-070	NEW	86-06-040	173-301-402	REP	86-03-034	173-303-390	AMD	86-12-057
173-222-080	NEW	86-06-040	173-301-450	REP	86-03-034	173-303-395	AMD-P	86-07-069
173-222-090	NEW	86-06-040	173-301-451	REP	86-03-034	173-303-395	AMD	86-12-057
173-222-100	NEW	86-06-040	173-301-452	REP	86-03-034	173-303-400	AMD-P	86-07-069
173-222-110	NEW	86-06-040	173-301-453	REP	86-03-034	173-303-400	AMD	86-12-057
173-301-100	REP	86-03-034	173-301-454	REP	86-03-034	173-303-500	AMD-P	86-07-069
173-301-101	REP	86-03-034	173-301-455	REP	86-03-034	173-303-500	AMD	86-12-057
173-301-105	REP	86-03-034	173-301-456	REP	86-03-034	173-303-505	AMD-P	86-07-069
173-301-110	REP	86-03-034	173-301-457	REP	86-03-034	173-303-505	AMD	86-12-057
173-301-120	REP	86-03-034	173-301-500	REP	86-03-034	173-303-510	AMD-P	86-07-069
173-301-121	REP	86-03-034	173-301-610	REP	86-03-034	173-303-510	AMD	86-12-057
173-301-122	REP	86-03-034	173-301-611	REP	86-03-034	173-303-515	AMD-P	86-07-069
173-301-123	REP	86-03-034	173-301-625	REP	86-03-034	173-303-515	AMD	86-12-057
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173-301-125	REP	86-03-034	173-303-010	AMD-P	86-07-069	173-303-520	AMD	86-12-057
173-301-126	REP	86-03-034	173-303-010	AMD	86-12-057	173-303-525	NEW-P	86-07-069
173-301-140	REP	86-03-034	173-303-016	AMD-P	86-07-069	173-303-525	NEW	86-12-057
173-301-141	REP	86-03-034	173-303-016	AMD	86-12-057	173-303-600	AMD-P	86-07-069
173-301-142	REP	86-03-034	173-303-017	AMD-P	86-07-069	173-303-600	AMD	86-12-057
173-301-143	REP	86-03-034	173-303-017	AMD	86-12-057	173-303-630	AMD-P	86-07-069
173-301-150	REP	86-03-034	173-303-040	AMD-P	86-07-069	173-303-630	AMD	86-12-057
173-301-151	REP	86-03-034	173-303-040	AMD	86-12-057	173-303-640	AMD-P	86-07-069
173-301-152	REP	86-03-034	173-303-045	AMD-P	86-07-069	173-303-640	AMD	86-12-057
173-301-153	REP	86-03-034	173-303-045	AMD	86-12-057	173-303-650	AMD-P	86-07-069
173-301-154	REP	86-03-034	173-303-060	AMD-P	86-07-069	173-303-650	AMD	86-12-057
173-301-155	REP	86-03-034	173-303-060	AMD	86-12-057	173-303-655	AMD-P	86-07-069
173-301-156	REP	86-03-034	173-303-070	AMD-P	86-07-069	173-303-655	AMD	86-12-057
173-301-157	REP	86-03-034	173-303-070	AMD	86-12-057	173-303-660	AMD-P	86-07-069
173-301-158	REP	86-03-034	173-303-071	AMD-P	86-07-069	173-303-660	AMD	86-12-057
173-301-159	REP	86-03-034	173-303-071	AMD	86-12-057	173-303-665	AMD-P	86-07-069
173-301-160	REP	86-03-034	173-303-081	AMD-P	86-07-069	173-303-665	AMD	86-12-057
173-301-161	REP	86-03-034	173-303-081	AMD	86-12-057	173-303-670	AMD-P	86-07-069
173-301-162	REP	86-03-034	173-303-082	AMD-P	86-07-069	173-303-670	AMD	86-12-057
173-301-163	REP	86-03-034	173-303-082	AMD	86-12-057	173-303-802	AMD-P	86-07-069
173-301-164	REP	86-03-034	173-303-084	AMD-P	86-07-069	173-303-802	AMD	86-12-057
173-301-180	REP	86-03-034	173-303-084	AMD	86-12-057	173-303-804	AMD-P	86-07-069
173-301-181	REP	86-03-034	173-303-090	AMD-P	86-07-069	173-303-804	AMD	86-12-057
173-301-182	REP	86-03-034	173-303-090	AMD	86-12-057	173-303-805	AMD-P	86-07-069
173-301-183	REP	86-03-034	173-303-101	AMD-P	86-07-069	173-303-805	AMD	86-12-057
173-301-184	REP	86-03-034	173-303-101	AMD	86-12-057	173-303-806	AMD-P	86-07-069
173-301-185	REP	86-03-034	173-303-102	AMD-P	86-07-069	173-303-806	AMD	86-12-057
173-301-186	REP	86-03-034	173-303-102	AMD	86-12-057	173-303-910	AMD-P	86-07-069
173-301-187	REP	86-03-034	173-303-110	AMD-P	86-07-069	173-303-910	AMD	86-12-057
173-301-188	REP	86-03-034	173-303-110	AMD	86-12-057	173-303-960	NEW-P	86-07-069
173-301-189	REP	86-03-034	173-303-120	AMD-P	86-07-069	173-303-960	NEW	86-12-057
173-301-190	REP	86-03-034	173-303-120	AMD	86-12-057	173-303-9902	AMD-P	86-07-069
173-301-191	REP	86-03-034	173-303-121	AMD-P	86-07-069	173-303-9902	AMD	86-12-057
173-301-192	REP	86-03-034	173-303-121	AMD	86-12-057	173-303-9903	AMD-P	86-07-069
173-301-193	REP	86-03-034	173-303-141	AMD-P	86-07-069	173-303-9903	AMD	86-12-057
173-301-194	REP	86-03-034	173-303-141	AMD	86-12-057	173-303-9904	AMD-P	86-07-069
173-301-195	REP	86-03-034	173-303-160	AMD-P	86-07-069	173-303-9904	AMD	86-12-057
173-301-196	REP	86-03-034	173-303-160	AMD	86-12-057	173-303-9905	AMD-P	86-07-069
173-301-197	REP	86-03-034	173-303-161	AMD-P	86-07-069	173-303-9905	AMD	86-12-057
173-301-300	REP	86-03-034	173-303-161	AMD	86-12-057	173-325-010	NEW-E	86-09-017
173-301-301	REP	86-03-034	173-303-170	AMD-P	86-07-069	173-325-010	NEW-P	86-10-043
173-301-302	REP	86-03-034	173-303-170	AMD	86-12-057	173-325-010	NEW-C	86-11-069
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173-301-305	REP	86-03-034	173-303-200	AMD-P	86-07-069	173-325-020	NEW-C	86-11-069
173-301-306	REP	86-03-034	173-303-200	AMD	86-12-057	173-325-030	NEW-E	86-09-017
173-301-307	REP	86-03-034	173-303-201	NEW-P	86-07-069	173-325-030	NEW-P	86-10-043
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173-301-310	REP	86-03-034	173-303-210	AMD	86-12-057	173-325-040	NEW-P	86-10-043
173-301-320	REP	86-03-034	173-303-220	AMD-P	86-07-069	173-325-040	NEW-C	86-11-069

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173-480-040	NEW-P	86-04-092	180-16-221	NEW	86-13-015	180-85-025	NEW	86-13-018
173-480-040	NEW-C	86-07-067	180-16-222	NEW-P	86-09-095	180-85-030	NEW-P	86-09-098
173-480-040	NEW	86-10-053	180-16-222	NEW	86-13-015	180-85-030	NEW	86-13-018
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173-480-050	NEW	86-10-053	180-16-224	NEW-P	86-09-095	180-85-040	NEW-P	86-09-098
173-480-060	NEW-P	86-04-092	180-16-224	NEW	86-13-015	180-85-040	NEW	86-13-018
173-480-060	NEW-C	86-07-067	180-16-225	AMD-P	86-09-095	180-85-045	NEW-P	86-09-098
173-480-060	NEW	86-10-053	180-16-225	AMD	86-13-015	180-85-045	NEW	86-13-018
173-480-070	NEW-P	86-04-092	180-16-226	NEW	86-13-015	180-85-075	NEW-P	86-09-098
173-480-070	NEW-C	86-07-067	180-16-231	NEW-P	86-09-095	180-85-075	NEW	86-13-018
173-480-070	NEW	86-10-053	180-16-231	NEW	86-13-015	180-85-080	NEW-P	86-09-098
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173-480-080	NEW-C	86-07-067	180-16-236	NEW	86-13-015	180-85-100	NEW-P	86-09-098
173-480-080	NEW	86-10-053	180-25-043	NEW	86-04-065	180-85-100	NEW	86-13-018
173-516-010	NEW-W	86-05-019	180-25-050	AMD	86-04-066	180-85-105	NEW-P	86-09-098
173-516-020	NEW-W	86-05-019	180-26-057	NEW	86-04-065	180-85-105	NEW	86-13-018
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173-516-040	NEW-W	86-05-019	180-29-1075	NEW	86-04-065	180-85-110	NEW	86-13-018
173-516-050	NEW-W	86-05-019	180-75	AMD-P	86-09-096	180-85-115	NEW-P	86-09-098
173-516-060	NEW-W	86-05-019	180-75	AMD	86-13-016	180-85-115	NEW	86-13-018
173-516-070	NEW-W	86-05-019	180-75-003	NEW-P	86-09-096	180-85-120	NEW-P	86-09-098
173-516-080	NEW-W	86-05-019	180-75-003	NEW	86-13-016	180-85-120	NEW	86-13-018
173-516-090	NEW-W	86-05-019	180-75-017	NEW-P	86-09-096	180-85-130	NEW-P	86-09-098
173-516-100	NEW-W	86-05-019	180-75-017	NEW	86-13-016	180-85-130	NEW	86-13-018
173-555-015	NEW-P	86-10-062	180-75-020	AMD-P	86-09-096	180-85-135	NEW-P	86-09-098
173-555-015	NEW-W	86-12-048	180-75-020	AMD	86-13-016	180-85-135	NEW	86-13-018
173-555-015	NEW-P	86-13-066	180-75-025	AMD-P	86-09-096	180-85-200	NEW-P	86-09-098
173-555-020	AMD-P	86-10-062	180-75-025	AMD	86-13-016	180-85-200	NEW	86-13-018
173-555-020	AMD-W	86-12-048	180-75-027	NEW-P	86-09-096	180-85-205	NEW-P	86-09-098
173-555-020	AMD-P	86-13-066	180-75-027	NEW	86-13-016	180-85-205	NEW	86-13-018
173-555-030	AMD-P	86-10-062	180-75-030	AMD-P	86-09-096	180-85-210	NEW-P	86-09-098
173-555-030	AMD-W	86-12-048	180-75-030	AMD	86-13-016	180-85-210	NEW	86-13-018
173-555-030	AMD-P	86-13-066	180-75-033	NEW-P	86-09-096	180-85-215	NEW-P	86-09-098
173-555-040	AMD-P	86-10-062	180-75-033	NEW	86-13-016	180-85-215	NEW	86-13-018
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173-555-040	AMD-P	86-13-066	180-75-035	AMD	86-13-016	180-85-220	NEW	86-13-018
173-555-060	AMD-P	86-10-062	180-75-040	AMD-P	86-09-096	180-85-225	NEW-P	86-09-098
173-555-060	AMD-W	86-12-048	180-75-040	AMD	86-13-016	180-85-225	NEW	86-13-018
173-555-065	NEW-P	86-10-062	180-75-045	AMD-P	86-09-096	182-08-120	AMD-P	86-13-044
173-555-065	NEW-W	86-12-048	180-75-055	AMD-P	86-09-096	182-08-160	AMD-P	86-13-044
173-555-065	NEW-P	86-13-066	180-75-055	AMD	86-13-016	182-08-160	AMD-E	86-13-045
173-555-070	AMD-P	86-10-062	180-75-087	NEW-P	86-09-096	182-08-170	AMD-P	86-13-044
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173-555-070	AMD-P	86-13-066	180-75-090	AMD-P	86-09-096	182-08-220	NEW-P	86-13-044
173-555-080	NEW-P	86-10-062	180-75-090	AMD	86-13-016	182-08-220	NEW-E	86-13-045
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173-591-010	NEW-P	86-10-071	180-79-013	AMD-P	86-09-097	182-12-122	AMD-E	86-13-045
173-591-020	NEW-P	86-10-071	180-79-013	AMD	86-13-017	182-12-126	NEW-P	86-13-044
173-591-030	NEW-P	86-10-071	180-79-065	AMD-P	86-09-097	182-12-126	NEW-E	86-13-045
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173-591-080	NEW-P	86-10-071	180-79-080	NEW	86-13-017	182-12-220	NEW-P	86-13-044
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173-591-120	NEW-P	86-10-071	180-79-100	AMD	86-13-017	192-12-134	REP-P	86-14-095
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220-47-413	AMD-P 86-08-103	220-56-365	AMD 86-09-020	220-57A-037	AMD 86-09-020
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220-56-18000T	NEW-E 86-06-031	220-57-24200A	NEW-E 86-13-039	230-04-060	AMD-P 86-09-040
220-56-190	AMD-C 86-03-089	220-57-260	AMD-C 86-03-089	230-04-060	AMD-P 86-13-053
220-56-190	AMD 86-09-020	220-57-260	AMD 86-09-020	230-04-201	AMD-P 86-07-043
220-56-19000A	NEW-E 86-14-024	220-57-270	AMD-C 86-03-089	230-04-201	AMD-P 86-09-040
220-56-19000Z	NEW-E 86-08-065	220-57-290	AMD-C 86-03-089	230-04-201	AMD-C 86-13-054
220-56-19000Z	REP-E 86-14-024	220-57-290	AMD 86-09-020	230-04-201	AMD 86-13-055
220-56-195	AMD-C 86-03-089	220-57-29000H	NEW-E 86-11-017	230-04-900	NEW-P 86-09-040
220-56-195	AMD 86-09-020	220-57-31500E	NEW-E 86-09-018	230-04-900	NEW 86-13-055
220-56-19500D	NEW-E 86-08-065	220-57-31500E	REP-E 86-14-024	230-08-010	AMD 86-07-037
220-56-19500D	REP-E 86-14-024	220-57-319	AMD-C 86-03-089	230-08-080	AMD-P 86-05-044
220-56-205	AMD-C 86-03-089	220-57-319	AMD 86-09-020	230-08-080	AMD 86-09-036
220-56-205	AMD 86-09-020	220-57-31900B	NEW-E 86-08-065	230-08-100	AMD-P 86-09-040
220-56-20500A	NEW-E 86-08-065	220-57-31900B	REP-E 86-14-024	230-08-100	AMD-P 86-10-042
220-56-20500A	REP-E 86-14-024	220-57-335	AMD-C 86-03-089	230-08-100	AMD 86-13-055
220-56-240	AMD-C 86-03-089	220-57-335	AMD 86-09-020	230-08-165	NEW-P 86-11-005
220-56-240	AMD 86-09-020	220-57-350	AMD-C 86-03-089	230-12-040	AMD-P 86-09-040
220-56-24000C	NEW-E 86-08-065	220-57-350	AMD 86-09-020	230-12-040	AMD 86-13-055
220-56-24000C	REP-E 86-14-024	220-57-38500I	NEW-E 86-11-051	230-12-240	NEW-P 86-13-053
220-56-295	AMD-C 86-03-089	220-57-38500I	REP-E 86-14-024	230-12-310	AMD-P 86-09-040
220-56-295	AMD 86-09-020	220-57-42500H	NEW-E 86-14-058	230-12-310	AMD-P 86-13-053
220-56-29500B	NEW-E 86-08-065	220-57-435	AMD-C 86-03-089	230-12-310	AMD-P 86-14-076
220-56-29500B	REP-E 86-14-024	220-57-435	AMD 86-09-020	230-20-010	AMD-P 86-05-044
220-56-305	AMD-C 86-03-089	220-57-450	AMD-C 86-03-089	230-20-010	AMD 86-09-036
220-56-305	AMD 86-09-020	220-57-450	AMD 86-09-020	230-20-064	AMD-P 86-07-043
220-56-30500B	NEW-E 86-08-065	220-57-455	AMD-C 86-03-089	230-20-064	AMD-C 86-13-054
220-56-30500B	REP-E 86-14-024	220-57-455	AMD 86-09-020	230-20-100	AMD-P 86-05-044

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230-20-240	AMD-P	86-05-044	232-28-61511	NEW-P	86-09-083	248-29-050	AMD	86-04-031
230-20-240	AMD	86-09-036	232-28-61511	NEW	86-12-046	248-29-060	AMD	86-04-031
230-20-246	AMD-P	86-05-044	232-28-61512	NEW-E	86-13-041	248-29-070	AMD	86-04-031
230-20-246	AMD	86-09-036	232-28-616	NEW-P	86-14-102	248-29-080	AMD	86-04-031
230-30-050	AMD	86-07-037	232-28-707	REP	86-06-028	248-29-090	AMD	86-04-031
230-40-055	AMD-P	86-11-005	232-28-708	NEW	86-06-028	248-40-040	AMD-P	86-10-074
230-40-070	AMD-P	86-09-040	232-28-807	REP-P	86-05-048	248-40-040	AMD	86-14-008
230-40-070	AMD	86-13-055	232-28-807	REP	86-12-045	248-40-050	AMD-P	86-10-074
230-40-120	AMD-P	86-11-005	232-28-808	NEW-P	86-05-048	248-40-050	AMD	86-14-008
230-40-310	AMD-P	86-09-040	232-28-808	NEW	86-12-045	248-100-175	REP	86-05-013
230-40-310	AMD	86-13-055	240-10-010	AMD-P	86-05-023	248-140-010	AMD-P	86-03-070
230-40-400	AMD-P	86-11-005	240-10-010	AMD	86-08-070	248-140-010	AMD	86-08-002
230-46-010	AMD-P	86-03-035	240-10-030	AMD-P	86-05-023	248-140-140	AMD-P	86-03-070
230-46-010	AMD	86-08-007	240-10-030	AMD	86-08-070	248-140-140	AMD	86-08-002
230-46-020	AMD-P	86-03-035	240-10-040	AMD-P	86-05-023	248-140-150	AMD-P	86-03-070
230-46-020	AMD	86-08-007	240-10-040	AMD	86-08-070	248-140-150	AMD	86-08-002
230-46-030	REP-P	86-03-035	240-10-055	NEW-P	86-05-023	248-140-220	AMD-P	86-03-070
230-46-030	REP	86-07-044	240-10-055	NEW	86-08-070	248-140-220	AMD	86-08-002
230-46-040	REP-P	86-03-035	248-16-900	AMD-P	86-03-070	250-20-021	AMD-P	86-09-033
230-46-040	REP	86-07-044	248-16-900	AMD	86-08-002	250-20-021	AMD-E	86-09-034
230-46-050	REP-P	86-03-035	248-16-999	AMD-P	86-03-070	250-20-021	AMD	86-12-077
230-46-050	REP	86-07-044	248-16-999	AMD	86-08-002	250-40-050	AMD-E	86-04-038
230-46-060	REP-P	86-03-035	248-18-001	AMD-P	86-03-070	250-40-050	AMD-E	86-07-041
230-46-060	REP	86-07-044	248-18-001	AMD	86-08-002	250-40-050	AMD-P	86-07-042
230-46-100	NEW-P	86-05-045	248-18-010	AMD-P	86-03-070	250-40-050	AMD	86-10-014
230-46-100	NEW-P	86-06-001	248-18-010	AMD	86-08-002	250-61-010	NEW-P	86-13-067
230-46-100	NEW-C	86-11-004	248-18-040	AMD-P	86-05-005	250-61-020	NEW-P	86-13-067
230-46-100	NEW-C	86-13-054	248-18-040	AMD	86-08-086	250-61-030	NEW-P	86-13-067
230-46-110	NEW-P	86-05-045	248-18-245	AMD-P	86-03-070	250-61-040	NEW-P	86-13-067
230-46-110	NEW-P	86-07-036	248-18-245	AMD	86-08-002	250-61-050	NEW-P	86-13-067
230-46-110	NEW-C	86-11-004	248-18-515	AMD-P	86-03-070	250-61-060	NEW-P	86-13-067
230-46-110	NEW-C	86-13-054	248-18-515	AMD	86-08-002	250-61-070	NEW-P	86-13-067
230-46-120	NEW-P	86-05-045	248-18-718	AMD-P	86-03-070	250-61-080	NEW-P	86-13-067
230-46-120	NEW-C	86-11-004	248-18-718	AMD	86-08-002	250-61-090	NEW-P	86-13-067
230-46-140	NEW-P	86-05-045	248-18-999	AMD-P	86-03-070	250-61-100	NEW-P	86-13-067
230-46-140	NEW-C	86-11-004	248-18-999	AMD	86-08-002	250-61-110	NEW-P	86-13-067
230-46-140	NEW-C	86-13-054	248-19-200	REP	86-06-030	250-61-120	NEW-P	86-13-067
232-12-001	AMD-P	86-14-102	248-19-210	AMD	86-06-030	250-61-130	NEW-P	86-13-067
232-12-04506	NEW-E	86-03-017	248-19-220	AMD	86-06-030	250-61-140	NEW-P	86-13-067
232-12-04507	NEW-E	86-04-021	248-19-230	AMD	86-06-030	250-61-150	NEW-P	86-13-067
232-12-091	AMD-P	86-05-047	248-19-240	AMD	86-06-030	250-61-160	NEW-P	86-13-067
232-12-091	AMD	86-09-023	248-19-260	AMD	86-06-030	251-01-005	NEW-P	86-06-052
232-12-167	REP-P	86-14-102	248-19-270	AMD	86-06-030	251-01-005	NEW	86-09-078
232-12-168	NEW-P	86-14-102	248-19-280	AMD	86-06-030	251-01-010	NEW-P	86-06-052
232-12-189	AMD	86-03-054	248-19-290	REP	86-06-030	251-01-010	NEW	86-09-078
232-12-241	AMD	86-03-055	248-19-295	NEW	86-06-030	251-01-015	NEW-P	86-06-052
232-12-241	AMD-P	86-14-103	248-19-300	AMD	86-06-030	251-01-015	NEW	86-09-078
232-12-804	AMD	86-03-052	248-19-310	AMD	86-06-030	251-01-020	NEW-P	86-06-052
232-12-806	REP	86-03-053	248-19-320	AMD	86-06-030	251-01-020	NEW	86-09-078
232-12-807	NEW	86-03-053	248-19-325	REP	86-06-030	251-01-025	NEW-P	86-06-052
232-12-809	AMD-P	86-05-049	248-19-326	NEW	86-06-030	251-01-025	NEW	86-09-078
232-12-809	AMD	86-09-024	248-19-327	NEW	86-06-030	251-01-030	NEW-P	86-06-052
232-16-289	REP-P	86-14-105	248-19-330	AMD	86-06-030	251-01-030	NEW	86-09-078
232-16-380	AMD-P	86-14-104	248-19-340	AMD	86-06-030	251-01-035	NEW-P	86-06-052
232-16-630	REP-P	86-14-105	248-19-350	AMD	86-06-030	251-01-035	NEW	86-09-078
232-16-650	REP-P	86-14-105	248-19-373	AMD-P	86-09-049	251-01-040	NEW-P	86-06-052
232-16-670	REP-P	86-14-105	248-19-373	AMD	86-12-044	251-01-040	NEW	86-09-078
232-28-108	REP-P	86-12-054	248-19-400	AMD	86-06-030	251-01-045	NEW-P	86-06-052
232-28-109	NEW-P	86-12-054	248-19-403	AMD	86-06-030	251-01-045	NEW	86-09-078
232-28-210	REP-P	86-09-084	248-19-405	AMD	86-06-030	251-01-050	NEW-P	86-06-052
232-28-211	NEW-P	86-05-050	248-19-410	AMD	86-06-030	251-01-050	NEW	86-09-078
232-28-211	NEW-W	86-06-027	248-19-415	AMD	86-06-030	251-01-055	NEW-P	86-06-052
232-28-212	NEW-P	86-09-084	248-19-420	AMD	86-06-030	251-01-055	NEW	86-09-078
232-28-409	REP-P	86-14-106	248-19-430	AMD	86-06-030	251-01-060	NEW-P	86-06-052
232-28-410	NEW-P	86-14-106	248-19-440	AMD	86-06-030	251-01-060	NEW	86-09-078
232-28-508	REP-P	86-12-053	248-19-450	AMD	86-06-030	251-01-065	NEW-P	86-06-052
232-28-509	NEW-P	86-12-053	248-19-460	AMD	86-06-030	251-01-065	NEW	86-09-078
232-28-61423	NEW-E	86-05-051	248-19-470	AMD	86-06-030	251-01-070	NEW-P	86-06-052
232-28-615	REP-P	86-14-102	248-19-475	AMD	86-06-030	251-01-070	NEW	86-09-078
232-28-61502	NEW-E	86-03-002	248-19-480	AMD	86-06-030	251-01-075	NEW-P	86-06-052
232-28-61506	NEW-E	86-03-018	248-21-002	AMD-P	86-03-070	251-01-075	NEW	86-09-078
232-28-61507	NEW-E	86-07-030	248-21-002	AMD	86-08-002	251-01-080	NEW-P	86-06-052
232-28-61508	NEW-E	86-06-029	248-29-001	AMD	86-04-031	251-01-080	NEW	86-09-078
232-28-61508	NEW-E	86-12-047	248-29-010	AMD	86-04-031	251-01-085	NEW-P	86-06-052
232-28-61509	NEW-E	86-08-060	248-29-020	AMD	86-04-031	251-01-085	NEW	86-09-078
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251-01-105	NEW	86-09-078	251-01-300	NEW-P	86-06-052	251-10-025	AMD-P	86-10-066
251-01-110	NEW-P	86-06-052	251-01-300	NEW	86-09-078	251-10-025	AMD-E	86-12-037
251-01-110	NEW	86-09-078	251-01-305	NEW-P	86-06-052	251-10-025	AMD	86-14-041
251-01-115	NEW-P	86-06-052	251-01-305	NEW	86-09-078	251-10-105	NEW	86-06-033
251-01-115	NEW	86-09-078	251-01-310	NEW-P	86-06-052	251-10-110	AMD-C	86-04-011
251-01-120	NEW-P	86-06-052	251-01-310	NEW	86-09-078	251-10-110	AMD	86-06-033
251-01-120	NEW	86-09-078	251-01-315	NEW-P	86-06-052	251-10-110	AMD-W	86-08-091
251-01-125	NEW-P	86-06-052	251-01-315	NEW	86-09-078	251-10-111	NEW	86-06-033
251-01-125	NEW	86-09-078	251-01-320	NEW-P	86-06-052	251-10-115	NEW-W	86-08-091
251-01-130	NEW-P	86-06-052	251-01-320	NEW	86-09-078	251-10-120	AMD-W	86-08-091
251-01-130	NEW	86-09-078	251-01-325	NEW-P	86-06-052	251-14-050	AMD-P	86-04-077
251-01-135	NEW-P	86-06-052	251-01-325	NEW	86-09-078	251-14-050	AMD-P	86-10-078
251-01-135	NEW	86-09-078	251-01-330	NEW-P	86-06-052	251-14-050	AMD-C	86-08-038
251-01-140	NEW-P	86-06-052	251-01-330	NEW	86-09-078	251-14-050	AMD	86-09-076
251-01-140	NEW	86-09-078	251-01-335	NEW-P	86-06-052	251-14-060	AMD-P	86-04-078
251-01-145	NEW-P	86-06-052	251-01-335	NEW	86-09-078	251-14-060	AMD-C	86-08-038
251-01-145	NEW	86-09-078	251-01-340	NEW-P	86-06-052	251-14-060	AMD	86-09-076
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251-01-165	NEW-P	86-06-052	251-01-355	NEW	86-09-078	251-14-082	NEW	86-14-042
251-01-165	NEW	86-09-078	251-01-360	NEW-P	86-06-052	251-14-083	NEW-W	86-08-091
251-01-170	NEW-P	86-06-052	251-01-360	NEW	86-09-078	251-14-083	NEW-P	86-10-064
251-01-170	NEW	86-09-078	251-01-365	NEW-P	86-06-052	251-14-083	NEW	86-14-042
251-01-175	NEW-P	86-06-052	251-01-365	NEW	86-09-078	251-14-084	NEW-W	86-08-091
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251-01-180	NEW-P	86-06-052	251-01-370	NEW	86-09-078	251-14-085	NEW-W	86-08-091
251-01-180	NEW	86-09-078	251-01-375	NEW-P	86-06-052	251-14-085	NEW-P	86-10-064
251-01-185	NEW-P	86-06-052	251-01-375	NEW	86-09-078	251-14-085	NEW	86-14-042
251-01-185	NEW	86-09-078	251-01-380	NEW-P	86-06-052	251-14-086	NEW-W	86-08-091
251-01-190	NEW-P	86-06-052	251-01-380	NEW	86-09-078	251-14-086	NEW-P	86-10-064
251-01-190	NEW	86-09-078	251-01-385	NEW-P	86-06-052	251-14-086	NEW	86-14-042
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251-01-200	NEW-P	86-06-052	251-01-390	NEW	86-09-078	251-14-087	NEW	86-14-042
251-01-200	NEW	86-09-078	251-01-395	NEW-P	86-06-052	251-14-090	AMD-W	86-08-091
251-01-205	NEW-P	86-06-052	251-01-395	NEW	86-09-078	251-18-035	AMD	86-06-034
251-01-205	NEW	86-09-078	251-01-400	NEW-P	86-06-052	251-18-041	AMD	86-03-081
251-01-210	NEW-P	86-06-052	251-01-400	NEW	86-09-078	251-18-060	AMD	86-06-034
251-01-210	NEW	86-09-078	251-01-405	NEW-P	86-06-052	251-18-180	AMD	86-03-081
251-01-215	NEW-P	86-06-052	251-01-405	NEW	86-09-078	251-18-240	AMD	86-06-034
251-01-215	NEW	86-09-078	251-01-410	NEW-P	86-06-052	251-18-250	REP	86-06-034
251-01-220	NEW-P	86-06-052	251-01-410	NEW	86-09-078	251-18-390	REP	86-06-034
251-01-220	NEW	86-09-078	251-01-415	NEW-P	86-06-052	251-22-040	AMD-P	86-04-079
251-01-225	NEW-P	86-06-052	251-01-415	NEW	86-09-078	251-22-040	AMD	86-08-037
251-01-225	NEW	86-09-078	251-01-420	NEW-P	86-06-052	251-23-010	NEW	86-06-034
251-01-230	NEW-P	86-06-052	251-01-420	NEW	86-09-078	251-23-020	NEW	86-06-034
251-01-230	NEW	86-09-078	251-01-425	NEW-P	86-06-052	251-23-030	NEW	86-06-034
251-01-235	NEW-P	86-06-052	251-01-425	NEW	86-09-078	251-23-040	NEW	86-06-034
251-01-235	NEW	86-09-078	251-01-430	NEW-P	86-06-052	251-23-050	NEW	86-06-034
251-01-240	NEW-P	86-06-052	251-01-430	NEW	86-09-078	251-23-060	NEW	86-06-034
251-01-240	NEW	86-09-078	251-01-435	NEW-P	86-06-052	251-25-010	NEW-P	86-10-066
251-01-245	NEW-P	86-06-052	251-01-435	NEW	86-09-078	251-25-010	NEW-E	86-12-037
251-01-245	NEW	86-09-078	251-01-440	NEW-P	86-06-052	251-25-010	NEW	86-14-041
251-01-250	NEW-P	86-06-052	251-01-440	NEW	86-09-078	251-25-020	NEW-P	86-10-066
251-01-250	NEW	86-09-078	251-01-445	NEW-P	86-06-052	251-25-020	NEW-E	86-12-037
251-01-255	NEW-P	86-06-052	251-01-445	NEW	86-09-078	251-25-020	NEW	86-14-041
251-01-255	NEW	86-09-078	251-01-450	NEW-P	86-06-052	251-25-030	NEW-P	86-10-066
251-01-260	NEW-P	86-06-052	251-01-450	NEW	86-09-078	251-25-030	NEW-E	86-12-037
251-01-260	NEW	86-09-078	251-01-455	NEW-P	86-06-052	251-25-030	NEW	86-14-041
251-01-265	NEW-P	86-06-052	251-01-455	NEW	86-09-078	251-25-040	NEW-P	86-10-066
251-01-265	NEW	86-09-078	251-01-460	NEW-P	86-06-052	251-25-040	NEW-E	86-12-037
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296-23-50004	AMD-C	86-03-050	296-44-005	AMD-P	86-11-072	296-44-094	REP-P	86-11-072
296-23-50004	AMD-C	86-04-036	296-44-011	NEW-P	86-11-072	296-44-097	REP-P	86-11-072
296-23-50004	AMD	86-06-032	296-44-013	AMD-P	86-11-072	296-44-098	NEW-P	86-11-072
296-23-50005	AMD-C	86-03-050	296-44-013	REP-P	86-11-072	296-44-09805	NEW-P	86-11-072
296-23-50005	AMD-C	86-04-036	296-44-015	NEW-P	86-11-072	296-44-09811	NEW-P	86-11-072
296-23-50005	AMD	86-06-032	296-44-016	REP-P	86-11-072	296-44-09819	NEW-P	86-11-072
296-23-50006	AMD-C	86-03-050	296-44-016	AMD-P	86-11-072	296-44-09826	NEW-P	86-11-072
296-23-50006	AMD-C	86-04-036	296-44-017	NEW-P	86-11-072	296-44-100	REP-P	86-11-072
296-23-50006	AMD	86-06-032	296-44-019	REP-P	86-11-072	296-44-103	REP-P	86-11-072
296-23-50008	AMD-C	86-03-050	296-44-022	REP-P	86-11-072	296-44-106	REP-P	86-11-072
296-23-50008	AMD-C	86-04-036	296-44-023	NEW-P	86-11-072	296-44-109	REP-P	86-11-072
296-23-50008	AMD	86-06-032	296-44-02301	NEW-P	86-11-072	296-44-110	NEW-P	86-11-072
296-23-50009	AMD-C	86-03-050	296-44-02305	NEW-P	86-11-072	296-44-11005	NEW-P	86-11-072
296-23-50009	AMD-C	86-04-036	296-44-02309	NEW-P	86-11-072	296-44-11021	NEW-P	86-11-072
296-23-50009	AMD	86-06-032	296-44-02315	NEW-P	86-11-072	296-44-11029	NEW-P	86-11-072
296-23-50012	AMD-C	86-03-050	296-44-02319	NEW-P	86-11-072	296-44-11035	NEW-P	86-11-072
296-23-50012	AMD-C	86-04-036	296-44-02323	NEW-P	86-11-072	296-44-11041	NEW-P	86-11-072
296-23-50012	AMD	86-06-032	296-44-02329	NEW-P	86-11-072	296-44-112	REP-P	86-11-072
296-23-50013	AMD-C	86-03-050	296-44-02335	NEW-P	86-11-072	296-44-115	REP-P	86-11-072
296-23-50013	AMD-C	86-04-036	296-44-02349	NEW-P	86-11-072	296-44-118	REP-P	86-11-072
296-23-50013	AMD	86-06-032	296-44-028	REP-P	86-11-072	296-44-121	REP-P	86-11-072
296-23-50014	AMD-C	86-03-050	296-44-031	REP-P	86-11-072	296-44-124	REP-P	86-11-072
296-23-50014	AMD-C	86-04-036	296-44-034	REP-P	86-11-072	296-44-125	NEW-P	86-11-072
296-23-50014	AMD	86-06-032	296-44-035	NEW-P	86-11-072	296-44-12505	NEW-P	86-11-072
296-23-50016	NEW-C	86-03-050	296-44-03505	NEW-P	86-11-072	296-44-12515	NEW-P	86-11-072
296-23-50016	NEW-C	86-04-036	296-44-03509	NEW-P	86-11-072	296-44-127	REP-P	86-11-072
296-23-50016	NEW	86-06-032	296-44-037	REP-P	86-11-072	296-44-130	REP-P	86-11-072
296-23-710	AMD-C	86-03-050	296-44-040	REP-P	86-11-072	296-44-133	REP-P	86-11-072
296-23-710	AMD-C	86-04-036	296-44-041	NEW-P	86-11-072	296-44-134	NEW-P	86-11-072
296-23-710	AMD	86-06-032	296-44-04105	NEW-P	86-11-072	296-44-13405	NEW-P	86-11-072
296-23-720	AMD-C	86-03-050	296-44-04109	NEW-P	86-11-072	296-44-13415	NEW-P	86-11-072
296-23-720	AMD-C	86-04-036	296-44-04125	NEW-P	86-11-072	296-44-13421	NEW-P	86-11-072
296-23-720	AMD	86-06-032	296-44-04129	NEW-P	86-11-072	296-44-13431	NEW-P	86-11-072
296-23-725	AMD-C	86-03-050	296-44-04135	NEW-P	86-11-072	296-44-136	REP-P	86-11-072
296-23-725	AMD-C	86-04-036	296-44-043	REP-P	86-11-072	296-44-139	REP-P	86-11-072
296-23-725	AMD	86-06-032	296-44-046	REP-P	86-11-072	296-44-142	REP-P	86-11-072
296-23-910	AMD-C	86-03-050	296-44-049	REP-P	86-11-072	296-44-145	REP-P	86-11-072
296-23-910	AMD-C	86-04-036	296-44-051	NEW-P	86-11-072	296-44-148	REP-P	86-11-072
296-23-910	AMD	86-06-032	296-44-05105	NEW-P	86-11-072	296-44-151	REP-P	86-11-072
296-23-940	REP-C	86-03-050	296-44-05109	NEW-P	86-11-072	296-44-154	REP-P	86-11-072
296-23-940	REP-C	86-04-036	296-44-05115	NEW-P	86-11-072	296-44-157	REP-P	86-11-072
296-23-940	REP	86-06-032	296-44-05119	NEW-P	86-11-072	296-44-160	REP-P	86-11-072
296-23-9401	REP-C	86-03-050	296-44-05125	NEW-P	86-11-072	296-44-163	REP-P	86-11-072
296-23-9401	REP-C	86-04-036	296-44-05129	NEW-P	86-11-072	296-44-166	REP-P	86-11-072
296-23-9401	REP	86-06-032	296-44-05131	NEW-P	86-11-072	296-44-169	REP-P	86-11-072
296-23-9402	REP-C	86-03-050	296-44-05135	NEW-P	86-11-072	296-44-170	NEW-P	86-11-072
296-23-9402	REP-C	86-04-036	296-44-05141	NEW-P	86-11-072	296-44-17005	NEW-P	86-11-072
296-23-9402	REP	86-06-032	296-44-052	REP-P	86-11-072	296-44-17017	NEW-P	86-11-072
296-23-9403	REP-C	86-03-050	296-44-055	REP-P	86-11-072	296-44-17029	NEW-P	86-11-072
296-23-9403	REP-C	86-04-036	296-44-058	REP-P	86-11-072	296-44-172	REP-P	86-11-072
296-23-9403	REP	86-06-032	296-44-061	REP-P	86-11-072	296-44-175	REP-P	86-11-072
296-23-9409	REP-C	86-03-050	296-44-064	REP-P	86-11-072	296-44-178	REP-P	86-11-072
296-23-9409	REP-C	86-04-036	296-44-065	NEW-P	86-11-072	296-44-181	REP-P	86-11-072
296-23-9409	REP	86-06-032	296-44-06505	NEW-P	86-11-072	296-44-182	NEW-P	86-11-072
296-23-9410	REP-C	86-03-050	296-44-06511	NEW-P	86-11-072	296-44-18205	NEW-P	86-11-072
296-23-9410	REP-C	86-04-036	296-44-06517	NEW-P	86-11-072	296-44-18225	NEW-P	86-11-072
296-23-9410	REP	86-06-032	296-44-067	REP-P	86-11-072	296-44-18239	NEW-P	86-11-072
296-23-950	NEW-C	86-03-050	296-44-070	REP-P	86-11-072	296-44-18250	NEW-P	86-11-072
296-23-950	NEW-C	86-04-036	296-44-073	REP-P	86-11-072	296-44-18261	NEW-P	86-11-072
296-23-950	NEW	86-06-032	296-44-074	NEW-P	86-11-072	296-44-18273	NEW-P	86-11-072
296-23-960	NEW-C	86-03-050	296-44-07405	NEW-P	86-11-072	296-44-184	REP-P	86-11-072
296-23-960	NEW-C	86-04-036	296-44-07411	NEW-P	86-11-072	296-44-187	REP-P	86-11-072
296-23-960	NEW	86-06-032	296-44-07417	NEW-P	86-11-072	296-44-190	REP-P	86-11-072
296-23-970	NEW-C	86-03-050	296-44-07423	NEW-P	86-11-072	296-44-193	REP-P	86-11-072
296-23-970	NEW-C	86-04-036	296-44-07427	NEW-P	86-11-072	296-44-194	NEW-P	86-11-072
296-23-970	NEW	86-06-032	296-44-07433	NEW-P	86-11-072	296-44-19405	NEW-P	86-11-072
296-23-980	NEW-C	86-03-050	296-44-07439	NEW-P	86-11-072	296-44-19421	NEW-P	86-11-072
296-23-980	NEW-C	86-04-036	296-44-076	REP-P	86-11-072	296-44-19433	NEW-P	86-11-072

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-56-60073	AMD	86-03-064	296-56-99001	REP	86-03-064	296-83-080	REP	86-03-025
296-56-60075	AMD	86-03-064	296-56-99002	AMD	86-03-064	296-83-085	REP	86-03-025
296-56-60077	AMD	86-03-064	296-56-99003	AMD	86-03-064	296-86-020	AMD	86-03-026
296-56-60079	AMD	86-03-064	296-56-99004	REP	86-03-064	296-86-030	AMD	86-03-026
296-56-60081	AMD	86-03-064	296-56-99005	REP	86-03-064	296-86-060	AMD	86-03-026
296-56-60083	AMD	86-03-064	296-56-99006	REP	86-03-064	296-86-070	AMD	86-03-026
296-56-60085	AMD	86-03-064	296-62-05403	AMD-P	86-06-051	296-86-075	AMD	86-03-026
296-56-60087	AMD	86-03-064	296-62-05403	AMD-C	86-10-001	296-87-001	NEW	86-03-033
296-56-60089	AMD	86-03-064	296-62-05403	AMD-C	86-10-035	296-87-020	AMD	86-03-033
296-56-60091	AMD	86-03-064	296-62-05403	AMD	86-12-004	296-87-040	AMD	86-03-033
296-56-60093	AMD	86-03-064	296-62-05405	AMD-P	86-06-051	296-87-060	AMD	86-03-033
296-56-60095	AMD	86-03-064	296-62-05405	AMD-C	86-10-001	296-87-080	AMD	86-03-033
296-56-60097	AMD	86-03-064	296-62-05405	AMD-C	86-10-035	296-87-120	AMD	86-03-033
296-56-60098	AMD	86-03-064	296-62-05405	AMD	86-12-004	296-88-001	REP	86-03-027
296-56-60101	AMD	86-03-064	296-62-05407	AMD-P	86-06-051	296-88-010	REP	86-03-027
296-56-60103	AMD	86-03-064	296-62-05407	AMD-C	86-10-001	296-88-020	REP	86-03-027
296-56-60107	AMD	86-03-064	296-62-05407	AMD-C	86-10-035	296-88-030	REP	86-03-027
296-56-60109	AMD	86-03-064	296-62-05407	AMD	86-12-004	296-88-040	REP	86-03-027
296-56-60110	AMD	86-03-064	296-62-05413	AMD-P	86-06-051	296-88-050	REP	86-03-027
296-56-60111	AMD	86-03-064	296-62-05413	AMD-C	86-10-001	296-88-060	REP	86-03-027
296-56-60113	AMD	86-03-064	296-62-05413	AMD-C	86-10-035	296-88-070	REP	86-03-027
296-56-60115	AMD	86-03-064	296-62-05413	AMD	86-12-004	296-88-080	REP	86-03-027
296-56-60117	AMD	86-03-064	296-62-05415	AMD-P	86-06-051	296-88-090	REP	86-03-027
296-56-60119	AMD	86-03-064	296-62-05415	AMD-C	86-10-001	296-88-100	REP	86-03-027
296-56-60121	AMD	86-03-064	296-62-05415	AMD-C	86-10-035	296-88-110	REP	86-03-027
296-56-60122	NEW	86-03-064	296-62-05415	AMD	86-12-004	296-88-120	REP	86-03-027
296-56-60123	AMD	86-03-064	296-62-05417	AMD-P	86-06-051	296-88-130	REP	86-03-027
296-56-60125	AMD	86-03-064	296-62-05417	AMD-C	86-10-001	296-90-010	REP	86-03-028
296-56-60127	AMD	86-03-064	296-62-05417	AMD-C	86-10-035	296-90-020	REP	86-03-028
296-56-60129	AMD	86-03-064	296-62-05417	AMD	86-12-004	296-90-030	REP	86-03-028
296-56-60131	AMD	86-03-064	296-62-05425	AMD-P	86-06-051	296-90-040	REP	86-03-028
296-56-60133	AMD	86-03-064	296-62-05425	AMD-C	86-10-001	296-90-050	REP	86-03-028
296-56-60135	AMD	86-03-064	296-62-05425	AMD-C	86-10-035	296-90-060	REP	86-03-028
296-56-60139	AMD	86-03-064	296-62-05425	AMD	86-12-004	296-90-070	REP	86-03-028
296-56-60141	AMD	86-03-064	296-62-05427	NEW-P	86-06-051	296-90-080	REP	86-03-028
296-56-60143	AMD	86-03-064	296-62-05427	NEW-C	86-10-001	296-90-090	REP	86-03-028
296-56-60145	AMD	86-03-064	296-62-05427	NEW-C	86-10-035	296-92-010	REP	86-03-029
296-56-60147	AMD	86-03-064	296-62-05427	NEW	86-12-004	296-92-020	REP	86-03-029
296-56-60151	AMD	86-03-064	296-62-07306	AMD-P	86-11-071	296-92-030	REP	86-03-029
296-56-60153	AMD	86-03-064	296-62-07329	AMD-P	86-11-071	296-92-040	REP	86-03-029
296-56-60155	AMD	86-03-064	296-62-07341	AMD-P	86-11-071	296-92-050	REP	86-03-029
296-56-60157	AMD	86-03-064	296-62-07345	AMD-P	86-11-071	296-92-060	REP	86-03-029
296-56-60159	AMD	86-03-064	296-62-07353	AMD-P	86-11-071	296-92-070	REP	86-03-029
296-56-60161	AMD	86-03-064	296-62-07515	AMD-P	86-11-071	296-92-080	REP	86-03-029
296-56-60167	AMD	86-03-064	296-62-14533	AMD-P	86-11-071	296-92-090	REP	86-03-029
296-56-60169	AMD	86-03-064	296-62-14543	NEW-P	86-11-071	296-92-100	REP	86-03-029
296-56-60171	AMD	86-03-064	296-62-20009	AMD-P	86-11-071	296-92-110	REP	86-03-029
296-56-60180	AMD	86-03-064	296-62-20011	AMD-P	86-11-071	296-93-010	AMD	86-03-030
296-56-60183	AMD	86-03-064	296-64-400	REP-P	86-06-051	296-93-050	AMD	86-03-030
296-56-60189	AMD	86-03-064	296-64-400	REP	86-12-004	296-93-060	REP	86-03-030
296-56-60191	AMD	86-03-064	296-64-405	REP-P	86-06-051	296-93-070	AMD	86-03-030
296-56-60193	AMD	86-03-064	296-64-405	REP	86-12-004	296-93-110	REP	86-03-030
296-56-60195	AMD	86-03-064	296-64-410	REP-P	86-06-051	296-93-120	AMD	86-03-030
296-56-60199	AMD	86-03-064	296-64-410	REP	86-12-004	296-93-130	REP	86-03-030
296-56-60201	AMD	86-03-064	296-64-415	REP-P	86-06-051	296-93-170	AMD	86-03-030
296-56-60205	AMD	86-03-064	296-64-415	REP	86-12-004	296-93-180	REP	86-03-030
296-56-60207	AMD	86-03-064	296-64-420	REP-P	86-06-051	296-93-200	AMD	86-03-030
296-56-60209	AMD	86-03-064	296-64-420	REP	86-12-004	296-93-210	AMD	86-03-030
296-56-60211	AMD	86-03-064	296-64-425	REP-P	86-06-051	296-93-220	AMD	86-03-030
296-56-60215	AMD	86-03-064	296-64-425	REP	86-12-004	296-93-230	AMD	86-03-030
296-56-60217	AMD	86-03-064	296-81-007	AMD	86-03-024	296-94-010	NEW	86-03-032
296-56-60219	AMD	86-03-064	296-81-010	AMD	86-03-024	296-94-020	NEW	86-03-032
296-56-60221	AMD	86-03-064	296-81-260	AMD	86-03-024	296-94-030	NEW	86-03-032
296-56-60223	AMD	86-03-064	296-83-010	REP	86-03-025	296-94-040	NEW	86-03-032
296-56-60229	AMD	86-03-064	296-83-015	REP	86-03-025	296-94-050	NEW	86-03-032
296-56-60231	AMD	86-03-064	296-83-020	REP	86-03-025	296-94-060	NEW	86-03-032
296-56-60233	AMD	86-03-064	296-83-025	REP	86-03-025	296-94-070	NEW	86-03-032
296-56-60235	AMD	86-03-064	296-83-030	REP	86-03-025	296-94-080	NEW	86-03-032
296-56-60237	AMD	86-03-064	296-83-035	REP	86-03-025	296-94-090	NEW	86-03-032
296-56-60239	AMD	86-03-064	296-83-040	REP	86-03-025	296-94-100	NEW	86-03-032
296-56-60241	AMD	86-03-064	296-83-045	REP	86-03-025	296-94-110	NEW	86-03-032
296-56-60243	AMD	86-03-064	296-83-050	REP	86-03-025	296-94-120	NEW	86-03-032
296-56-60245	AMD	86-03-064	296-83-055	REP	86-03-025	296-94-130	NEW	86-03-032
296-56-60249	AMD	86-03-064	296-83-060	REP	86-03-025	296-94-140	NEW	86-03-032
296-56-60251	AMD	86-03-064	296-83-065	REP	86-03-025	296-94-150	NEW	86-03-032
296-56-60253	AMD	86-03-064	296-83-070	REP	86-03-025	296-94-160	NEW	86-03-032
296-56-990	REP	86-03-064	296-83-075	REP	86-03-025	296-94-170	NEW	86-03-032

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296-94-190	NEW	86-03-032	296-132-205	REP-P	86-05-027	296-155-120	AMD-C	86-03-073
296-94-200	NEW	86-03-032	296-132-210	REP	86-08-015	296-155-120	AMD	86-03-074
296-94-210	NEW	86-03-032	296-132-210	REP-P	86-05-027	296-155-125	AMD-C	86-03-073
296-94-220	NEW	86-03-032	296-132-210	REP	86-08-015	296-155-125	AMD	86-03-074
296-94-230	NEW	86-03-032	296-132-215	REP-P	86-05-027	296-155-130	AMD-C	86-03-073
296-94-240	NEW	86-03-032	296-132-215	REP	86-08-015	296-155-130	AMD	86-03-074
296-94-250	NEW	86-03-032	296-132-220	REP-P	86-05-027	296-155-140	AMD-C	86-03-073
296-100-001	NEW	86-03-031	296-132-220	REP	86-08-015	296-155-140	AMD	86-03-074
296-100-050	NEW	86-03-031	296-132-225	REP-P	86-05-027	296-155-155	AMD-C	86-03-073
296-100-060	NEW	86-03-031	296-132-225	REP	86-08-015	296-155-155	AMD	86-03-074
296-104-210	AMD-P	86-04-060	296-132-226	REP-P	86-05-027	296-155-160	AMD-C	86-03-073
296-104-210	AMD	86-07-064	296-132-226	REP	86-08-015	296-155-160	AMD	86-03-074
296-104-500	AMD	86-04-059	296-132-250	REP-P	86-05-027	296-155-165	AMD-C	86-03-073
296-104-501	NEW	86-04-059	296-132-250	REP	86-08-015	296-155-165	AMD	86-03-074
296-104-515	AMD	86-04-059	296-132-255	REP-P	86-05-027	296-155-200	AMD-C	86-03-073
296-116-080	AMD	86-07-010	296-132-255	REP	86-08-015	296-155-200	AMD	86-03-074
296-127-010	AMD	86-03-063	296-132-260	REP-P	86-05-027	296-155-201	AMD-C	86-03-073
296-127-020	AMD	86-03-063	296-132-260	REP	86-08-015	296-155-201	AMD	86-03-074
296-127-130	NEW	86-03-063	296-132-265	REP-P	86-05-027	296-155-203	NEW-C	86-03-073
296-127-140	NEW	86-03-063	296-132-265	REP	86-08-015	296-155-203	NEW	86-03-074
296-127-150	NEW	86-03-063	296-132-301	REP-P	86-05-027	296-155-20301	NEW-C	86-03-073
296-127-160	NEW	86-03-063	296-132-301	REP	86-08-015	296-155-20301	NEW	86-03-074
296-127-170	NEW	86-03-063	296-132-302	REP-P	86-05-027	296-155-20303	NEW-C	86-03-073
296-127-180	NEW	86-03-063	296-132-302	REP	86-08-015	296-155-20305	NEW-C	86-03-073
296-127-190	NEW	86-03-063	296-132-306	REP-P	86-05-027	296-155-20307	NEW-C	86-03-073
296-127-200	NEW	86-03-063	296-132-306	REP	86-08-015	296-155-20307	NEW	86-03-074
296-127-210	NEW	86-03-063	296-132-311	REP-P	86-05-027	296-155-205	AMD-C	86-03-073
296-127-220	NEW	86-03-063	296-132-311	REP	86-08-015	296-155-205	AMD	86-03-074
296-127-300	NEW	86-03-063	296-132-316	REP-P	86-05-027	296-155-211	NEW-C	86-03-073
296-127-310	NEW	86-03-063	296-132-316	REP	86-08-015	296-155-211	NEW	86-03-074
296-127-320	NEW	86-03-063	296-132-350	REP-P	86-05-027	296-155-212	AMD-C	86-03-073
296-132-005	REP-P	86-05-027	296-132-350	REP	86-08-015	296-155-212	AMD	86-03-074
296-132-005	REP	86-08-015	296-132-360	REP-P	86-05-027	296-155-225	AMD-C	86-03-073
296-132-010	REP-P	86-05-027	296-132-360	REP	86-08-015	296-155-225	AMD	86-03-074
296-132-010	REP	86-08-015	296-132-370	REP-P	86-05-027	296-155-230	AMD-C	86-03-073
296-132-015	REP-P	86-05-027	296-132-370	REP	86-08-015	296-155-230	AMD	86-03-074
296-132-015	REP	86-08-015	296-132-380	REP-P	86-05-027	296-155-250	AMD-C	86-03-073
296-132-050	REP-P	86-05-027	296-132-380	REP	86-08-015	296-155-250	AMD	86-03-074
296-132-050	REP	86-08-015	296-150A-300	AMD-E	86-08-071	296-155-260	AMD-C	86-03-073
296-132-055	REP-P	86-05-027	296-150A-300	AMD-P	86-14-033	296-155-260	AMD	86-03-074
296-132-055	REP	86-08-015	296-150A-300	AMD-E	86-14-037	296-155-270	AMD-C	86-03-073
296-132-060	REP-P	86-05-027	296-150B-015	AMD-P	86-14-036	296-155-270	AMD	86-03-074
296-132-060	REP	86-08-015	296-150B-015	AMD-E	86-14-040	296-155-275	AMD-C	86-03-073
296-132-065	REP-P	86-05-027	296-150B-015	AMD-P	86-14-036	296-155-275	AMD	86-03-074
296-132-065	REP	86-08-015	296-150B-300	AMD-E	86-14-040	296-155-300	AMD-C	86-03-073
296-132-100	REP-P	86-05-027	296-150B-305	AMD-P	86-14-036	296-155-300	AMD	86-03-074
296-132-100	REP	86-08-015	296-150B-305	AMD-E	86-14-040	296-155-300	AMD-C	86-03-073
296-132-105	REP-P	86-05-027	296-150B-307	NEW-P	86-14-036	296-155-305	AMD-C	86-03-073
296-132-105	REP	86-08-015	296-150B-307	NEW-E	86-14-040	296-155-305	AMD	86-03-074
296-132-110	REP-P	86-05-027	296-150B-308	NEW-P	86-14-036	296-155-325	AMD-C	86-03-073
296-132-110	REP	86-08-015	296-150B-508	NEW-E	86-14-040	296-155-325	AMD	86-03-074
296-132-115	REP-P	86-05-027	296-150B-550	AMD-P	86-14-036	296-155-330	AMD-C	86-03-073
296-132-115	REP	86-08-015	296-150B-550	AMD-E	86-14-040	296-155-335	AMD	86-03-074
296-132-120	REP-P	86-05-027	296-150B-553	AMD-P	86-14-036	296-155-335	AMD-C	86-03-073
296-132-120	REP	86-08-015	296-150B-553	AMD-E	86-14-040	296-155-34911	AMD-C	86-03-073
296-132-125	REP-P	86-05-027	296-150B-797	AMD-P	86-14-036	296-155-34911	AMD	86-03-074
296-132-125	REP	86-08-015	296-150B-797	AMD-E	86-14-040	296-155-34912	AMD-C	86-03-073
296-132-130	REP-P	86-05-027	296-150B-800	AMD-P	86-14-036	296-155-34912	AMD	86-03-074
296-132-130	REP	86-08-015	296-150B-800	AMD-E	86-14-040	296-155-34913	AMD-C	86-03-073
296-132-135	REP-P	86-05-027	296-155-003	AMD-C	86-03-073	296-155-34913	AMD	86-03-074
296-132-135	REP	86-08-015	296-155-003	AMD	86-03-074	296-155-34914	AMD-C	86-03-073
296-132-140	REP-P	86-05-027	296-155-005	AMD-C	86-03-073	296-155-34914	AMD	86-03-074
296-132-140	REP	86-08-015	296-155-005	AMD	86-03-074	296-155-34920	AMD-C	86-03-073
296-132-145	REP-P	86-05-027	296-155-009	NEW-C	86-03-073	296-155-34920	AMD	86-03-074
296-132-145	REP	86-08-015	296-155-009	NEW	86-03-074	296-155-355	AMD-C	86-03-073
296-132-150	REP-P	86-05-027	296-155-010	AMD-C	86-03-073	296-155-355	AMD	86-03-074
296-132-150	REP	86-08-015	296-155-010	AMD	86-03-074	296-155-360	AMD-C	86-03-073
296-132-151	REP-P	86-05-027	296-155-012	AMD-C	86-03-073	296-155-360	AMD	86-03-074
296-132-151	REP	86-08-015	296-155-012	AMD	86-03-074	296-155-363	NEW-C	86-03-073
296-132-152	REP-P	86-05-027	296-155-020	AMD-C	86-03-073	296-155-363	NEW	86-03-074
296-132-152	REP	86-08-015	296-155-020	AMD	86-03-074	296-155-36301	NEW-C	86-03-073
296-132-155	REP-P	86-05-027	296-155-035	AMD-C	86-03-073	296-155-36301	NEW	86-03-074
296-132-155	REP	86-08-015	296-155-035	AMD	86-03-074	296-155-36303	NEW-C	86-03-073
296-132-160	REP-P	86-05-027	296-155-100	AMD-C	86-03-073	296-155-36303	NEW	86-03-074
296-132-160	REP	86-08-015	296-155-100	AMD	86-03-074	296-155-36305	NEW-C	86-03-073
296-132-200	REP-P	86-05-027	296-155-110	AMD-C	86-03-073	296-155-36305	NEW	86-03-074

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296-155-36307	NEW	86-03-074	296-155-605	AMD	86-03-074	296-155-880	REP	86-03-074
296-155-36309	NEW-C	86-03-073	296-155-610	AMD-C	86-03-073	296-155-885	REP-C	86-03-073
296-155-36309	NEW	86-03-074	296-155-610	AMD	86-03-074	296-155-885	REP	86-03-074
296-155-36311	NEW-C	86-03-073	296-155-615	AMD-C	86-03-073	296-155-890	REP-C	86-03-073
296-155-36311	NEW	86-03-074	296-155-615	AMD	86-03-074	296-155-890	REP	86-03-074
296-155-36313	NEW-C	86-03-073	296-155-617	NEW-C	86-03-073	296-155-895	REP-C	86-03-073
296-155-36313	NEW	86-03-074	296-155-617	NEW	86-03-074	296-155-895	REP	86-03-074
296-155-36315	NEW-C	86-03-073	296-155-61701	NEW-C	86-03-073	296-155-900	REP-C	86-03-073
296-155-36315	NEW	86-03-074	296-155-61701	NEW	86-03-074	296-155-900	REP	86-03-074
296-155-36317	NEW-C	86-03-073	296-155-61703	NEW-C	86-03-073	296-155-905	REP-C	86-03-073
296-155-36317	NEW	86-03-074	296-155-61703	NEW	86-03-074	296-155-905	REP	86-03-074
296-155-36319	NEW-C	86-03-073	296-155-61705	NEW-C	86-03-073	296-155-910	REP-C	86-03-073
296-155-36319	NEW	86-03-074	296-155-61705	NEW	86-03-074	296-155-910	REP	86-03-074
296-155-36321	NEW-C	86-03-073	296-155-61707	NEW-C	86-03-073	296-155-915	REP-C	86-03-073
296-155-36321	NEW	86-03-074	296-155-61707	NEW	86-03-074	296-155-915	REP	86-03-074
296-155-365	AMD-C	86-03-073	296-155-61709	NEW-C	86-03-073	296-155-920	REP-C	86-03-073
296-155-365	AMD	86-03-074	296-155-61709	NEW	86-03-074	296-155-920	REP	86-03-074
296-155-367	NEW-C	86-03-073	296-155-61711	NEW-C	86-03-073	296-155-950	AMD-C	86-03-073
296-155-367	NEW	86-03-074	296-155-61711	NEW	86-03-074	296-155-950	AMD	86-03-074
296-155-370	AMD-C	86-03-073	296-155-61713	NEW-C	86-03-073	296-200-015	AMD-P	86-14-035
296-155-370	AMD	86-03-074	296-155-61713	NEW	86-03-074	296-200-015	AMD-E	86-14-039
296-155-400	AMD-C	86-03-073	296-155-625	AMD-C	86-03-073	296-200-080	AMD-P	86-14-035
296-155-400	AMD	86-03-074	296-155-625	AMD	86-03-074	296-200-080	AMD-E	86-14-039
296-155-405	AMD-C	86-03-073	296-155-650	AMD-C	86-03-073	296-200-300	AMD-P	86-14-035
296-155-405	AMD	86-03-074	296-155-650	AMD	86-03-074	296-200-300	AMD-E	86-14-039
296-155-407	NEW-C	86-03-073	296-155-655	AMD-C	86-03-073	296-200-320	AMD-P	86-14-035
296-155-407	NEW	86-03-074	296-155-655	AMD	86-03-074	296-200-320	AMD-E	86-14-039
296-155-425	AMD-C	86-03-073	296-155-65505	NEW-C	86-03-073	296-200-330	NEW-P	86-14-035
296-155-425	AMD	86-03-074	296-155-65505	NEW	86-03-074	296-200-330	NEW-E	86-14-039
296-155-430	AMD-C	86-03-073	296-155-660	AMD-C	86-03-073	296-200-340	NEW-P	86-14-035
296-155-430	AMD	86-03-074	296-155-660	AMD	86-03-074	296-200-340	NEW-E	86-14-039
296-155-435	AMD-C	86-03-073	296-155-66005	NEW-C	86-03-073	296-200-350	NEW-P	86-14-035
296-155-435	AMD	86-03-074	296-155-66005	NEW	86-03-074	296-200-350	NEW-E	86-14-039
296-155-440	AMD-C	86-03-073	296-155-665	AMD-C	86-03-073	296-200-360	NEW-P	86-14-035
296-155-440	AMD	86-03-074	296-155-665	AMD	86-03-074	296-200-360	NEW-E	86-14-039
296-155-475	AMD-C	86-03-073	296-155-66501	AMD-C	86-03-073	296-200-370	NEW-P	86-14-035
296-155-475	AMD	86-03-074	296-155-66501	AMD	86-03-074	296-200-370	NEW-E	86-14-039
296-155-480	AMD-C	86-03-073	296-155-66502	AMD-C	86-03-073	296-200-380	NEW-P	86-14-035
296-155-480	AMD	86-03-074	296-155-66502	AMD	86-03-074	296-200-380	NEW-E	86-14-039
296-155-485	AMD-C	86-03-073	296-155-680	AMD-C	86-03-073	296-200-380	NEW-E	86-14-039
296-155-485	AMD	86-03-074	296-155-680	AMD	86-03-074	296-200-390	NEW-E	86-14-039
296-155-48523	NEW-C	86-03-073	296-155-690	AMD	86-03-074	296-200-400	NEW-P	86-14-035
296-155-48523	NEW	86-03-074	296-155-695	AMD-C	86-03-073	296-200-400	NEW-E	86-14-039
296-155-48525	NEW-C	86-03-073	296-155-695	AMD	86-03-074	296-350-050	AMD-P	86-11-070
296-155-48525	NEW	86-03-074	296-155-700	AMD-C	86-03-073	296-350-080	AMD-P	86-11-070
296-155-48527	NEW-C	86-03-073	296-155-700	AMD	86-03-074	296-350-300	NEW	86-06-002
296-155-48527	NEW	86-03-074	296-155-705	AMD-C	86-03-073	296-350-400	AMD	86-03-064
296-155-48529	NEW-C	86-03-073	296-155-705	AMD	86-03-074	296-400-005	NEW-P	86-14-034
296-155-48529	NEW	86-03-074	296-155-720	AMD-C	86-03-073	296-400-005	NEW-E	86-14-038
296-155-48531	NEW-C	86-03-073	296-155-720	AMD	86-03-074	296-400-030	AMD-P	86-14-034
296-155-48531	NEW	86-03-074	296-155-725	AMD-C	86-03-073	296-400-030	AMD-E	86-14-038
296-155-48533	NEW-C	86-03-073	296-155-730	AMD-C	86-03-074	296-400-035	NEW-P	86-14-034
296-155-48533	NEW	86-03-074	296-155-730	AMD	86-03-073	296-400-035	NEW-E	86-14-038
296-155-500	AMD-C	86-03-073	296-155-750	AMD-C	86-03-074	296-400-045	AMD-P	86-14-034
296-155-500	AMD	86-03-074	296-155-750	AMD	86-03-073	296-400-045	AMD-E	86-14-038
296-155-505	AMD-C	86-03-073	296-155-760	REP-C	86-03-073	296-400-050	AMD-P	86-14-034
296-155-505	AMD	86-03-074	296-155-760	REP	86-03-074	296-400-050	AMD-E	86-14-038
296-155-50503	NEW-C	86-03-073	296-155-765	AMD-C	86-03-073	296-400-070	NEW-P	86-14-034
296-155-50503	NEW	86-03-074	296-155-765	AMD	86-03-074	296-400-070	NEW-E	86-14-038
296-155-50505	NEW-C	86-03-073	296-155-775	AMD-C	86-03-073	296-400-100	NEW-P	86-14-034
296-155-50505	NEW	86-03-074	296-155-775	AMD	86-03-074	296-400-100	NEW-E	86-14-038
296-155-510	AMD-C	86-03-073	296-155-830	AMD-C	86-03-073	296-400-110	NEW-P	86-14-034
296-155-510	AMD	86-03-074	296-155-830	AMD	86-03-074	296-400-110	NEW-E	86-14-038
296-155-515	NEW-C	86-03-073	296-155-850	REP-C	86-03-073	296-400-120	NEW-E	86-14-038
296-155-515	NEW	86-03-074	296-155-850	REP	86-03-074	296-400-130	NEW-P	86-14-034
296-155-530	AMD-C	86-03-073	296-155-855	REP-C	86-03-073	296-400-130	NEW-E	86-14-038
296-155-530	AMD	86-03-074	296-155-855	REP	86-03-074	296-400-140	NEW-P	86-14-034
296-155-545	AMD-C	86-03-073	296-155-860	REP-C	86-03-073	296-400-140	NEW-E	86-14-038
296-155-545	AMD	86-03-074	296-155-860	REP	86-03-074	296-401-030	AMD-P	86-14-077
296-155-570	AMD-C	86-03-073	296-155-865	REP-C	86-03-073	296-401-030	AMD-E	86-14-078
296-155-570	AMD	86-03-074	296-155-865	REP	86-03-074	296-401-060	AMD-P	86-14-077
296-155-575	AMD-C	86-03-073	296-155-870	REP-C	86-03-073	296-401-060	AMD-E	86-14-078
296-155-575	AMD	86-03-074	296-155-870	REP	86-03-074	296-401-080	AMD-P	86-14-077
296-155-576	AMD-C	86-03-073	296-155-875	REP-C	86-03-073	296-401-080	AMD-E	86-14-078
296-155-580	AMD-C	86-03-073	296-155-875	REP	86-03-074	296-401-090	AMD-P	86-14-077
296-155-580	AMD	86-03-074						

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296-401-100	AMD-P 86-14-077	308-25-035	NEW 86-09-014	308-61-130	REP 86-03-011
296-401-100	AMD-E 86-14-078	308-29-060	AMD-P 86-10-002	308-61-135	NEW 86-03-011
296-401-120	AMD-P 86-14-077	308-29-060	AMD 86-14-051	308-61-140	REP 86-03-011
296-401-120	AMD-E 86-14-078	308-29-070	NEW-P 86-10-002	308-61-145	NEW 86-03-011
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296-401-165	AMD-P 86-14-077	308-29-080	NEW 86-14-051	308-61-158	NEW 86-03-011
296-401-165	AMD-E 86-14-078	308-40-102	AMD-P 86-04-089	308-61-160	REP 86-03-011
296-401-168	NEW-P 86-14-077	308-40-102	AMD 86-08-046	308-61-165	REP 86-03-011
296-401-168	NEW-E 86-14-078	308-48-010	AMD-P 86-09-006	308-61-168	NEW 86-03-011
296-401-170	AMD-P 86-14-077	308-48-060	AMD-P 86-09-006	308-61-170	REP 86-03-011
296-401-170	AMD-E 86-14-078	308-48-120	REP-P 86-09-006	308-61-175	NEW 86-03-011
296-401-175	AMD-E 86-10-017	308-48-130	REP-P 86-09-006	308-61-180	REP 86-03-011
296-401-175	AMD-P 86-14-077	308-48-140	AMD-P 86-09-006	308-61-185	NEW 86-03-011
296-401-175	AMD-E 86-14-078	308-48-150	AMD-P 86-09-006	308-61-190	NEW 86-03-011
296-403-010	NEW-P 86-07-055	308-48-160	AMD-P 86-09-006	308-61-205	NEW 86-08-028
296-403-010	NEW-E 86-12-018	308-48-165	AMD-P 86-09-006	308-61-305	NEW 86-08-028
296-403-010	NEW 86-12-019	308-48-790	NEW 86-05-031	308-61-400	AMD 86-08-028
296-403-020	NEW-P 86-07-055	308-50-230	REP-P 86-05-034	308-61-405	NEW 86-08-028
296-403-020	NEW-E 86-12-018	308-50-230	REP 86-09-064	308-66-135	NEW 86-08-028
296-403-020	NEW 86-12-019	308-50-330	AMD-P 86-05-034	308-79-050	NEW-E 86-03-071
296-403-030	NEW-P 86-07-055	308-50-330	AMD 86-09-064	308-79-050	NEW-P 86-06-042
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296-403-050	NEW-P 86-07-055	308-52-135	AMD 86-12-031	308-93-072	NEW 86-10-068
296-403-050	NEW-E 86-12-018	308-52-139	AMD-P 86-08-093	308-93-073	NEW-P 86-07-060
296-403-050	NEW 86-12-019	308-52-139	AMD 86-12-031	308-93-073	NEW 86-10-068
296-403-060	NEW-P 86-07-055	308-52-140	AMD-P 86-08-093	308-93-074	NEW-P 86-07-060
296-403-060	NEW-E 86-12-018	308-52-140	AMD 86-12-031	308-93-074	NEW 86-10-068
296-403-060	NEW 86-12-019	308-52-140	AMD-P 86-13-069	308-93-078	NEW-P 86-07-060
296-403-070	NEW-P 86-07-055	308-52-141	AMD-P 86-08-093	308-93-078	NEW 86-10-068
296-403-070	NEW-E 86-12-018	308-52-141	AMD 86-12-031	308-93-079	NEW-P 86-07-060
296-403-070	NEW 86-12-019	308-52-142	REP-P 86-08-093	308-93-079	NEW 86-10-068
304-12-025	AMD-P 86-09-091	308-52-142	REP 86-12-031	308-96A-005	AMD-P 86-03-010
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304-12-040	NEW-P 86-09-091	308-52-143	REP 86-12-031	308-96A-010	AMD-P 86-03-010
304-12-040	NEW 86-12-067	308-52-145	REP-P 86-08-093	308-96A-010	AMD 86-10-040
304-12-045	NEW-P 86-09-091	308-52-145	REP 86-12-031	308-96A-015	AMD-P 86-03-010
304-12-045	NEW 86-12-067	308-52-146	NEW-P 86-08-093	308-96A-015	AMD 86-10-040
304-12-145	NEW-P 86-09-091	308-52-270	AMD 86-03-056	308-96A-020	AMD-P 86-03-010
304-12-145	NEW 86-12-067	308-52-502	AMD-P 86-13-069	308-96A-020	AMD 86-10-040
304-12-290	AMD-P 86-09-091	308-52-515	NEW-P 86-13-069	308-96A-030	REP-P 86-03-010
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304-12-350	AMD 86-12-067	308-53-070	AMD 86-13-009	308-96A-035	AMD 86-10-040
304-25-030	AMD-P 86-03-048	308-53-075	NEW-P 86-08-092	308-96A-040	AMD-P 86-03-010
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304-25-560	AMD-P 86-03-048	308-53-080	REP-P 86-08-092	308-96A-050	AMD-P 86-03-010
304-25-560	AMD 86-08-042	308-53-080	REP 86-13-008	308-96A-050	AMD 86-10-040
308-04-010	AMD-P 86-04-090	308-53-084	NEW-P 86-08-092	308-96A-055	REP-P 86-03-010
308-04-010	AMD 86-08-069	308-53-084	NEW 86-13-008	308-96A-055	REP 86-10-040
308-11-050	REP-E 86-14-086	308-53-085	AMD-P 86-08-092	308-96A-060	REP-P 86-03-010
308-11-130	NEW-E 86-14-017	308-53-085	AMD 86-13-008	308-96A-060	REP 86-10-040
308-11-140	NEW-E 86-14-086	308-53-100	REP-P 86-08-092	308-96A-075	AMD-P 86-03-010
308-12-050	AMD 86-04-088	308-53-105	NEW-P 86-08-092	308-96A-075	AMD 86-10-040
308-12-081	AMD 86-04-088	308-53-125	AMD-P 86-08-092	308-96A-100	AMD-P 86-03-010
308-12-135	NEW-P 86-06-053	308-53-212	NEW-P 86-08-092	308-96A-100	AMD 86-10-040
308-12-140	NEW 86-04-088	308-53-212	NEW 86-13-008	308-96A-105	AMD-P 86-03-010
308-12-145	NEW 86-04-088	308-53-265	NEW-P 86-08-092	308-96A-105	AMD 86-10-040
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308-12-312	AMD-E 86-04-086	308-61-010	AMD 86-03-011	308-96A-115	REP 86-10-040
308-12-312	AMD-E 86-10-037	308-61-025	AMD 86-03-011	308-96A-120	AMD-P 86-03-010
308-13-015	AMD-P 86-07-058	308-61-026	NEW 86-03-011	308-96A-120	AMD 86-10-040
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308-96A-160	REP-P	86-03-010	308-104-130	AMD	86-07-018	308-180-120	NEW-P	86-07-061
308-96A-160	REP	86-10-040	308-104-135	NEW-P	86-03-083	308-180-120	NEW	86-10-038
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308-96A-165	REP	86-10-040	308-104-160	AMD-P	86-03-083	308-250-010	NEW	86-10-036
308-96A-170	REP-P	86-03-010	308-104-160	AMD	86-07-018	308-250-020	NEW-P	86-07-062
308-96A-170	REP	86-10-040	308-115-130	AMD-P	86-11-036	308-250-020	NEW	86-10-036
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308-96A-205	AMD-P	86-03-010	308-117-100	AMD-P	86-14-085	308-250-040	NEW-P	86-07-062
308-96A-205	AMD	86-10-040	308-122-001	NEW-P	86-09-012	308-250-040	NEW	86-10-036
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308-96A-215	REP	86-10-040	308-122-500	AMD	86-04-087	308-300-310	NEW-E	86-12-016
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308-96A-220	AMD	86-10-040	308-122-525	AMD	86-04-087	314-12-030	AMD	86-07-012
308-96A-225	REP-P	86-03-010	308-122-630	NEW	86-04-087	314-12-090	AMD-P	86-09-085
308-96A-225	REP	86-10-040	308-122-640	AMD	86-04-087	314-12-090	AMD	86-12-021
308-96A-230	REP-P	86-03-010	308-122-670	NEW	86-04-087	314-12-140	AMD	86-04-003
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308-96A-235	REP-P	86-03-010	308-124A-430	NEW	86-11-011	314-12-140	AMD	86-09-019
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308-96A-260	AMD	86-08-028	308-124A-455	NEW-E	86-11-010	314-16-075	AMD-P	86-11-046
308-96A-260	AMD	86-10-040	308-124C-020	AMD	86-06-011	314-16-100	REP-P	86-04-049
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308-96A-270	REP	86-10-040	308-124H-036	NEW	86-11-011	314-16-115	NEW	86-12-022
308-96A-275	AMD-P	86-03-010	308-124H-037	NEW-P	86-04-091	314-16-180	AMD-P	86-12-009
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308-96A-280	REP	86-10-040	308-124H-040	AMD	86-06-011	314-18-040	AMD	86-09-075
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308-96A-285	REP	86-10-040	308-124H-043	NEW	86-06-011	314-20-100	AMD-C	86-07-021
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308-96A-290	REP	86-10-040	308-128F-030	REP-E	86-11-018	314-20-105	AMD-P	86-04-084
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308-102-100	AMD	86-07-018	308-154-070	REP-P	86-10-067	314-24-200	AMD-C	86-07-021
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308-102-265	NEW	86-03-083	308-171-001	AMD	86-10-004	314-37-020	NEW	86-07-023
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332-16-270	AMD-E	86-09-068	356-05-397	NEW	86-14-071	356-15-050	AMD	86-12-025
332-16-270	AMD-P	86-09-080	356-05-447	NEW-P	86-14-092	356-15-060	AMD-E	86-06-016
332-16-270	AMD	86-14-015	356-05-470	AMD-P	86-14-092	356-15-060	AMD	86-06-017
332-16-280	REP-E	86-09-068	356-05-483	NEW-P	86-06-056	356-15-060	AMD-P	86-06-056
332-16-280	REP-P	86-09-080	356-05-483	NEW-C	86-09-054	356-15-060	AMD-C	86-09-054
332-16-280	REP	86-14-015	356-05-483	NEW-E	86-09-056	356-15-060	AMD-E	86-09-056
332-26-080	NEW-E	86-09-041	356-06-001	AMD-P	86-14-092	356-15-060	AMD	86-12-025
332-26-080	REP-E	86-10-011	356-06-080	AMD-P	86-08-090	356-15-061	AMD-P	86-12-052
332-26-080a	NEW-E	86-10-011	356-06-080	AMD	86-12-036	356-15-080	AMD-P	86-06-056
332-26-081	NEW-E	86-13-021	356-07-040	AMD-P	86-14-092	356-15-080	AMD-C	86-09-054
332-26-082	NEW-E	86-14-070	356-07-060	AMD-P	86-14-092	356-15-080	AMD-E	86-09-056
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356-15-110	AMD-E	86-09-057	356-34-280	REP	86-08-035
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356-18-120	AMD	86-14-071	356-47-046	NEW	86-12-035
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356-30-310	AMD-P	86-14-092	356-48-040	NEW-P	86-10-070
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356-34-160	AMD-P	86-04-044	360-60-050	NEW-P	86-07-063
356-34-160	AMD	86-08-035	360-60-050	NEW-P	86-14-109
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356-34-210	AMD	86-08-035	360-60-060	NEW-P	86-14-109
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356-34-250	REP	86-08-035	360-60-100	NEW-P	86-07-063
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365-130-010	NEW	86-04-046	365-130-010	NEW	86-04-046
365-130-020	NEW-E	86-04-047	365-130-020	NEW-E	86-04-047
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365-130-030	NEW-P	86-04-046	365-130-030	NEW-P	86-04-046
365-130-030	NEW-E	86-04-047	365-130-030	NEW-E	86-04-047
365-130-030	NEW	86-06-024	365-130-030	NEW	86-06-024
365-130-040	NEW-P	86-04-046	365-130-040	NEW-P	86-04-046
365-130-040	NEW-E	86-04-047	365-130-040	NEW-E	86-04-047
365-130-040	NEW	86-06-024	365-130-040	NEW	86-06-024
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365-130-050	NEW-E	86-04-047	365-130-050	NEW-E	86-04-047
365-130-060	NEW-P	86-04-046	365-130-060	NEW-P	86-04-046
365-130-060	NEW-E	86-04-047	365-130-060	NEW-E	86-04-047
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365-140-020	NEW	86-08-043	365-140-020	NEW	86-08-043
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365-160-030	NEW-E	86-13-062	365-160-030	NEW-E	86-13-062
365-160-040	NEW-E	86-13-062	365-160-040	NEW-E	86-13-062
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383-06-020	AMD	86-04-039	383-06-020	AMD	86-04-039
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383-06-070	AMD	86-04-039	383-06-070	AMD	86-04-039
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388-15-610	AMD-P	86-08-053	388-54-690	AMD-P	86-13-004	388-84-110	AMD	86-11-022
388-15-610	AMD-E	86-08-058	388-54-720	AMD-P	86-13-004	388-84-110	AMD-P	86-12-042
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388-15-620	AMD-P	86-08-053	388-54-735	AMD-P	86-13-004	388-85-115	AMD-E	86-03-067
388-15-620	AMD-E	86-08-058	388-54-740	AMD-P	86-13-004	388-85-115	AMD-P	86-03-068
388-15-620	AMD	86-11-024	388-54-750	AMD-P	86-08-019	388-85-115	AMD	86-07-004
388-15-630	AMD-P	86-08-053	388-54-750	AMD-E	86-08-022	388-86-009	NEW	86-03-046
388-15-630	AMD-E	86-08-058	388-54-750	AMD	86-11-026	388-86-009	NEW-E	86-04-041
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388-24-044	AMD-P	86-12-038	388-57-121	NEW-P	86-13-063	388-86-040	AMD-P	86-07-052
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388-24-065	AMD-E	86-10-032	388-57-123	NEW-P	86-13-063	388-86-050	AMD-P	86-11-045
388-24-065	AMD	86-13-064	388-57-124	NEW-P	86-13-063	388-86-050	AMD	86-14-099
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388-28-482	AMD	86-08-008	388-70-013	AMD	86-04-030	388-86-060	REP-P	86-04-008
388-29-100	AMD-P	86-13-007	388-70-042	AMD	86-04-030	388-86-060	REP	86-09-007
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388-29-295	AMD	86-14-061	388-73-012	AMD-P	86-12-020	388-86-100	AMD	86-03-047
388-33-355	AMD-P	86-07-025	388-73-014	AMD-P	86-12-020	388-87-110	NEW	86-03-047
388-33-355	AMD	86-10-023	388-73-022	AMD-P	86-12-020	388-92-015	AMD	86-03-045
388-33-376	AMD-P	86-07-025	388-73-036	AMD-P	86-12-020	388-95-320	AMD-E	86-04-019
388-33-376	AMD	86-10-023	388-73-048	AMD-P	86-12-020	388-95-320	AMD-P	86-04-020
388-33-385	AMD-P	86-05-008	388-73-054	AMD-P	86-12-020	388-95-320	AMD	86-08-005
388-33-385	AMD	86-09-081	388-73-056	AMD-P	86-12-020	388-95-335	AMD-P	86-14-068
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388-96-533	AMD-P	86-07-054	390-16-225	REP	86-04-071
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388-96-559	AMD-P	86-07-054	390-18-040	NEW-C	86-08-029
388-96-559	AMD	86-10-055	390-18-040	NEW-C	86-10-012
388-96-565	AMD-P	86-07-054	390-18-040	NEW	86-12-059
388-96-565	AMD	86-10-055	390-20-141	NEW-P	86-06-050
388-96-567	AMD-P	86-07-054	390-20-141	NEW-C	86-10-013
388-96-567	AMD	86-10-055	390-20-141	NEW-C	86-12-058
388-96-585	AMD-P	86-07-054	390-20-141	NEW	86-14-056
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388-96-722	AMD	86-10-055	390-24-020	AMD-P	86-05-041
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388-96-754	AMD	86-10-055	390-24-025	AMD	86-08-030
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388-99-010	AMD	86-08-005	390-24-100	AMD-P	86-05-041
388-99-010	AMD-P	86-08-031	390-24-100	AMD	86-08-030
388-99-010	AMD-E	86-08-033	390-24-105	AMD-P	86-05-041
388-99-010	AMD	86-11-025	390-24-105	AMD	86-08-030
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388-100-005	AMD	86-09-007	390-24-210	AMD	86-08-030
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390-16-060	AMD	86-04-071	392-140-079	NEW-E	86-05-037
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390-16-105	AMD	86-04-071	392-140-080	NEW-P	86-05-036
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390-16-111	AMD	86-04-071	392-140-080	NEW	86-08-075
390-16-115	AMD	86-04-071	392-140-081	NEW-P	86-05-036
390-16-120	AMD	86-04-071	392-140-081	NEW-E	86-05-037
390-16-125	AMD	86-04-071	392-140-081	NEW	86-08-075
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390-16-206	AMD-C	86-04-052	392-140-082	NEW	86-08-075
390-16-206	AMD-C	86-06-049	392-140-083	NEW-P	86-05-036
390-16-206	AMD	86-08-030	392-140-083	NEW-E	86-05-037
392-140-083	NEW	86-08-075	392-140-083	NEW-E	86-05-037
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392-171-706	AMD-P	86-11-028	392-182-005	AMD-P	86-11-028
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392-210-025	AMD-P	86-11-030	392-210-025	AMD-P	86-11-030
392-210-025	NEW	86-03-051	399-30-040	NEW	86-03-051
399-30-040	AMD-P	86-14-053	399-30-040	AMD-P	86-14-053
399-30-040	AMD-E	86-14-054	399-30-040	AMD-E	86-14-054
399-30-040	AMD-P	86-14-054	399-30-060	AMD-P	86-14-054
399-30-060	AMD-E	86-14-054	399-30-060	AMD-E	86-14-054
400-04-010	NEW	86-04-054	400-04-010	NEW	86-04-054
400-04-020	NEW	86-04-054	400-04-020	NEW	86-04-054
400-04-020	NEW	86-04-054	400-04-040	NEW	86-04-054
400-04-504	NEW	86-04-054	400-04-504	NEW	86-04-054
400-04-510	NEW	86-04-054	400-04-510	NEW	86-04-054
400-04-680	NEW	86-04-054	400-04-680	NEW	86-04-054
400-04-902	NEW	86-04-054	400-04-902	NEW	86-04-054
400-04-910	NEW	86-04-054	400-04-910	NEW	86-04-054
400-04-995	NEW	86-04-054	400-04-995	NEW	86-04-054
400-06-010	NEW	86-04-055	400-06-010	NEW	86-04-055
400-06-020	NEW	86-04-055	400-06-020	NEW	86-04-055
400-06-030	NEW	86-04-055	400-06-030	NEW	86-04-055
400-06-050	NEW	86-04-055	400-06-050	NEW	86-04-055
400-06-060	NEW	86-04-055	400-06-060	NEW	86-04-055
400-06-070	NEW	86-04-055	400-06-070	NEW	86-04-055
400-06-090	NEW	86-04-055	400-06-090	NEW	86-04-055
400-06-100	NEW	86-04-055	400-06-100	NEW	86-04-055
400-06-110	NEW	86-04-055	400-06-110	NEW	86-04-055
400-06-120	NEW	86-04-055	400-06-120	NEW	86-04-055
400-06-130	NEW	86-04-055	400-06-130	NEW	86-04-055
400-06-140	NEW	86-04-055	400-06-140	NEW	86-04-055
400-06-150	NEW	86-04-055	400-06-150	NEW	86-04-055
400-06-160	NEW	86-04-055	400-06-160	NEW	86-04-055
400-06-170	NEW	86-04-055	400-06-170	NEW	86-04-055
400-06-180	NEW	86-04-055	400-06-180	NEW	86-04-055
402-19-530	AMD-E	86-09-025	402-19-530	AMD-E	86-09-025
402-19-530	AMD-P	86-09-026	402-19-530	AMD-P	86-09-026
402-19-530	AMD-P	86-11-019	402-19-530	AMD-P	86-11-019
402-19-530	AMD-E	86-11-020	402-19-530	AMD-E	86-11-020
402-52-090	NEW-P	86-11-019	402-52-090	NEW-P	86-11-019
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415-108-500	NEW-P	86-09-067	415-108-500	NEW-P	86-09-067
415-108-500	NEW	86-13-023	415-108-500	NEW	86-13-023
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434-57	AMD-E	86-08-044	434-57	AMD-E	86-08-044
434-57	AMD	86-08-045	434-57	AMD	86-08-045
434-57-010	NEW-P	86-05-053	434-57-010	NEW-P	86-05-053
434-57-010	NEW-E	86-08-044	434-57-010	NEW-E	86-08-044
434-57-010	NEW	86-08-045	434-57-010	NEW	86-08-045
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434-57-050	NEW-E	86-08-044	446-55-200	NEW	86-08-067	458-20-119	AMD	86-03-016
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434-57-070	NEW-E	86-08-044	446-55-220	NEW-P	86-05-015	458-20-122	AMD	86-09-058
434-57-070	NEW	86-08-045	446-55-220	NEW	86-08-067	458-20-132	AMD-P	86-05-043
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434-57-090	NEW	86-08-045	446-55-250	NEW	86-08-067	458-20-17001	NEW	86-10-016
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440-44-050	RE-AD	86-08-054	446-60-060	NEW	86-08-067	458-20-24002	AMD-P	86-10-050
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