

**AUGUST 6, 1986**

**OLYMPIA, WASHINGTON**

**ISSUE 86-15**



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## IN THIS ISSUE

Agriculture, Department of  
Attorney General, Office of the  
Cemetery Board  
Community College District Twelve  
Community Development, Department of  
Criminal Justice Training Commission  
Ecology, Department of  
Education, State Board of  
Emergency Management, Department of  
Fisheries, Department of  
Gambling Commission  
Governor, Office of the  
Higher Education Personnel Board  
Highline Community College  
(District 9)  
Horse Racing Commission  
Hospital Commission  
Insurance Commissioner  
Labor and Industries, Department of  
Licensing, Department of

Liquor Control Board  
Natural Resources, Department of  
Personnel, Department of  
Pierce College  
(District 11)  
Pilotage Commissioners, Board of  
Public Disclosure Commission  
Puget Sound Water Quality Authority  
Revenue, Department of  
Social and Health Services, Department of  
Superintendent of Public Instruction  
Toxicologist, Washington State  
University of Washington  
Urban Arterial Board  
Utilities and Transportation Commission  
Vocational Education, Commission for  
Volunteer Firemen, Board for  
Whatcom Community College  
(District 21)

(Subject/Agency index at back of issue)  
This issue contains documents officially  
filed not later than July 23, 1986

## 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.

## PUBLIC INSPECTION OF DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of August 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%).

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# WASHINGTON STATE REGISTER

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

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

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

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

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

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

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

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

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

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

## 5. EFFECTIVE DATE OF RULES

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

## 6. EDITORIAL CORRECTIONS

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

## 7. INDEX AND TABLES

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

1985 – 1986

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
85-18	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
86-02	Dec 5	Dec 19	Dec 31, 1985	Jan 15, 1986	Feb 4
86-03	Dec 26, 1985	Jan 8, 1986	Jan 22	Feb 5	Feb 25
86-04	Jan 8	Jan 22	Feb 5	Feb 19	Mar 11
86-05	Jan 22	Feb 5	Feb 19	Mar 5	Mar 25
86-06	Feb 5	Feb 19	Mar 5	Mar 19	Apr 8
86-07	Feb 19	Mar 5	Mar 19	Apr 2	Apr 22
86-08	Mar 5	Mar 19	Apr 2	Apr 16	May 6
86-09	Mar 26	Apr 9	Apr 23	May 7	May 27
86-10	Apr 9	Apr 23	May 7	May 21	Jun 10
86-11	Apr 23	May 7	May 21	Jun 4	Jun 24
86-12	May 7	May 21	Jun 4	Jun 18	Jul 8
86-13	May 21	Jun 4	Jun 18	Jul 2	Jul 22
86-14	Jun 4	Jun 18	Jul 2	Jul 16	Aug 5
86-15	Jun 25	Jul 9	Jul 23	Aug 6	Aug 26
86-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9
86-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23
86-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7
86-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21
86-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4
86-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25
86-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9
86-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23
86-24	Nov 5	Nov 19	Dec 3	Dec 17	Jan 6, 1987

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

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

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

**WSR 86-15-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Order 1894—Filed July 3, 1986]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to assessments and collections, Washington Dry Pea and Lentil Commission, WAC 16-536-040.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the proposed action changes the assessment rate on the products when sold, and should be effective to apply to the first part of the crop season. If effective 30 days later, the assessment for the first part of the crop will be at a lower rate than the rest of the year.

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

This rule is promulgated pursuant to chapter 15.65 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 2, 1986.

By C. Alan Pettibone  
 Director

AMENDATORY SECTION (Amending Order 1768, filed 7/13/82)

**WAC 16-536-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.**

(a) The ~~((fixed-annual))~~ assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((as follows:~~

~~(i) Austrian and all other winter varieties — six cents per affected unit cleaned.~~

~~(ii) All other dry peas, including chick peas — seven cents per affected unit cleaned, except commercial wrinkled pea seed, which shall be five cents per affected unit cleaned)) one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: PROVIDED, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.~~

~~((iii) All varieties of dry lentils — eight cents per affected unit cleaned.))~~

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

~~((c) Handlers shall collect producer assessments from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board.))~~

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**WSR 86-15-002**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1895—Filed July 3, 1986—Eff. August 4, 1986]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of WAC 16-536-040.

This action is taken pursuant to Notice No. WSR 86-09-079 filed with the code reviser on April 22, 1986. These rules shall take effect at a later date, such date being August 4, [1986].

This rule is promulgated pursuant to chapter 15.65 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 2, 1986.

By C. Alan Pettibone  
Director

AMENDATORY SECTION (Amending Order 1768,  
filed 7/13/82)

WAC 16-536-040 ASSESSMENTS AND COL-  
LECTIONS. (1) Assessments.

(a) The ~~((fixed annual))~~ assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((as follows:~~

~~(i) Austrian and all other winter varieties = six cents per affected unit cleaned.~~

~~(ii) All other dry peas, including chick peas = seven cents per affected unit cleaned, except commercial wrinkled pea seed, which shall be five cents per affected unit cleaned)) one percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: PROVIDED, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.~~

~~((iii) All varieties of dry lentils = eight cents per affected unit cleaned:))~~

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

~~((c) Handlers shall collect producer assessments from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board:))~~

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay

any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

WSR 86-15-003

ADOPTED RULES  
DEPARTMENT OF LICENSING  
(Securities Division)

[Order SDO-80-86—Filed July 3, 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 the regulation and exemption of securities as follows:

New	WAC 460-44A-505	Uniform offering exemption for limited offers and sales of securities not exceeding \$5,000,000.
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 and payment of fee prior to offering.
Amd	WAC 460-44A-506	Exemption for nonpublic offers and sales without regard for dollar amount of offering.

This action is taken pursuant to Notice No. WSR 86-11-035 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).

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. WAC 460-44A-506 is promulgated pursuant to RCW 21.20.320 (1) and (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 3, 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((2)) 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)((a)) 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."

AMENDATORY SECTION (Amending Order SDO-196-84, filed 12/17/84)

WAC 460-44A-506 EXEMPTION FOR NON-PUBLIC OFFERS AND SALES WITHOUT REGARD TO DOLLAR AMOUNT OF OFFERING. (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 230.506 as made effective in Release No. 33-6389 that satisfy the conditions in subsection (2) of this section shall be deemed to be exempt transactions within the meaning of RCW 21.20.320(1).

(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) ((Limitation on number of purchasers. The issuer shall reasonably believe that there are no more than 35 purchasers (including those located outside the state of Washington) of securities from the issuer in any offering under this section.~~

~~NOTE: See WAC 460-44A-501(5) for the calculation of the number of purchasers and WAC 460-44A-502(1) for what may or may not constitute an offering under this section.)~~ No selling commission unless registered as a broker-dealer or salesperson.

(A) 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.

(B) It is a defense to a violation of (b)(i)(A) 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 received a commission, fee or other remuneration was not appropriately registered in this state.

~~(ii) ((Nature of purchasers. The issuer shall reasonably believe immediately prior to making any sale that each purchaser who is not an accredited investor either alone or with his purchaser representative(s) has such~~

~~knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.))~~ Written documentation. 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, whether separately or together with his purchaser representative or representatives, as having such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.

~~(iii) Limitation on selling expenses.~~

(A) Selling expenses in any offering under this section shall not exceed fifteen percent of the aggregate offering price. For the purposes of this section, "selling expenses" means the total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys paid by the issuer) paid in connection with the offering plus all other expenses actually incurred by the issuer relating to printing, engraving, mailing, salaries of employees while engaged in sales activity, charges of transfer agents, registrars, trustees, escrow holders, depositories, and engineers and other experts, expenses of qualification of the sale of the securities under federal and state laws, including taxes and fees, and any other expenses actually incurred by the issuer and directly related to the offering and sale of the securities, but excluding accountants' and the issuer's attorneys' fees and options to underwriters.

(B) The number of shares or units called for by options issuable to underwriters or other persons as compensation, in whole or in part, for the offer or sale of securities in reliance on this section shall not exceed ten percent of the number of shares or units actually sold in the offering.

(3) Offers or sales which are exempted under this section may not be combined in the same offering with offers or sales exempted under any other rule or section of chapter 21.20 RCW; however, nothing in this limitation shall act as an election. Should for any reason an offering fail to comply with all of the conditions for this section, the issuer may claim the availability of any other applicable exemption.

(4) 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.

**WSR 86-15-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order DE 86-20—Filed July 3, 1986]

I, Phillip C. Johnson, deputy director of the Washington Department of Ecology, do promulgate and adopt at the Department's Headquarters Office, the annexed rules relating to emergency rules to implement ESSB 4519, section 4, and allocate \$20.0 M in funds for water pollution control facilities and activities.

I, Phillip C. Johnson, 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 180, ESSB 4519 declares an emergency to preserve the public's health and safety. This regulation defines the general requirements to distribute the \$20.0 M as identified in section 4 for these emergencies.

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

This rule is promulgated pursuant to chapter 82.24 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 July 2, 1986.

By Phillip C. Johnson  
Deputy Director

Chapter 173-90 WAC  
STANDARDS AND LIMITATIONS ON THE USE  
OF CLEAN WATER FUNDS FOR POLLUTION  
ABATEMENT

WAC

- 173-90-010 Purpose and scope.
- 173-90-015 Definitions.
- 173-90-020 Provision of guidelines.
- 173-90-040 Ground water management area planning grants—Eligibility criteria, funding levels, development of priority rating and priority lists—Eligibility criteria.
- 173-90-050 Nonpoint source pollution control activity grants—Eligible criteria, funding levels and administration, and establishing highest priority.
- 173-90-060 Aquifer protection assistance grants—Eligibility criteria, funding levels, and establishing highest priority.
- 173-90-070 Water pollution control design grants—Eligibility criteria, funding levels, and establishing highest priority.

NEW SECTION

WAC 173-90-010 PURPOSE AND SCOPE. The purpose of this chapter is to set forth criteria and limitations on uses of moneys administered by the department of ecology pursuant to chapter 3, Laws of 1986 (ESSB No. 4519).

Chapter 3, Laws of 1986 appropriates from the general fund, state and local improvements revolving account, twenty million dollars to be obligated for the fiscal year ending June 30, 1987, for state grants, loans, or combinations of grants for the following purposes:

(1) Planning assistance to any ground water area created pursuant to chapter 453, Laws of 1985.

(2) Nonpoint source pollution control activities.

(3) Assistance to aquifer protection areas created pursuant to chapter 425, Laws of 1985.

(4) Assistance for the design of water pollution control facilities.

(5) Acquisition of organic laboratory capability for joint use by the department of social and health services and the department to test and analyze waters, including public drinking water supplies.

This chapter applies only to the allocation of funds appropriated by chapter 3, Laws of 1986.

NEW SECTION

WAC 173-90-015 DEFINITIONS. (1) "Department" means the Washington state department of ecology.

(2) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(3) "Director" means the director of the Washington state department of ecology or the director's designee.

(4) "Water pollution control facility" or "facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole sources aquifers.

(5) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water, (b) to control nonpoint sources of water pollution; (c) to restore the water quality of fresh water lakes, and (d) to maintain or improve water quality through the use of water pollution control facilities or other means.

(6) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(7) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, or other aquatic life.

(8) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(9) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the administrator of the environmental protection agency pursuant to Public Law 93-523.

(10) "Project priority list" means the annual list of rated and ranked projects for which state grant assistance is expected during the year for which the list is issued.

(11) "Priority rating system" means the process and criteria used by the department of ecology to rate and rank ground water management area projects in the state that are considered eligible for assistance under chapter 3, Laws of 1986 (ESSB 4519) and chapter 173-100 WAC Ground water management area and programs.

#### NEW SECTION

WAC 173-90-020 PROVISION OF GUIDELINES. The department will publish guidelines which establish procedures and describe the grant application review and award process for categorical funding areas described in WAC 173-90-040 through 173-90-070. The guidelines will be made available prior to the first grant award.

#### NEW SECTION

WAC 173-90-040 GROUND WATER MANAGEMENT AREA PLANNING GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, DEVELOPMENT OF PRIORITY RATING AND PRIORITY LISTS—ELIGIBILITY CRITERIA. (1) To be eligible for a planning grant, an applicant must:

(a) Be identified as a probable ground water management area; and

(b) Be on the department's general schedule as a designated ground water management area for program planning purposes (WAC 173-100-070).

(2) Cost eligible items include:

(a) Development of a ground water management program identified in chapter 173-100 WAC Ground water management areas and programs. Program requirements shall include but not be limited to:

(i) A detailed characterization of the area's hydrogeology.

(ii) A discussion of land and water use activities potentially affecting the ground water of the area.

(iii) Identification of present and long-term resource management objectives and alternatives for the area, and implementation plans, as set forth in WAC 173-100-100.

(b) Public hearings held on the proposed programs pursuant to RCW 90.44.400 and WAC 173-100-120.

(c) Costs associated with the responsibilities of the lead agency and ground water advisory committee under

WAC 173-100-080, 173-100-090, 173-100-120 and 173-100-140.

(3) Funding levels:

(a) Total state grant or loan awards for fiscal year 1987 shall not exceed one million five hundred thousand dollars for planning assistance for developing ground water management programs.

(b) The department funded share for planning assistance shall not exceed fifty percent of the estimated annual cost of developing the ground water management program except assistance to conservation districts which shall not exceed seventy-five percent of such cost.

(c) Federal funds expended on ground water studies may be used as part of the local matching share.

(d) Funds will be appropriated to designated ground water management areas as block planning grants not to exceed three hundred thousand dollars.

(4) Development of project priority ratings and priority lists.

(a) Project priority ratings—The department shall establish an ad hoc ecology review committee to review and evaluate all requests for designation and rank eligible proposals on the general schedule as adopted under WAC 173-100-060. The committee shall consist of headquarters program and regional staff with project review authority. A core group of ad hoc committee members shall be formed and responsible for the initial review of all requests for identification as probable ground water area. The entire committee shall review, evaluate, and rank eligible proposals to be designated on the general schedule. Projects shall be rated on the following criteria:

(i) The significance of the problem.

(ii) The affected users.

(iii) Aquifer sensitivity.

(iv) Regional and local interest.

(v) Probability of successful implementation.

(b) Project priority lists:

(i) When application for planning funds exceed the amount currently available, the director or the director's designee shall utilize the general schedule as the annual project priority lists for awarding ground water management program planning grants.

(ii) The priority lists shall be available to the public for review and comment prior to approval by the director.

(iii) Comments received during the review period shall be considered and responded to before a final list is approved by the director.

(iv) Timelines and procedures for submitting applications shall be made available to the public.

#### NEW SECTION

WAC 173-90-050 NONPOINT SOURCE POLLUTION CONTROL ACTIVITY GRANTS—ELIGIBLE CRITERIA, FUNDING LEVELS AND ADMINISTRATION, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligible criteria:

(a) Grants shall be made available to public bodies involved in the planning and development of nonpoint source pollution control activities and facilities. Funding

shall focus on those sources of nonpoint pollution generated by agricultural activities, urban and stormwater runoff, on-site waste disposal, and impacts from forest practices.

(b) A jurisdiction shall be eligible for grants if it meets all the following criteria:

(i) It has the basic capability to develop and implement the long range water quality management plan.

(ii) It is able to document accomplishments and progress towards achieving water quality objectives.

(2) Funding levels and administration:

(a) Funding levels:

(i) Total grant funds for assisting in the development of nonpoint source pollution control activities shall not exceed five hundred thousand dollars. The majority of grant funds shall be awarded to solve pollution problems caused by urban and stormwater runoff, onsite waste disposal and forest practices activities. The remainder shall be used to solve problems generated from agricultural sources and those identified by the Washington state conservation commission.

(ii) Total state funded share shall not exceed fifty percent of the eligible costs, except for conservation districts which shall not exceed seventy-five percent of the estimated cost.

(b) Program administration:

(i) The department—The department shall administer the funding of all nonpoint source water quality grants as identified under this section. The total level of funding received shall depend on the funding needs of projects of highest priority.

(ii) Application for funding—The department shall accept applications for funding from all public entities for eligible planning programs and projects. The department shall award a block grant to the Washington state conservation commission for the purpose of awarding special project water quality grants to conservation districts. The director or director's designee shall review the commission's request for funding and award a grant to the commission for all or part of the application.

(3) Establishing highest priority:

(a) The department—A review committee shall be established within ecology to determine the highest priority nonpoint program and projects for funding. Rating criteria shall include:

(i) How the plan or program corrects, prevents, or controls nonpoint pollution in priority water bodies as identified by the department.

(ii) How the program or project implements best management practices to control urban runoff quantity and quality.

(iii) How the program or project assists local government in developing and adopting stormwater control requirements for expanding urban areas.

(iv) Level of corrective action proposed for priority water bodies and the cleanup process.

(v) Level of preventative actions proposed.

(vi) Implementation of best management practices for agricultural pollution control projects.

(vii) How plans and programs educate and train the public in using existing management techniques to control nonpoint pollution.

(b) Washington state conservation commission—The commission shall develop rating criteria and use the established water quality funding advisory committee to evaluate eligible planning programs and projects. The department shall review rating criteria used.

(4) Establishment of final priorities:

(a) The director or director's designee shall determine final priorities after reviewing all project priority lists.

(b) The priority lists will be readily available to the public for review and comment prior to approval by the director.

(c) Comments received during any review period shall be considered and responded to before final list approval.

(d) Approved lists shall be made available after the close of the application period.

#### NEW SECTION

WAC 173-90-060 AQUIFER PROTECTION ASSISTANCE GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligible criteria:

(a) Grants shall be made available to public bodies involved in aquifer protection assistance. A jurisdiction shall be eligible for grants if it meets the following criteria:

(i) The jurisdiction is an established aquifer protection area pursuant to chapter 425, Laws of 1985 (SHB No. 1116); and

(ii) The jurisdiction has an adopted comprehensive plan to protect, preserve, and rehabilitate subterranean water. The plan may be prepared as a portion of a county sewerage and/or water general plan pursuant to RCW 36.94.030.

(2) Funding levels:

(a) Total funding assistance to any aquifer protection area shall not exceed four million dollars.

(b) Grants will be made for eligible design and construction items on a cost-share basis, not to exceed fifty percent of the total eligible cost for the state-funded portion.

(3) Establishing highest priority: The department staff shall determine priority funding for aquifer protection activities. Highest priority will be given for funding aquifer protection in areas where water quality and quantity has been shown to be imminently threatened and the community has provided matching funds for implementing an existing aquifer protection plan.

#### NEW SECTION

WAC 173-90-070 WATER POLLUTION CONTROL DESIGN GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligibility criteria:

(a) Funds must be used solely for design of water pollution control facilities.

(b) Grant awards will be given to those public entities deemed of highest priority for designing facilities for eventual upgrading from primary to secondary treatment facilities or for designing new secondary treatment facilities.

(c) Funds will be awarded for the design of facilities on a first-come, first-served basis. Guidelines shall be developed and made available prior to the first grant award.

(2) Funding levels:

(a) Total design grant funds shall not exceed thirteen million five hundred thousand dollars.

(b) No single public body can receive more than eight million dollars in design grant funds.

(c) Grants will be made for eligible design items not to exceed fifty percent of the total eligible cost for the state-funded portion.

(3) Establish highest priority: The department shall consider the following criteria in determining highest priority:

(a) Whether the department has issued an enforcement order or the applicant has a legally binding schedule for compliance with secondary treatment requirements.

(b) Whether the applicant has completed an approved facility plan engineering report.

**WSR 86-15-005**

**EMERGENCY RULES**

**DEPARTMENT OF ECOLOGY**

[Order DE 86-21—Filed July 3, 1986]

I, Phillip C. Johnson, deputy director of the Washington State Department of Ecology, do promulgate and adopt at the Department of Ecology Headquarters Office, the annexed rules relating to the amending of Referendum 39 regulations (chapter 173-80 WAC) to limit its use and distribution.

I, Phillip C. Johnson, 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 Referendum 39 (chapter 173-80 WAC) needs to be amended to limit its use and distribution. This amendment requires immediate adoption to allow funding to occur under the newly adopted rules implementing section 4, ESSB 4519.

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

This rule is promulgated pursuant to chapter 82.24 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 July 2, 1986.

By Phillip C. Johnson  
Deputy Director

NEW SECTION

**WAC 173-80-080 LIMITING THE USE OF EXISTING REFERENDUM 39 REGULATIONS AND FUNDS.** This chapter is not applicable to the allocation and uses of moneys administered by the department of ecology pursuant to chapter 3, Laws of 1986.

**WSR 86-15-006**

**NOTICE OF PUBLIC MEETINGS  
URBAN ARTERIAL BOARD**

[Memorandum—July 3, 1986]

MEETING NOTICE  
URBAN ARTERIAL BOARD  
TRANSPORTATION BUILDING  
OLYMPIA, WASHINGTON 98504  
(Transportation Board Room)

Beginning at 9:30 a.m., Friday, July 18, 1986.

Note: Persons wishing to testify at this meeting will be required to contact the UAB in writing prior to July 11, 1986.

**WSR 86-15-007**

**EMERGENCY RULES**

**DEPARTMENT OF ECOLOGY**

[Order 86-14—Filed July 7, 1986]

I, Phillip C. Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to low-level radioactive waste disposal in the state of Washington.

The purpose of filing this second CR-7 form is to extend the (identical) emergency rule filed April 9, 1986.

I, Phillip C. Johnson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is low-level waste is currently being shipped to, and disposed of, in the state of Washington. Federal and state legislation has been passed which changes the rules for disposal of low-level waste. Immediate clarification of Washington's requirements to implement the federal and state laws is necessary to avoid uncertainty which may lead to improper storage or disposal of low-level waste creating a public hazard. The legislature recognized this emergency by enacting an emergency clause in section 7, chapter 2, Laws of 1986.

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

This rule is promulgated pursuant to section 5, chapter 2, Laws of 1986, which directs that the Department of Ecology has authority to implement the provisions of section 4, chapter 2, Laws of 1986, and the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985.



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

APPROVED AND ADOPTED July 7, 1986.

By Phillip C. Johnson  
Deputy Director

#### NEW SECTION

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

#### NEW SECTION

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

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

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

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

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

#### NEW SECTION

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

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

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

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

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

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

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

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

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

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

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

Date of Shipment: \_\_\_\_\_

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

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

#### NEW SECTION

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

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

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

#### NEW SECTION

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

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

**WSR 86-15-008**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 86-14—Filed July 7, 1986]

I, Phillip C. Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to low-level radioactive waste disposal in the state of Washington.

This action is taken pursuant to Notice No. WSR 86-11-069 filed with the code reviser on May 21, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to section 5, chapter 2, Laws of 1986, which directs that the Department of Ecology has authority to implement the provisions of section 4, chapter 2, Laws of 1986, and the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985.

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

APPROVED AND ADOPTED July 7, 1986.

By Phillip C. Johnson  
Deputy Director

NEW SECTION

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

NEW SECTION

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

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

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

(4) "Southeast Compact Region" means the states of South Carolina, North Carolina, Virginia, Tennessee, Florida, Mississippi, Alabama, and Georgia.

(5) "Rocky Mountain Compact Region" means the states of Nevada, Colorado, Wyoming, and New Mexico.

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

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

NEW SECTION

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

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

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

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

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

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

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

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

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

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

(5) Prenotification forms (#A-1 and #B-1) are no longer required.

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

Date of Shipment: \_\_\_\_\_

Valid Site Use Permit #	Generator	State	Compact Region	Volume	Surcharge

(7) Any generator or broker shipping waste which was originally generated in the Southeast Compact Region for disposal at the site must attach to the shipping manifest a copy of the letter granting Certification to Export Waste from the Southeast Compact Region.

(8) Any generator or broker shipping waste which was originally generated in the Rocky Mountain Compact Region for disposal at the site must attach to the shipping manifest a copy of the letter granting approval to export waste from the Rocky Mountain Compact Region.

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

#### NEW SECTION

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

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

(3) For each waste shipment that contains waste which was originally generated in the Southeast Compact Region arriving at the facility, obtain a copy of the letter granting Certification to Export Waste from the Southeast Compact Region.

(4) For each waste shipment that contains waste which was originally generated in the Rocky Mountain Compact Region arriving at the facility, obtain a copy of the letter granting approval to export waste from the Rocky Mountain Compact Region.

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

#### NEW SECTION

✓ WAC 173-325-050 EFFECTIVE DATES. This chapter shall take effect April 21, 1986, (1) except the requirements in WAC 173-325-030 (1)-(2) which took effect March 1, 1986, and (2) WAC 173-325-040(3) which takes effect immediately.

**WSR 86-15-009**

### **DEPARTMENT OF ECOLOGY**

[Memorandum—July 7, 1986]

IN THE MATTER OF THE  
ADOPTION OF THE GENERAL  
SCHEDULE FOR DESIGNATION  
OF GROUND WATER MANAGE-  
MENT AREAS PURSUANT TO  
WAC 173-100-060

ORDER AND DETERMINATION  
TO ADOPT  
GENERAL SCHEDULE

## INTRODUCTION

In 1985 the state legislature amended the state ground water code, chapter 90.44 RCW, and directed the Department of Ecology (Ecology) to establish a process for the designation of ground water management areas and the development of comprehensive ground water management programs. The legislature also directed Ecology to adopt a general schedule for the designation of the ground water management areas. These processes are described in chapter 173-100 WAC, entitled "ground water management areas and programs," which became effective on January 17, 1986.

A ground water management program is a comprehensive program developed to protect ground water quality and assure ground water quantity for current and future uses. Ground water management programs can be initiated and developed on the local level while at the same time be supported by state legislation and regulations. This coordinated approach to ground water management allows for issues, concerns and opportunities from all interested groups and agencies to be incorporated into the program in an effective and efficient manner.

Eight requests for ground water management area designation have been received by the Department of Ecology. All eight requests were evaluated and accepted. An ad hoc review committee consisting of Ecology staff members from the water resources and water quality programs and the southwest and northwest regional offices was formed to rank the eight areas for inclusion on the general schedule. The general schedule identifies the relative priority of each of the probable ground water management areas. It will guide Ecology in the designation of each area and in the allocation of Ecology's available funding and staffing resources for the development of ground water management programs.

## RANKING AND EVALUATION PROCEDURE

The ad hoc review committee ranked the eight areas for inclusion on the general schedule. A specific scoring plan and a set of weighted criteria were used to provide a consistent unbiased review of the requests for designation. Individual ratings were averaged for an overall ranking. The ad hoc review committee held a consensus meeting to finalize the proposed ranking of each area. The order of ranking which was derived from the averaged scores was decided to be the appropriate ranking for the draft general schedule.

Each area was ranked on the following five criteria:

1. Significance of problem
2. Number of affected users
3. Aquifer sensitivity
4. Regional and local interest and commitment
5. Probability of successful implementation

A public hearing on the draft general schedule was held on June 26, 1986, in Lacey, Washington. The purposes of the hearing were to present the draft general schedule and to receive public comment. Twenty persons were in attendance. One person gave testimony on the importance of ground water management in the Issaquah

Creek Valley. No testimony was given on the draft general schedule. One letter was submitted during the review period.

**OBJECTIONS AND CONCERNS RAISED AND DEPARTMENT OF ECOLOGY RESPONSES THERETO**

Objections and concerns relating to the adoption of the draft general schedule or concerns related thereto were filed by Carolyn Rinta, President of Washington Women for the Survival of Agriculture, of Bickleton, Washington.

**A. Objections and Concerns**

The concerns submitted by Carolyn Rinta were not specifically directed at the draft general schedule but were related to the entire program. The specific concerns raised are: Not enough time for comprehensive review of the draft general schedule; basing ground water management area boundaries on political considerations rather than hydrogeological characteristics; and interpretation and application of the legislation in a manner jeopardizing the water rights of agriculture and other property holders.

**B. Department of Ecology Responses**

The Department of Ecology responds to these concerns as follows:

1. The concern raised relating to a lack of time for comprehensive review of the draft general schedule is valid. Due to regulatory deadlines, the evaluation, ranking and general schedule review processes were developed and implemented in a very short time frame. The draft general schedule was sent to interested parties as soon as it was available, on June 23, 1986. In future years, much more time will be available for public review and comment.

2. Probable ground water management area planning boundaries were based on hydrogeological characteristics from available data. In those areas where data was lacking, planning boundaries were chosen with a clear understanding by the applicants and Ecology that the boundaries are for initial planning purposes only and that the boundaries may be changed at a later date based on data collected during the program development.

3. Ecology will not allow a ground water management program to jeopardize the existing water rights of agriculture and other property holders. It is Ecology's responsibility to ensure that agricultural interests and private well owners together with other ground water users have proper representation on each ground water advisory committee and that issues, concerns and opportunities from all interest groups are considered and integrated during program development.

**FINDINGS**

The Department of Ecology finds that it has complied with the requirements of chapter 173-100 WAC relating to the general schedule.

**ORDER**

Based upon the foregoing, it is ordered that the draft general schedule be adopted by the Department of Ecology as the general schedule required by WAC 173-100-060. The general schedule shall be:

1. Clover-Chambers Creek Basin
2. Island County
3. South King County
4. Vashon and Maury Islands
5. Gig Harbor Peninsula
6. Kitsap County
7. Redmond-Bear Creek
8. Issaquah Creek Valley

**WSR 86-15-010**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF LABOR AND INDUSTRIES  
(Apprenticeship and Training Council)  
[Memorandum—July 7, 1986]**

The Washington State Apprenticeship and Training Council's, regularly scheduled quarterly meeting set for July 17, 1986, in Vancouver, is cancelled.

All standard items having no controversial effect will be acted upon by the secretary to the council upon written request. Interim approval will be granted to those changes which do not raise substantive issues under the act or WAC rules. If interim approval is granted, it will be necessary to obtain final approval from the council at its next regularly scheduled meeting.

The next regular meeting of the council will be in Yakima at the Towne Plaza on Thursday, October 16, 1986. All agenda items submitted for the July meeting will be automatically resubmitted at that time.

**WSR 86-15-011**

**PROPOSED RULES  
DEPARTMENT OF LABOR AND INDUSTRIES  
[Filed July 8, 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 medical aid rules and maximum fee schedule, chapters 296-20 and 296-23 WAC dealing with rules for treatment of industrially injured workers;

that the agency will at 9:00 a.m., Thursday, August 28, 1986, in the First Floor 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 October 1, 1986.

The authority under which these rules are proposed is RCW 51.04.020(4) and 51.04.030.

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

Dated: July 8, 1986  
By: Richard A. Davis  
Director

### STATEMENT OF PURPOSE

The proposal for rule changes, which follow, amend portions of chapters 296-20, 296-21, 296-22 and 296-23 WAC. These chapters pertain to rules and fees for treatment provided to injured workers.

The purpose of these proposed rules is to make the following substantive changes in Title 296 WAC as previously enacted: Revise treatment and fee schedule pertaining to reimbursement of health service providers and hospitals for service on workers' compensation claims.

Statutory Authority: RCW 51.04.020(4) and 51.04.030.

In Summary, the Following Changes are Accomplished by the Proposed Rules: The fee schedules for occupational therapy and massage have been modified to be consistent with the fee schedule for physical therapy; rules for services and procedures related to the treatment of injured workers have been added or modified to implement recent provisions of the provider eligibility and the provider audit legislation; and rules pertaining to billing procedures have been modified to reflect current requirements.

Agency Personnel Responsible for Drafting: Taylor Dennen, Jo Mason, Loris Gies, Linda Randall, and Michael Arnis; Implementation and Enforcement: Allen Ziegler and other industrial insurance division personnel.

These rule changes are proposed by the Department of Labor and Industries, an agency of the state of Washington.

The proposing agency has no comments regarding statutory language, implementation, enforcement or fiscal matters beyond those appearing above.

These rules are not necessitated by any federal or state court action.

The department has considered whether these rules are subject to the Regulatory Fairness Act, (chapter 6, Laws of 1982) and has determined that they are not for the following reason: There is no unfavorable economic impact for small business, because there is no fiscal impact resulting from these rules.

The agency reserves the right to modify the text of these proposed rules prior to the public hearing thereon or in response to written or oral comments thereon received prior to or during the public hearing. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules on economic values pursuant to chapter 43.21H RCW. Correspondence relating to this notice and proposed rules attached should be addressed to: Taylor Dennen, Administrator, Health Services Analysis, Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-010 GENERAL INFORMATION. (1) The following rules and fees are promulgated pursuant to RCW 51.04.020. This fee schedule is intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable.

Practitioners are to bill their usual and customary fee for services. IF A USUAL AND CUSTOMARY FEE FOR ANY PARTICULAR SERVICE IS LOWER TO THE GENERAL PUBLIC THAN LISTED IN THE FEE SCHEDULE, THE PRACTITIONER SHALL BILL THE DEPARTMENT OR SELF-INSURER AT THE LOWER RATE. The department or self-insurer will pay the lesser of the billed charge or the fee schedule maximum allowable.

(2) The rules contained in the introductory section pertain to all practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section.

(3) The maximum allowable fee for a procedure is determined by multiplying the unit value of a procedure by the appropriate conversion factor, per the conversion factor tables listed in WAC 296-20-135 to 296-20-155.

(4) Initial and follow-up visit charges by practitioners include routine examinations, physical modalities, injections, minor procedures, etc., not otherwise provided for in this schedule. No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(5) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and his usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition.

(6) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants.

(7) When an injured worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

((7)) (8) Correspondence pertaining to state fund and department of energy claims should be sent to Department of Labor and Industries, Claims Administration, MS: HC-241, Olympia, Washington 98504. Accident reports should be sent to Department of Labor and Industries, P.O. Box 9001, Olympia, Washington 98504-9001. Billings should be sent to Department of Labor and Industries, P.O. Box 9002, Olympia, Washington 98504-9002. State fund claims have six digit numbers preceded by a letter other than "S," "T," or "V."

Department of energy claims have seven digit numbers with no letter prefix.

All correspondence and billings pertaining to crime victims claims should be sent to Crime Victims Division, Department of Labor and Industries, 925 Plum Street, MS: HC-720, Olympia, Washington 98504.

Crime victim claims have six digit numbers preceded by a "V."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or his service representative as the case may be. A listing of self-insured employers and service representatives can be found in Appendix B.

Self-insured claims are six digit numbers preceded by a "S," or "T."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

((8)) (9) APPENDIX C is a listing of the department's various local service locations. These facilities should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending Order 83-35, filed 11/30/83, effective 1/1/84)

WAC 296-20-01002 DEFINITIONS. TERMINATION OF TREATMENT: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

UNUSUAL OR UNLISTED PROCEDURE: Value of unlisted services or procedures should be substantiated "by report" (BR).

"BY REPORT": BR (by report) in the value column indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report should provide an adequate definition or description of the services or procedure (e.g., operative or narrative report), using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Major surgical procedure and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to this schedule;
- (5) Estimated follow-up;
- (6) Operative time.

The department or self-insurer may adjust BR procedures when such action is indicated.

"INDEPENDENT OR SEPARATE PROCEDURE": Certain of the listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

Sv. ITEMS: Sv (service) procedures are not essentially a single procedure, rather they are comprised of several other procedures. These "Sv" procedures although identified by a specific code number, can be described only in terms of the several services included. Therefore, unit values are not indicated for Sv procedures and total value is derived from the values of the individual services performed. These Sv procedures require "BR" (see above) information to substantiate billing.

MODIFIED WORK STATUS: The injured worker is not able to return to his previous work, but is physically capable of carrying out work of a lighter nature. Injured workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, his time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

REGULAR WORK STATUS: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

TOTAL TEMPORARY DISABILITY: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

TEMPORARY PARTIAL DISABILITY: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of at least five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary.

ALL TIME LOSS COMPENSATION MUST BE CERTIFIED BY THE ATTENDING DOCTOR BASED ON OBJECTIVE FINDINGS.

PERMANENT PARTIAL DISABILITY: Any anatomic or functional abnormality or loss after maximum rehabilitation has been achieved, which is determined to be stable or nonprogressive at the time the evaluation is made. When the attending doctor has reason to believe a permanent impairment exists, the department or self-insurer should be notified.

Specified disabilities (amputation or loss of function of extremities, loss of hearing or vision) are to be rated utilizing a nationally recognized impairment rating guide. Unspecified disabilities (internal injuries, spinal injuries, mental health, etc.) are to be rated utilizing the category system detailed under WAC 296-20-200 et al. for injuries occurring on or after October 1, 1974. Appendix D contains a schedule of the permanent disability maximum awards. UNDER WASHINGTON LAW DISABILITY AWARDS ARE BASED SOLELY ON PHYSICAL OR MENTAL IMPAIRMENT DUE TO THE ACCEPTED INJURY OR CONDITIONS WITHOUT CONSIDERATION OF ECONOMIC FACTORS.

TOTAL PERMANENT DISABILITY: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, he should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

FATAL: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location (see Appendix C) or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

DOCTOR: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic; chiropractic; drugless therapeutics; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and time loss cards except as provided in WAC 296-20-100.

HEALTH SERVICES PROVIDER OR PROVIDER: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, chiropractors, vocational rehabilitation counselors, osteopaths, pharmacists, podiatrists, physical therapists, psychologists, drugless therapeutics, and durable medical equipment dealers.

PRACTITIONER: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; ((or other healing art licensed under the method or means permitted by such license)) and massage therapy.

PHYSICIAN: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-015 WHO MAY TREAT. (~~All licensed practitioners except those under suspension by the department, are eligible to treat injured workers entitled to benefits under the industrial insurance law.~~) Only that treatment which falls within the scope and field of the practitioner's license to practice will be allowed as treatment to an injured worker.

Para-professionals, who are not independently licensed, must practice under the direct supervision of a licensed health care professional whose scope of practice and specialty training includes the service provided by the para-professional.

Procedures and evaluations requiring specialized skills and knowledge will be limited to board certified or board qualified physicians, as specified by the American Medical Association or the American Osteopathic Association.

~~((No)) Practitioners ((shall)) may be formally refused permission to treat cases coming under the jurisdiction of the department ((except)) for reasons that are, in the opinion of the department, to the best interest of the workers and the funds created for their protection.~~

Reasons for holding a practitioner ineligible to treat industrial insurance cases include, but are not necessarily limited to any one or a combination of the following:

- (1) Failure, neglect or refusal to submit complete, adequate and detailed reports.

(2) Failure, neglect or refusal to respond to requests by the department for additional reports.

(3) Failure, neglect or refusal to observe and comply with the department's orders and medical aid rules.

(4) Persistent failure to notify the department immediately and prior to burial in any death where the cause of death is not definitely known or where there is question of death being due to an industrial injury.

(5) Persistent failure to recognize emotional and social factors impeding recovery of injured workers.

(6) Persistent unreasonable refusal to comply with the recommendations of board certified or qualified specialists who have examined the worker.

(7) Submission of false or misleading reports to the department.

(8) Collusion with any other persons in submission of false or misleading information to the department.

(9) Submission of inaccurate or misleading bills.

(10) Persistent submission of false or erroneous diagnosis.

(11) Knowingly submitting bills to an injured worker for treatment of an industrial condition for which the department has accepted responsibility.

(12) Persistent use of:

(a) Treatment of controversial or experimental nature;

(b) Contraindicated or hazardous treatment measures;

(c) Continuation of treatment measures past stabilization of the industrial condition or after maximum improvement has been obtained;

(d) Nonspecific treatment measures;

(e) Treatment terminating in unsatisfactory results.

(13) Charging or attempting to charge industrially injured workers fees in addition to the fee paid by the department or self-insurer for care of the industrial injury or billing for difference between the maximum allowable fee set forth in this schedule and usual and customary charges.

(14) Conviction in any court of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.

(15) The use or prescription for use, of narcotic, addictive, habituating or dependency inducing drugs in any way other than for therapeutic purposes.

(16) Repeated acts of gross misconduct in the practice of the profession.

(17) Declaration of mental incompetency by a court of competent jurisdiction.

(18) The finding of any peer group disciplinary board of reason to suspend or revoke a practitioner's practice privilege temporarily or permanently.

#### NEW SECTION

WAC 296-20-02005 KEEPING OF RECORDS. A health services provider who requests from the department payment for providing services shall maintain all records necessary for the director's authorized auditors to audit the provision of services. A provider shall keep all records necessary to disclose the extent of services the provider furnishes to industrially injured workers. At a minimum, these records must provide and include prompt and specific documentation of the level and type of service for which payment is sought.

#### NEW SECTION

WAC 296-20-02015 INTEREST ON EXCESS PAYMENTS.

(1) When a provider of health services receives a payment to which that provider is not entitled, the provider must repay the excess payment, plus accrued interest, without regard to whether the excess payment occurred due to provider or department error or oversight, except as provided in subsection (2) of this section.

(2) When a provider:

(a) Accepts in good faith a determination by the department that a worker is eligible for benefits under Title 51 RCW;

(b) Provides, bills, and receives payment for services to that worker and the department later determines that the worker was ineligible for services during that period no interest will begin to accrue until notification is received by the provider that the worker was ineligible.

(3) Interest accrues on excess payments at the rate of one percent per month or portion of a month beginning on the thirty-first day after payment was made. Where partial repayment of an excess payment is made, interest accrues on the remaining balance.

(4) The department reserves the option of either requesting the provider to remit the amount of the excess payment and accrued interest

to the department or offsetting excess payments and accrued interest against future payments due to the provider.

#### NEW SECTION

WAC 296-20-02010 CONDUCT OF AUDITS. (1) In order to ensure that the industrially injured worker receives the services paid for by the state of Washington, the department of labor and industries conducts audits of providers of medical, dental, vocational rehabilitation, and other health services furnished to industrially injured workers. Audits may be for cause or at random and may consist of, but not be limited to, an on-site review of any of a provider's files and records related to the provision of services to industrially injured workers or the submission of any bill to the department for payment for such services.

(2) In the conduct of such audits, the director or the director's authorized auditors may examine all records, or portions thereof, including patient records, related to services rendered by a health services provider with payment requested of, or made by the department, notwithstanding the provisions of any statute which may make or purport to make such records privileged or confidential. The examination of records may include the utilization of statistical sampling methodologies and projections based upon sample findings.

(3) No original records shall be removed from the premises of a health services provider by the auditors. The department shall destroy all copies of patient medical records made during an audit, and such records destruction will be accomplished not later than ninety days after completion of the audit, investigation, or proceeding.

(4) The department will give ten working days written notification to any provider, except as authorized in WAC 296-18-460, that the provider's billing and injured worker claimant records will be reviewed by an auditor at the provider's place(s) of business to determine compliance with medical aid rules and standards.

(5) A provider, or the provider's designee, will be notified upon the auditor's arrival at the provider's place of business. The notification takes place during an entrance interview attended by the auditor and the provider or the provider's designee. The provider is to furnish the records requested by the auditor and provide a work space adequate and suitable for the auditor to conduct the records review at the provider's place(s) of business.

(6) A provider, or the provider's designee, will be notified by the auditor upon conclusion of the review of records at the provider's place(s) of business. The auditor will advise the provider, or the provider's designee, that an exit conference can be scheduled. The purpose of the exit conference is to informally review and discuss the preliminary audit findings. The conference is conducted at the provider's place of business. The conference may be waived at the discretion of the provider.

(7) The provider will be given a draft audit report for review and comment. Upon receipt from the department of a draft audit report, the provider will have fifteen working days to submit written comments on the draft audit report or to request to meet in conference in Olympia with the director's authorized representative(s) to discuss the draft audit report. Written comments by the provider will be incorporated into a final audit report.

(8) The department will issue a final audit report to each audited provider. If as a result of the audit it is determined that moneys are due the department, the final audit report will be accompanied by an order and notice identifying the amount due and any interest. If as a result of the audit it is determined that no moneys are due to the department, the final audit report will not be accompanied by an order and notice. In either case, the final audit report will tell the provider of the department's process for addressing disputes which might arise as a result of the audit.

(9) A provider, upon receipt from the department of a final audit report not accompanied by an order and notice, shall have sixty calendar days to submit to the department a written request for reconsideration of any audit finding or directive which the audited provider believes to be inconsistent with statute, rule or departmental policy. Requests must be submitted to: Director, department of labor and industries. A provider requesting reconsideration shall be granted a conference in Olympia presided over by the director or the director's authorized representative. The director or the director's authorized representative shall issue a final decision within thirty days of concluding the conference. That decision shall become final within sixty days from the date the decision is communicated to the provider unless an

appeal is filed with the board of industrial insurance appeals. The conference in response to the final audit report is the final level of appeal within the department.

(10) Based upon the findings of an audit or other proceeding, the director or the director's authorized representative may order repayment by a provider of any excess payments received by the provider under Title 51 RCW to which the provider was not entitled, plus interest on the amount of any excess payments received by a provider to which the provider was not entitled. In the determination of excess payments, the department may use projections based upon sample findings.

(11) A department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational rehabilitation, or other health services rendered to an industrially injured worker, shall become final within twenty days from the date the order or decision is communicated to the provider unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals.

(12) A provider, upon receipt from the department of a final audit report accompanied by an order and notice, and aggrieved by the department order and notice making demand, whether with or without penalty, for repayment of sums paid to that provider, who files with the department in Olympia a timely written request for reconsideration of the order and notice making demand, shall be granted a conference in Olympia presided over by the director or the director's authorized representative. The director or the director's authorized representative shall issue a final decision within thirty days after concluding the conference. That decision shall become final within twenty days from the date the decision is communicated to the provider unless the provider files an appeal with the board of industrial insurance appeals.

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-03001 TREATMENT REQUIRING AUTHORIZATION. Certain treatment procedures require authorization by the department or self-insurer. Requests for authorization must include a statement of: The condition(s) diagnosed; ICD-9-CM codes; their relationship, if any, to the industrial injury/exposure; an outline of the proposed treatment program, its length and components, and expected prognosis; and an estimate of when treatment would be concluded and condition stable.

(1) Office calls in excess of the first twenty visits or sixty days whichever occurs first.

(2) All nonemergent major surgery must be authorized prior to surgery date. Some surgical procedures require concurring opinions prior to authorization. (See WAC 296-20-045 for details.)

(3) X-ray and radium therapy.

(4) Diagnostic studies other than routine x-ray and blood or urinalysis laboratory studies.

(5) Myelogram and discogram in nonemergent cases.

(6) Physical therapy treatment beyond initial twelve treatments as outlined in WAC 296-21-095 and 296-23-710.

(7) Diagnostic or therapeutic injection. Epidural or caudal injection of substances other than anesthetic or contrast solution will be authorized under the following conditions only:

(a) When the worker has experienced acute low back pain or acute exacerbation of chronic low back pain of no more than six months duration.

(b) The worker will receive no more than three injections in an initial thirty-day treatment period, followed by a thirty-day evaluation period. If significant pain relief is demonstrated one additional series of three injections will be authorized. No more than six injections will be authorized per acute episode.

(8) Home nursing or convalescent center care must be authorized per provision outlined in WAC 296-20-091.

(9) Provision of prosthetics, orthotics, surgical appliances, special equipment for home or transportation vehicle; custom made shoes for ankle/foot injuries resulting in permanent deformity or malfunction of a foot; TNS units; masking devices; hearing aids; etc., must be authorized in advance as per WAC 296-20-1101 and 296-20-1102.

(10) Biofeedback program; pain clinic; weight loss program; psychotherapy; rehabilitation programs; and other programs designed to treat special problems must be authorized in advance. See WAC 296-21-0501 and 296-20-0502 for details.

(11) Prescription or injection of vitamins for specific therapeutic treatment of the industrial condition(s) when the attending doctor can

demonstrate that published clinical studies indicate vitamin therapy is the treatment of choice for the condition. Authorization for this treatment will require presentation of facts to and review by department medical consultant.

(12) Injections of anesthetic and/or antiinflammatory agents into the vertebral facet joints will be authorized to qualified specialists in orthopedics, neurology, and anesthesia, or other physicians who can demonstrate expertise in the procedure, AND who can provide certification their hospital privileges include the procedure requested under the following conditions:

(a) Rationale for procedure, treatment plan, and request for authorization must be presented in writing to the department or self-insurer.

(b) Procedure must be performed in an accredited hospital under radiographic control.

(c) Not more than four facet injection procedures will be authorized in any one patient.

(13) The long term prescription of medication under the specific conditions and circumstances in (a) and (b) are considered corrective therapy rather than palliative treatment and approval in advance must be obtained.

(a) Nonsteroidal antiinflammatory agents for the treatment of degenerative joint conditions aggravated by occupational injury.

(b) Anticonvulsive agents for the treatment of seizure disorders caused by trauma.

(14) Intra-muscular and trigger point injections of steroids and other nonscheduled medications are limited to three injections per patient. The attending doctor must submit justification for an additional three injections if indicated with a maximum of six injections to be authorized for any one patient.

(15) The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a patient has a medical condition which necessitates a hospital admission, prior approval of the department must be obtained.

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-075 HOSPITALIZATION. Hospitalization will be paid when indicated for treatment of the accepted condition(s). Unless the worker's condition requires special care, ward or semi-private accommodations will be paid. Hospitalization solely for physical therapy, bed rest, or administration of injectable drugs will not be paid.

Discharge from the hospital shall be at the earliest date possible consistent with proper health care. If transfer to a convalescent center or nursing home is indicated, prior arrangements should be made with the department or self-insurer. See WAC 296-20-091 for further information. The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a patient has a medical condition which necessitates a hospital admission, prior approval of the department must be obtained.

**AMENDATORY SECTION** (Amending Order 83-23, filed 8/2/83)

WAC 296-20-1103 TRAVEL EXPENSE. The department or self-insurer will reimburse travel expense incurred by injured worker's for the following reasons: (1) ((Special)) Independent medical exam ((at)) arranged by the department((s)) or self-insurer((s request)); (2) vocational evaluation at department's or self-insurer's request; or (3) treatment or evaluation at department's rehabilitation center ((4) fitting of prosthetic device; and (5) upon prior authorization for treatment when injured worker must travel more than ten miles one-way from his home to the nearest point of adequate treatment. Travel expense is not payable when adequate treatment is available within ten miles of injured worker's home, yet the injured worker prefers to report to an attending doctor outside his home area.

Travel expense will be reimbursed at the current department established rate.

No travel expense for treatment services will be paid to those injured worker's residing outside the state of Washington. Persons residing in states which border Washington state AND within fifty miles of the Washington border will be considered Washington residents for travel expense purposes. Persons traveling from Washington to another state for diagnostic or treatment services that are not available in Washington will be reimbursed travel expense when approved in advance.

When travel involves need for food and lodging these items will be reimbursed at the currently established rates.



~~Parking, vehicle storage, ferry and bridge tolls will be reimbursed if receipt is provided. No receipt will be required for parking expenses under two dollars:)) or decentralized service center.~~

~~Travel via commercial transportation must be approved in advance.~~

~~Costs incurred for mileage, meals, and lodging will be reimbursed at rates established by the department. Costs for vehicle storage, parking, ferry and bridge tolls, coach class airfare, train, bus, taxi and other commercial transportation will be reimbursed at actual costs upon presentation of receipts. No receipt is required for services under five dollars.~~

~~Travel expenses are payable only for the injured worker. Persons accompanying the worker are responsible for their own expenses. In rare cases, i.e., para-plegia or quadra-plegia, travel costs for persons attending the worker may be paid upon prior approval.~~

~~Request for reimbursement of travel expenses must indicate the date, destination, and purpose of the travel and must be received by the department or self-insurer within ninety days of the date expense was incurred.~~

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-125 BILLING PROCEDURES. All services rendered must be in accordance with the medical aid rules. The department or self-insurer may reject bills for services rendered in violation of these rules. The injured worker may not be billed for services rendered in violation of these rules.

(1) Bills must be itemized on department or self-insurer forms or other forms which have been approved by the department or self-insurer. Physicians, osteopaths, advanced registered nurse practitioners, chiropractors, naturopaths, podiatrists, and psychologists use the national standard HCFA 1500 health insurance claim form (~~(= Washington state billing form)~~) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form. Hospitals use the UB-82 billing form for institution services and the national standard HCFA 1500 health insurance claim form (~~(= Washington state)~~) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form for professional services. Pharmacies use the department's statement for pharmacy services (F-245-100). Dentists, equipment suppliers, transportation services, home health services, vocational services, and massage therapists use the department's statement for miscellaneous services (F-245-72). Providers may obtain billing forms from the department's local service locations (see Appendix C for listing).

(2) Bills must specify the date and type of service, the appropriate procedure code, the condition treated, and the charges for each service.

(3) Bills submitted to the department must be completed to include the following:

- (a) Worker's name and address;
- (b) Worker's claim number;
- (c) Date of injury;
- (d) Referring doctor's name and L & I provider account number;
- (e) Area of body treated, including ICD-9-CM code(s), identification of right or left, as appropriate;
- (f) Dates of service;
- (g) Place of service;
- (h) Type of service;
- (i) Appropriate procedure code, hospital revenue code, or national drug code;
- (j) Description of service;
- (k) Charge;
- (l) Units of service;
- (m) Tooth number(s);
- (n) Total bill charge;
- (o) The name and address of the practitioner rendering the services and the provider account number assigned by the department;
- (p) Date of billing;
- (q) Submission of supporting documentation required under subsection (6) of this section.

(4) Responsibility for the completeness and accuracy of the description of services and charges billed rests with the practitioner rendering the service, regardless of who actually completes the bill form;

(5) Vendors are urged to bill on a monthly basis. Bills must be received within ninety days of service to be considered for payment.

(6) The following supporting documentation is required when billing for services:

- (a) Laboratory and pathology reports;

- (b) X-ray findings;
- (c) Operative reports;
- (d) Office notes;
- (e) Consultation reports;
- (f) Special diagnostic study reports;
- (g) For BR procedures - see WAC 296-20-010 for requirements; and
- (h) Special or closing exam reports.

(7) The claim number must be placed on each bill and on each page of reports and other correspondence in the upper right-hand corner.

(8) Rebills. If you do not receive payment or notification from the department within ninety days, services may be rebilled. Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. Rebills should be identical to the original bill: Same charges, codes, and billing date. Please indicate rebill on the bill.

Any inquiries regarding adjustment of charges must be submitted within ninety days from the date of payment to be considered.

**AMENDATORY SECTION** (Amending Order 81-28, filed 11/30/81, effective 1/1/82)

WAC 296-21-0501 BIOFEEDBACK RULES. Procedures listed under WAC 296-20-0502 are for use by M.D.'s, D.O.'s, and certified (~~(registered nurses and certified)~~) psychologists. Procedures listed under WAC 296-23-910 are for use by certified registered nurses. RPT's and LPT's must use rules and procedures listed under WAC 296-23-710 through 296-23-725.

Administration of biofeedback treatment is limited to those practitioners who are certified by the Biofeedback Certification Institute of America or who meet the minimum education, experience, and training qualifications to be so certified. Those practitioners wishing to administer biofeedback treatment to injured workers, must submit a copy of their biofeedback certification or supply evidence of their qualifications to the department of self-insurer as the case may be.

(1) The department will authorize biofeedback treatment for the following conditions when accepted under the industrial insurance claim:

- (a) Idiopathic Raynaud's disease
- (b) Temporomandibular joint dysfunction
- (c) Myofascial pain dysfunction syndrome (MPD)
- (d) Tension headaches
- (e) Migraine headaches
- (f) Tinnitus
- (g) Torticollis
- (h) Neuromuscular reeducation as result of neurological damage in CVA or spinal cord injury
- (i) Inflammatory and/or musculoskeletal disorders causally related to the accepted condition.

(2) Twelve biofeedback treatments in a ninety day period will be authorized for the above conditions when the following is presented:

- (a) An evaluation report documenting:
  - (i) The basis for the claimant's condition;
  - (ii) the condition's relationship to the industrial injury;
  - (iii) an evaluation of the claimant's current functional measurable modalities (i.e., range of motion, up time, walking tolerance, medication intake, etc.);
  - (iv) an outline of the proposed treatment program;
  - (v) an outline of the expected restoration goals.

(b) No further biofeedback treatments will be authorized or paid for without substantiation of evidence of improvement in measurable, functional modalities (i.e., range of motion, up time, walking tolerance, medication intake, etc.). Only one additional treatment block of twelve treatments per ninety days will be authorized. Requests for biofeedback treatment beyond twenty-four treatments or one hundred eighty days will be granted only after file review by and on the advice of the department's medical consultant.

(c) In addition to treatment, pretreatment and periodic evaluation will be authorized. Follow-up evaluation can be authorized at one, three, six, and twelve months posttreatment.

(d) At the department's option, a concurring opinion may be required regarding relationship of the condition to the industrial injury and/or need for biofeedback treatment.

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-21-0502 BIOFEEDBACK.	Unit Value
90900 Biofeedback training, by electromyogram application including office visit (one hour) . . . . .	50.0
90901 Biofeedback training, by electromyogram application (one-half hour) . . . . .	30.0
90902 in conduction disorder including office visit (one hour) . . . . .	50.0
90903 in conduction disorder (one-half hour) . . . . .	30.0
90904 regulation of blood pressure including office visit (one hour) . . . . .	50.0
90905 regulation of blood pressure (one-half hour) . . . . .	30.0
90906 regulation of skin temperature or peripheral blood flow including office visit (one hour) . . . . .	50.0
90907 regulation of skin temperature or peripheral blood flow (one-half hour) . . . . .	30.0
90908 by electroencephalogram application including office visit (one hour) . . . . .	50.0
90909 by electroencephalogram application (one-half hour) . . . . .	30.0
90910 by electro-oculogram application including office visit (one hour) . . . . .	50.0
90911 by electro-oculogram application (one-half hour) . . . . .	30.0
90912 Diagnostic evaluation includes report (one hour) . . . . .	60.0
90913 Follow-up evaluation includes report (one-half hour) . . . . .	30.0

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-22-010 GENERAL INFORMATION AND INSTRUCTIONS. Rules and billing procedures pertaining to all practitioners rendering services to injured workers are presented in the general information section beginning with WAC 296-20-010. Some commonalities are repeated here for the convenience of those doctors referring to the surgery section. Definitions and rules unique to surgery are also included here. Doctor's services rendered for office, home, hospital, consultations and other services are listed in the medicine section. The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a patient has a medical condition which necessitates a hospital admission, prior approval of the department must be obtained.

(1) Listed values for all surgical procedures include the surgery, local infiltration, digital block or topical anesthesia when used and the normal uncomplicated follow-up care for the period indicated in days in the column headed "follow-up days."

(2) Follow-up care for diagnostic procedures (e.g., endoscopy, injection procedures for radiography, etc.) includes only that care related to recovery from the diagnostic procedure itself. Care of the condition for which the diagnostic procedure was performed or other concomitant conditions is not included and may be charged for in accordance with the services rendered.

(3) Follow-up care for therapeutic surgical procedures includes only that care usually a part of the surgical service. Complications, exacerbations, recurrence or the presence of other diseases or injuries requiring additional services concurrent with the procedure(s) or during the listed period of normal follow-up care may warrant additional charges. (See modifier -68.)

When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(4) PREOPERATIVE VISITS AND SERVICES: Under most circumstances the immediate preoperative visit in the hospital or elsewhere necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed value for the surgical procedure.

Additional charges may be warranted for preoperative services under the following circumstances:

(a) When the preoperative visit is the initial visit (e.g., an emergency, etc.) and prolonged detention or evaluation is required to prepare the patient or to establish the need for and type of surgical procedure.

(b) When the preoperative visit is a consultation as defined in WAC 296-21-030.

(c) When procedures not usually part of the basic surgical procedure (e.g., bronchoscopy prior to chest surgery, etc.) are provided during the immediate preoperative period.

(5) CONCURRENT SERVICES BY MORE THAN ONE PHYSICIAN: Charges for concurrent services of two or more physicians may be warranted under the following circumstances:

(a) Medical services provided during the surgical procedure or in the postoperative period (e.g., diabetic management, operative monitoring of cardiac or brain conditions, management of postoperative electrolyte imbalance, etc.).

(b) TWO SURGEONS: Under certain circumstances the skills of two surgeons (e.g., a urologist and a general surgeon in the creation of an ileal conduit, etc.). By prior agreement, the total value may be apportioned in relation to the responsibility of work done. The total value may be increased by 25% in lieu of the assistant's charge. (See modifier -62.)

(c) CO-SURGEONS: Under certain circumstances, two surgeons (usually with similar skills) may function simultaneously as primary surgeons performing distinct parts of a total surgical service (e.g., two surgeons simultaneously applying skin grafts to different parts of the body of the same patient). By prior agreement, the total value may be apportioned in relation to the responsibility and work done. The total value may be increased by an appropriate amount in lieu of the usual assistant's charge. (See modifier -64.)

(d) SURGICAL TEAM: Under some circumstances highly complex procedures requiring the concomitant services of several physicians, often of different specialties, plus other highly skilled, specially trained personnel and various types of complex equipment are carried out under the surgical team concept with a single, global fee for the total service. The services included in the "global" charge vary widely and no single value can be listed. The value should be supported by a report to include itemization of the physician(s) services, paramedical personnel and equipment included in the "global" charge. (See modifier -66.)

(6) ASTERISK (\*) PROCEDURES OR ITEMS: Certain relatively small surgical services involve a readily identifiable surgical procedure but include variable preoperative and postoperative services (e.g., incision and drainage of an abscess, injection of a tendon sheath, manipulation of a joint under anesthesia, dilation of the urethra, etc.). Because of the indefinite pre and postoperative services the usual "package" concept for surgical services (see above) cannot be applied. Such procedures are identified by an asterisk (\*) preceding or following the procedure code number.

Where an asterisk (\*) precedes or follows a procedure number and its value, the following rules apply:

(a) The services as listed includes the surgical procedure only. Associated pre and postoperative services are not included.

(b) Preoperative services are considered as one of the following:

(i) When the asterisk (\*) procedure is carried out at the time of an initial visit (new patient) and this procedure constitutes the major service at that visit, procedure number 99025 is listed in lieu of the usual initial visit as an additional service.

(ii) When the asterisk (\*) procedure is carried out at the time of an initial or other visit involving significant identifiable services (e.g., removal of a small skin lesion at the time of a comprehensive history and physical examination), the appropriate visit is listed in addition to the asterisk (\*) procedure and its follow-up care.

(iii) When the asterisk (\*) procedure is carried out at the time of a follow-up (established patient) visit and this procedure constitutes the major service at that visit, no visit service is usually added.

(iv) When the asterisk (\*) procedure requires hospitalization, an appropriate hospital visit is listed in addition to the asterisk (\*) procedure and its follow-up care.

(c) All postoperative care is to be added on a service-by-service basis (e.g., office or hospital visit, cast change, etc.).

(d) Complications are added on a service-by-service basis (as with all surgical procedures).

(7) MULTIPLE OR BILATERAL SURGICAL PROCEDURES:

(a) When multiple surgical procedures which add significant time or complexity to patient care are performed at the same operative session. (See modifier -51.)

(b) When bilateral surgical procedures which add significant time or complexity to patient care are performed at the same operative session. (See modifier -50.)

(c) Incidental procedures (e.g., incidental appendectomy, incidental scar incision, puncture of ovarian cysts, simple lysis of adhesions, simple repair of hiatal hernia, etc.) do not warrant an additional charge. (See modifier -52.) THESE PROCEDURES MUST BE AUTHORIZED IN ADVANCE.

Unit Value

(8) SURGERY AND FOLLOW-UP CARE PROVIDED BY DIFFERENT PHYSICIANS: When one physician performs the surgical procedure itself and another provides the follow-up care, the value may be apportioned between them by agreement along with notification to the department of the fee distribution. (See modifier -54 or -55.)

must be done under general anesthesia. This circumstance may be reported by adding the modifier '-23' to the procedure code of the basic service. . . . . BR

(9) ANESTHESIA BY SURGEON: When regional or general anesthesia is provided by the surgeon, value as "basic" value for anesthesia procedure without added value for time. (See modifier -47) (For local infiltration, digital block or topical anesthesia, see WAC 296-22-010, item 1.)

-25 DIGITAL RADIOLOGY (e.g., digital subtraction angiography, digital fluoroscopy, digital radiography). When this technique is utilized, the modifier '-25' may be appended to the appropriate five digit number of the radiologic procedure to indicate that the digital modality was applied. The modifier would be applied to both the supervision and interpretation service and complete procedure. When the supervision and interpretation service code is utilized and the injection is done by a second physician, the modifier need not be applied to the surgical injection codes.

(10) In cases where the claimant does not survive, the percentage of the flat fee paid the physician shall be commensurate with the services rendered.

-26 PROFESSIONAL COMPONENT: Certain procedures (e.g., laboratory, radiology, electrocardiogram, specific diagnostic and therapeutic services) are a combination of a physician component and a technical component. When the physician component is reported separately, the service may be identified by adding the modifier '-26' to the usual procedure number. . . . . BR

(11) The emergency room will be considered the office for those physicians providing regular emergency room care to the hospital and fees will be allowed on this basis.

(12) Materials supplied by physician: Supplies and materials provided by the physician, e.g., sterile trays/drugs, over and above those usually included with the office visit or other services rendered may be listed separately. List drugs, trays, supplies, and materials provided. Identify as 99070.

-47 ANESTHESIA BY SURGEON: When regional or general anesthesia is provided by the surgeon, it may be reported by adding to modifier '-47' to the basic service. (This does not include local anesthesia.)

(13) Separate or multiple procedures: It is appropriate to designate multiple procedures that are rendered on the same date by separate entries. (See Modifier -50 below.)

(14) Special report: A service that is rarely provided, unusual, variable, or new may require a special report in determining medical appropriateness of the service. Pertinent information should include an adequate definition or description of the nature, extent, and need for the procedure, and the time, effort, and equipment necessary to provide the service. Additional items which may be included are: Complexity of symptoms, final diagnosis, pertinent physical findings (such as size, location, and number of lesion(s), if appropriate), diagnostic and therapeutic procedures (including major and supplementary surgical procedures, if appropriate), concurrent problems, and follow-up care. See WAC 296-20-01002 for "BR" By Report instructions.

Use the "basic" anesthesia value only. (Note: Surgical units and anesthesia units are not of the same dollar values.) List separately from the surgical service provided and identify by adding this modifier '-47' to the usual procedure number. (For local infiltration, digital block or topical anesthesia, see WAC 296-21-125, item 5.)

(15) Surgery modifiers: (For other modifiers, see appropriate sections.)

-50 BILATERAL PROCEDURE: Unless otherwise identified in the listings, bilateral procedures requiring a separate incision that are performed at the same operative session, should be identified by the appropriate five digit code describing the first procedure. The second (bilateral) procedure is identified by adding modifier -50 to the procedure number and value at 50% of the listed value(s) unless otherwise indicated.

Listed values and procedures may be modified under certain circumstance. When applicable, the modifying circumstance should be identified by the addition of the appropriate "modifier code number" which is a two digit number placed after the usual procedure number from which it is separated by a hyphen. If more than one modifier is used, the "multiple modifiers" placed first after the procedure code indicates one or more additional modifier codes will follow. All modifiers and their respective codes are listed in Appendix A. Modifiers commonly used in surgery are as follows:

Unit Value

-20 When the surgical service is performed using the techniques of micro-surgery in an operating room and under the operating microscope, the modifier -20 may be added to the surgical procedure. The use of this modifier is not warranted when surgery is done with the aid of a magnifying loupe or magnifying binoculars worn by the surgeon. A special report may be appropriate to document the necessity of the micro-surgical approach. The total value of the surgical procedure may be increased by 20%. A special report may be appropriate to document the necessity of the micro-surgical approach. The department will publish a list of surgical procedures that have approval for this modifier.

-51 MULTIPLE PROCEDURES: When multiple procedures which add significant time or complexity to patient care are provided at the same operative session, identify and value the first or major procedure as listed. Identify secondary or lesser procedure(s) by '-51' to the usual procedure number(s) and value at 50% of the listed value(s) unless otherwise indicated.

-22 UNUSUAL SERVICES: When the service(s) provided is greater than that usually required for the listed procedure, it may be identified by adding modifier '-22' to the usual procedure number. List modified value. A report may be required.

-52 REDUCED VALUES: Under certain circumstances, the listed value for a procedure is reduced or eliminated at the physician's election. Under these circumstances, the service provided can be identified by it's usual procedure number and the addition of modifier '-52', signifying that the service is reduced. For example:

-23 UNUSUAL ANESTHESIA: Periodically, a procedure, which usually requires either no anesthesia or local anesthesia, because of unusual circumstances

(a) Incidental procedures (e.g., incidental appendectomies, incidental scar excisions, puncture of ovarian cysts, simple lysis of adhesions, simple repair of a hiatal hernia, etc.) do not warrant an additional charge.

(b) When the listed value is reduced in conformity with a ground rule (e.g., rereduction of a fracture).

(c) When charges for multiple procedures (e.g., multiple lacerations, etc.) are reduced at the physician's election to achieve an appropriate total charge.

	Unit Value		Unit Value
-54		SURGICAL PROCEDURE ONLY: When one physician performs the surgical procedure and another provides the pre and/or postoperative management surgical services may be identified by adding the modifier '-54' to the usual procedure number. Value may be apportioned between them by agreement.	listed follow-up period may warrant additional charges on a fee-for-service basis. Identify these conditions by adding this modifier '-68' to the usual procedure number(s) for the additional service(s) rendered and indicate the appropriate value(s). May require a report.
-55		POSTOPERATIVE MANAGEMENT ONLY: When one physician performs the postoperative management and another has performed the surgical procedure, the post operative component may be identified by adding the modifier '-55' to the usual procedure number. Value may be apportioned between them by agreement.	-75 CONCURRENT CARE, SERVICES RENDERED BY MORE THAN ONE PHYSICIAN: When the patient's condition requires the additional services of more than one physician, each physician may identify his or her services by adding the modifier '-75' to the basic service performed.
-56		PREOPERATIVE MANAGEMENT ONLY: When one physician performs the preoperative care and evaluation and another physician performs the surgical procedure, the preoperative component may be identified by adding the modifier '-56' to the usual procedure number.  Value is apportioned as per agreement between practitioners involved.	-76 REPEAT PROCEDURE BY SAME PHYSICIAN: The physician may need to indicate that a procedure or service was repeated subsequent to the original service. This may be reported by adding the modifier '-76' to the procedure code of the repeated service.
-62		TWO SURGEONS: Under certain circumstances the skills of two surgeons (usually with different skills) may be required in the management of a specific surgical problem (e.g., a urologist and a general surgeon in the creation of an ileal conduit, etc.). By prior agreement, the total value may be apportioned in relation to the responsibility and work done. The total value may be increased by 25% in lieu of the assistant's charge. Under these circumstances the services of each surgeon should be identified by adding this modifier '-62' to the joint procedure number(s) and valued as agreed upon.  (Usual charges for surgical assistance may also be warranted if still another physician is required as part of the surgical team.)	-77 REPEAT PROCEDURE BY ANOTHER PHYSICIAN: The physician may need to indicate that a basic procedure performed by another physician had to be repeated. This may be reported by adding modifier '-77' to the repeated service.
-64		CO-SURGEONS: Under certain circumstances, two surgeons (usually with similar skills) may function simultaneously as primary surgeons performing distinct parts of a total surgical service (e.g., two surgeons simultaneously applying skin grafts to different parts of the body or two surgeons repairing different fractures in the same patient). By prior agreement, the total value may be apportioned in relation to the responsibility and work done. The total value may be increased by 25% in lieu of the usual assistant's charge. Under these circumstances the services of each surgeon should be identified by adding this modifier '-64' to the joint procedure number(s) and valued as agreed upon.  (Usual charges for surgical assistance may also be warranted if still another physician is required as part of the surgical team.)	-80 ASSISTANT SURGEON: Surgical assistant services are identified by adding this modifier '-80' to the usual procedure number(s) and are valued at 20% of the listed value of the surgical procedure(s)  OR
-66		SURGICAL TEAM: Under some circumstances, highly complex procedures requiring the concomitant services of several physicians, often of different specialities, plus other highly skilled, specially trained personnel and various types of complex equipment are carried out under the "surgical team" concept. Such circumstances should be identified by adding this modifier '-66' to the basic procedure number. The value should be supported by a report to include itemization of the physician(s) services, paramedical personnel and equipment included in the charge . . . . . BR	-81 MINIMUM ASSISTANT SURGEON ALLOWANCE: Identify by adding this modifier '-81' to the usual procedure number and value at . . . . . 1.7
-68		COMPLICATIONS: Complications or circumstances requiring unusual additional services during the	-90 REFERENCE (OUTSIDE) LABORATORY: When laboratory procedures are performed by a party other than the treating or reporting physician, the procedure may be identified by adding the modifier '-90' to the usual procedure number.
			-99 MULTIPLE MODIFIERS: Under certain circumstances, two or more modifiers may be necessary to completely delineate a service.  In such situations, modifier '-99' should be added to the procedure number and other applicable modifiers may be listed as part of the description of the service . . . . . BR

**AMENDATORY SECTION** (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

**WAC 296-23-300 GENERAL STATEMENT.** (~~To enable us to pay your bills more promptly we must have your cooperation.~~) Hospital services will be paid when necessary for treatment of the accepted condition. General information and rules pertaining to the care of injured workers are explained in the section beginning WAC 296-20-010 through 296-20-17003.

Per WAC 296-20-075, the department or self-insurer will not pay for hospital inpatient admission solely for bed rest, physical therapy or administration of injectable drugs.

There is often delay in processing hospital bills because the claim number is not listed in the space provided on the bill form. (~~The department provides the claim number to the injured worker and attending doctor immediately after our receipt of a new report of accident. The claim number is sent out prior to the adjudication of the claim.~~) If you are not able to secure the claim number from the injured worker or the attending doctor, you should obtain the claim number from the department in Olympia. Self-insurers may be contacted directly to obtain claim numbers on self-insured claims. See Appendix B for list of self-insured employers.

Please make arrangements with the doctor in your area to supply you with the claim number when arrangements are made for hospitalization. (~~If the attending doctor or the injured worker cannot supply you with the claim number then usually no portion of a claim has been~~)

filed with the department, or the claim is too new to have been received by department or self-insurer.

If for some reason you are not able to secure the claim number, the bill should not be held but should be forwarded to the department in Olympia or to the self-insurer, supplying ALL other information requested on the heading of the bill. Do not confuse the date of injury with the date of admission or service.

We urge you to submit your bills to the department or self-insurer at the end of each month for the services rendered during that month. (When using UB-16 forms, follow the billing instructions provided by the Washington state hospital association.)

AMENDATORY SECTION (Amending Order 86-15, filed 1/30/86)

WAC 296-23-301 RATES FOR DAILY AND ANCILLARY SERVICES. The department or self-insurer will pay for daily and ancillary services by multiplying allowed charges times the ratio of total rate setting revenue minus bad debt to total rate setting revenue for each hospital set annually based upon the latest ((budget)) available ((from)) budget approved by the Washington state hospital commission. Beginning November 1, 1986, hospital outpatient pathology, radiology, and speech and physical therapy services are to be billed and will be paid using appropriate fee schedule procedure codes. Doctor services ((other than professional component)) are not included in WSHC rates and should be billed using appropriate fee schedule procedure codes.

AMENDATORY SECTION (Amending Order 83-23, filed 8/2/83)

WAC 296-23-356 BILLING PROCEDURES. (1) Bills for hospital services ((can)) must be submitted on ((department or UB-16)) UB-82 bill forms following the billing instructions provided by the Washington state hospital association. The self-insurer may accept other bill forms. Regardless of form used, the following information must appear: Claim number, claimant name and address, worker's social security number (if available), employer name, date of injury, diagnosis ((or)) including ICD-9-CM code(s), nature of injury, date of service, and description of service rendered with the appropriate ICD-9-CM or CPT-4 procedure code(s). ((If UB-16 forms are used,)) Summarize charges by revenue codes ((as per UB-16)) as specified in the UB-82 instructions. Itemized detail of summary charges must be attached.

(2) For a bill to be considered for payment, it should be received by the department or self-insurer within ninety days from the date of service.

(3) Supporting documentation of services rendered must be attached to billings. The reports needed are:

- (a) X-ray findings
(b) Laboratory findings
(c) Diagnostic study findings
(d) Emergency room reports
(e) Admission history and physical
(f) Discharge summary for stays over 48 hours
(g) Operative report
(h) Physical therapy notes
(i) Occupational therapy notes.

(4) The department or the self-insurer may reject bills for services rendered in violation of the medical aid rules.

(5) The emergency room will be considered the office for those physicians providing regular emergency room care to the hospital, and fees will be allowed on this basis.

(6) Call back between 6 p.m. and 8 a.m. provided that laboratory, x-ray and surgical staff are normally not on duty during this period of time will be billed at commission approved rates.

(7) The claim number must be placed on each bill and on each page of attached documents in the upper right hand corner.

AMENDATORY SECTION (Amending Order 83-23, filed 8/2/83)

WAC 296-23-900 LICENSED NURSING RULES. (1) Registered nurses and licensed practical nurses may perform private duty nursing care in industrial injury cases when the attending physician deems this care necessary. (See WAC 296-20-091 for home nursing rules.)

(2) Certified registered nurses (CRNs) and advanced registered nurse practitioners may perform advanced and specialized levels of nursing care on a fee for service basis in industrial injury cases within the limitations of subsections (3) and (4) of this section.

(3) Advance approval must be obtained from the department to treat industrial injury cases. To be eligible to treat industrial injuries, the registered nurse must:

(a) Be recognized by the Washington state board of nursing as a certified registered nurse (CRN) or advanced registered nurse practitioner.

(b) Provide the department with evidence of a reliable and rapid system of obtaining physician consultation.

(4) The scope of practice for certified registered nurses or advanced registered nurse practitioners under the industrial insurance program is limited to the following, based on CRN speciality as approved by the state board of nursing:

(a) Preparing reports of accident and progress reports for the supervising physician's signature.

(b) Emergency treatment of serious injuries to include initial wound care, administration of medication and support of life functions.

(c) Treatment of minor injuries to include suturing of minor lacerations not involving tendons, nerves or bones.

(d) Removal of sutures.

(e) Removal of foreign bodies from eyes.

(f) Removal of slivers or foreign bodies where bones, nerves and tendons are not involved.

(g) Prescribing legend drugs when so authorized by state board of nursing.

(h) Nursing type follow-up care (i.e., dressing changes, etc.)

(i) Accompanying ambulance to the site of injury and/or to the hospital with the injured workman.

(j) Home visits to evaluate claimant's condition when attendant care is being rendered for the injured worker by persons other than the nurse practitioner, may be authorized when the request is received in advance of the visit.

(k) Administration of biofeedback as per WAC 296-21-0501.

(5) BILLING PROCEDURES

Billing procedures outlined in WAC 296-20-125 apply. Certified registered nurses and advanced nurse practitioners must obtain payee account numbers from the department.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-23-910 MAXIMUM VALUES ARE ESTABLISHED FOR SERVICES RENDERED ((BY ADVANCED REGISTERED NURSE PRACTITIONERS)). The following maximum values are established for services rendered by advanced registered nurse practitioners and certified registered nurses.

Other services rendered by advanced registered nurse practitioners may be billed using the appropriate procedure number preceded by N- and valued at 80% of the unit value listed. Services are limited to the scope of practice defined in WAC 296-23-900(4).

Unit Value

Medicine procedures (See WAC 296-20-135 for Conversion Factor Table.)

Table with 2 columns: Procedure Code and Unit Value. Rows include N90000 Initial office visit, N90010 Initial limited visit, N90015 Initial office visit, intermediate, N90030 Follow-up office visit, minimal, N90040 Follow-up office visit, brief, N90050 Follow-up limited office visit. Values range from 6.4 to 12.8.

((N12000 has been deleted. See N12001 - N12057. N68000 has been deleted. See N65220))

Table with 2 columns: Procedure Code and Unit Value. Rows include N90060 Follow-up visit, intermediate exam, N90070 Follow-up office visit, extended, N90080 Follow-up office visit, comprehensive, N90701 Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP), N90702 diphtheria and tetanus toxoids (DT), N90718 tetanus and diphtheria toxoids absorbed, for adult use (Td). Values range from 4.0 to 16.0.

	Unit Value		Unit Value
N90782 Therapeutic injection of medication (specify); subcutaneous or intramuscular	4.8	N12013 2.5 cm – 5 cm	.64
N90784 intravenous	6.4	N12014 5 cm – 7.5 cm	.80
N90788 Intramuscular injection of antibiotic (specify)	4.8	N12015 7.5 cm – 12.5 cm	.96
N90900 Biofeedback training by electromyogram application, including office visit (one hour)	40.0	N12016 12.5 cm – 20 cm	1.12
N90901 (one-half hour)	24.0	N12017 20 cm – 30 cm	1.28
N90902 In conduction disorder, including office visit (one hour)	40.0	N12018 30 cm	BR
N90903 (one-half hour)	24.0	N12031 Layer closure of wounds of scalp, axillae, trunk	.48
N90904 Regulation of blood pressure, including office visit (one hour)	40.0	N12032 2.5 cm – 7.5 cm	.64
N90905 (one-half hour)	24.0	N12034 7.5 cm – 12.5 cm	.80
N90906 Regulation of skin temperature or peripheral blood flow, including office visit (one hour)	40.0	N12035 12.5 cm – 20 cm	.96
N90907 (one-half hour)	24.0	N12036 20 cm – 30 cm	BR
N90908 By electroencephalogram application, including office visit (one hour)	40.0	N12037 Over 30 cm	BR
N90909 (one-half hour)	24.0	N12041 Layer, closure of wound neck, hands, feet, genital	.64
N90910 By electro-oculogram, including office visit (one hour)	40.0	N12042 2.5 cm – 7.5 cm	.80
N90911 (one-half hour)	24.0	N12044 7.5 cm – 12.5 cm	.96
N90912 Diagnostic evaluation, includes report (one hour)	48.0	N12045 12.5 cm – 20 cm	1.12
N90913 Follow-up evaluation, includes report (one-half hour)	24.0	N12046 20 cm – 30 cm	1.28
N97070 Physical medicine modalities and procedures by other than registered physical therapist in remote area or first six visits in advanced registered nurse practitioner clinic	4.0	N12047 30 cm	BR
N99000 Handling and/or conveyance of specimen for transfer to a laboratory	4.8	N12051 Layer closure of wounds, face, ear, eye, nose 2.5 cm	.80
N99013 Telephone call for consultation or medical management; simple or brief, under 15 minutes	4.0	N12052 2.5 cm – 5 cm	.96
N99014 intermediate 15-30 minute	8.0	N12053 5 cm – 7.5 cm	1.12
N99015 lengthy or complex	12.0	N12054 7.5 cm – 12.5 cm	1.28
N99054 Office visit, Sunday, holidays or at night. To be paid in addition to fees listed above	7.0	N12055 12.5 cm – 20 cm	.44
N99064 Emergency care facility services: Emergency services outside regular office hours	20.0	N12056 20 cm – 30 cm	1.60
N99065 during regular office hours	12.8	N12057 30 cm	BR
N99070 Supplies and materials provided over and above those usually included with office visit or other services rendered (list drugs, trays, supplies or materials cast room and/or casting supplies provided). Bill at cost	BR	Burns, local treatment (see WAC 296-22-026 for complete text and WAC 296-20-145 for Conversion Factor Table)	
N99082 Accompanying an ambulance to the site of the injury and/or the hospital. (Each fifteen minutes or fraction thereof)	7.0	N16000 Initial treatment first degree burns	.24
Minor surgical procedures		N16010 Dressings and/or debridement; initial or subsequent; under anesthesia, small	.64
(See WAC 296-22-023 for complete text and WAC 296-20-145 for Conversion Factor Table)		N16020 without anesthesia	.32
N10120 Incision and removal foreign body, subcutaneous tissues; simple	.32	Introduction or removal (see WAC 296-20-145 for Conversion Factor Table)	
N11040 Debridement; skin, partial thickness	BR	N20520 Removal foreign body in muscle, simple	.96
N12001 Simple repair wound-scalp, neck, extremities, trunk 2.5 cm	.32	Casts	
N12002 2.5 cm – 7.5 cm	.48	N29075 Application; plaster figure of eight; elbow to fingers (short arm)	.40
N12004 7.5 cm – 12.5 cm	.64	Splints	
N12005 12.5 cm – 20 cm	.80	N29125 Application of short arm (forearm and hand); static	.40
N12006 20 cm – 30 cm	.96	Removal ocular foreign body	
N12007 over 30 cm	BR	N65220 Removal foreign body, external eye; corneal, without slit lamp	.48
N12011 Simple repair wound, face, ear, eyelids, to 2.5 cm	.48	Radiology (See WAC 296-20-150 for Conversion Factor Table)	
		N73090 Forearm including one joint, A-P and lateral	3.8
		N73130 X-ray hand complete, minimum 3 views	4.8
		N73550 Femur (thigh), A-P and lateral	4.8
		Pathology (See WAC 296-20-155 for Conversion Factor Table)	
		N81000 Urinalysis, routine, complete	9.6
		N81002 Routine, without microscopy	6.4
		N87040 Culture, bacterial, definitive aerobic; blood (may include anaerobic screen)	38.4
		N87045 stool	20.0
		N87060 throat or nose	16.0
		N87070 any other source	12.8
		N87181 Sensitivity studies antibiotic, agar diffusion method, per antibiotic	32.0
		N87184 disc method per plate (12 or less discs)	19.2

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-23-960 MASSAGE—MODALITIES. Therapist is required to be in constant attendance.

CODE	DESCRIPTION	RUV
9 97010	Hot and Cold Packs	12.0
9 97124	Massage One-Half Hour	16.0
9 97125	Additional 15 Minutes	<del>((8-0))</del> 5.0
9 97200	Combination One-Half Hour	16.0
9 97201	Additional 15 Minutes	<del>((8-0))</del> 5.0

**AMENDATORY SECTION** (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-23-980 OCCUPATIONAL THERAPY SERVICES.

	Unit Value
97010 Physical medicine treatment to one area, hot or cold packs	<del>((16-0))</del> 12.0
97016 vasopneumatic devices	<del>((16-0))</del> 12.0
97018 paraffin bath	<del>((16-0))</del> 12.0
97110 therapeutic exercises	16.0
97112 neuromuscular reeducation	16.0
97114 functional activities	16.0
97145 Physical medicine treatment to one area, each additional 15 minutes	5.0
97200 Combination of any modality(s) and procedure(s), initial 30 minutes	16.0
97201 Each additional 15 minutes	5.0
97500 Orthotics training (dynamic bracing, splinting, etc.) upper extremities, initial 30 minutes	24.0
97501 each additional 15 minutes	12.0
97520 Prosthetic training, initial 30 minutes	24.0
97521 each additional 15 minutes	12.0
97530 Kinetic activities to increase coordination, strength and/or range of motion, one area (any two extremities or trunk), initial 30 minutes	24.0
97531 each additional 15 minutes	12.0
97540 Activities of daily living (ADL) and diversional activities, initial 30 minutes	24.0
97541 each additional 15 minutes	12.0
97700 One of the following tests or measurements with report, initial 30 minutes	24.0
(a) Orthotic "check-out"	
(b) Prosthetic "check-out"	
(c) Activities of daily living "check-out"	
(d) Biofeedback evaluation	
(e) Physical capacities evaluation	
97701 each additional 15 minutes	12.0
97720 Extremity testing for strength, dexterity or stamina, initial 30 minutes	24.0
97721 each additional 15 minutes	12.0
97799 Unlisted physical medicine service or procedure	BR
99030 Mileage, one way, each mile beyond 7 mile radius of point of origin (office or home), per mile	2.0
99070 Supplies and materials provided by the therapist over and above those usually included with office visit or other services rendered. List item provided. Bill at cost	BR

**WSR 86-15-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2398—Filed July 8, 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 student eligibility, amending WAC 388-54-670.

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 federal regulations state the change can take place no later than August 1, 1986.

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

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED July 8, 1986.

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

**AMENDATORY SECTION** (Amending Order 1956, filed 4/6/83)

WAC 388-54-670 STUDENT ELIGIBILITY. (1) A student is any person who is:

- (a) Between the ages of eighteen and sixty years; and
- (b) Physically and mentally fit; and
- (c) Enrolled at least half-time in an institution of higher education. A student shall be ineligible to ~~((participate in the))~~ receive food ~~((stamp program;))~~ stamps unless that person ~~((complies with))~~ meets one of the ~~((eligibility))~~ requirements of subsection (3) of this section.

(2) Institution of higher education ~~((shall be))~~ is any institution which normally requires a high school diploma or equivalency certificate for enrollment ~~((including, but not limited to;))~~. This includes colleges, universities, and vocational or technical schools at the post-high school level.

(3) ~~((In order to be eligible, any))~~ A student ~~((as defined in subsection (1) of this section))~~ shall meet ~~((at least))~~ one of the following ~~((criteria))~~ to receive food stamps:

(a) ~~((Be employed))~~ Work and be paid for a minimum of twenty hours per week ~~((and be paid for such employment or if))~~. A self-employed ~~((, be employed for a minimum of twenty hours per week and receive))~~ student must work at least twenty hours per week and the weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) ~~((Participate in))~~ Receive money from a ~~((federally financed))~~ federal work study program during the regular school year;

(c) Be responsible for the care of a dependent household member under age six;

(d) Be responsible for the care of a dependent household member who ~~((has reached the))~~ is at least age ~~((of))~~ six but ~~((is))~~ under age twelve ~~((where))~~ and the

CSO has determined adequate child care is not available;

(e) ~~((Receiving)) Receive benefits from the aid to families with dependent children program;~~

(f) Attend an institution of higher learning through a program under the Job Training Partnership Act.

~~(4) ((Enrollment status of a)) Student ((shall begin on)) status begins the first day of the school term ((of the institution of higher education. Such enrollment shall be deemed to)) and continues through normal periods of class attendance, vacation, and recess ((unless the)). Student status is lost when a student:~~

~~(a) Graduates,~~

~~(b) Is suspended ((σ)),~~

~~(c) Is expelled,~~

~~(d) Drops out, or~~

~~(e) Does not intend to register for the next normal school term ((f))excluding summer school((g)).~~

~~((5) The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household.~~

~~(6) The remainder of the household in which the ineligible student resides shall be certified, if otherwise eligible.))~~

#### WSR 86-15-013

#### EMERGENCY RULES

#### LIQUOR CONTROL BOARD

[Order 195, Resolution No. 204—Filed July 9, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to purpose and application of rules, WAC 314-52-005.

We, the Washington State Liquor Control Board, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the board has proposed amending its rules (see Resolution No. 200) to authorize the presence of coupons for merchandise offers, etc., in state liquor stores. In connection therewith the preparation of in-store consumer information centers and the acceptance of coupons for use thereon could not be implemented prior to the effective date of the permanent rule which would unduly lengthen the time before the program could be implemented. In short, the emergency measure is deemed appropriate to have the information and materials in place when the permanent rules become effective.

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

This rule is promulgated pursuant to RCW 66.08.020 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 July 9, 1986.

By L. H. Pedersen  
Chairman

#### AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-005 PURPOSE AND APPLICATION OF RULES. (1) PREAMBLE: The purpose of this title is to provide reasonable regulations as to the kind, character and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any media any advertisement of liquor, unless such advertisement is in conformance with these rules: PROVIDED, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication, nor to the operator of any radio or television station unless such publisher or operator is engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate.

(3) The board holds each producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the advertising coordinator of the Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by said producers, manufacturers, bottlers, importers, wholesalers, or retailers of liquor, or their agents. (EXCEPTION TO FOREGOING: WAC 314-52-070(3) requires that all outdoor signs advertising sale of liquor by a retail licensee must be submitted by the licensee for board approval prior to installation.)

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the advertising coordinator of the Washington state liquor control board for prior approval before placement~~((, and shall be refused such placement if such advertising is found by the coordinator to exceed the definition of institutional or educational advertising as defined in WAC 314-52-015, or if the advertising is viewed as inappropriate for placement in a state-operated retail outlet))~~: PROVIDED, HOWEVER, That ~~((advertising on, or attached to, the product package in a manner))~~ all other forms of advertising approved by the board advertising coordinator and which are acceptable to the board merchandising committee under the



provisions of WAC 314-52-040 shall not be prohibited under this rule.

**WSR 86-15-014**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1986 No. 10**  
 [July 9, 1986]

**TAXATION—GAMBLING—ENFORCEMENT—USE OF PROCEEDS FROM TAX ON GAMBLING ACTIVITIES**

Revenue from the tax on gambling activities authorized by RCW 9.46.110 must be used chiefly, or for the most part, to enforce gambling laws. However, revenues from the tax on amusement games must be used solely for the enforcement of gambling laws.

Requested by:

Honorable Gary P. Burleson  
 Prosecuting Attorney  
 County of Mason  
 411 North Fifth Street  
 Shelton, Washington 98584

**WSR 86-15-015**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
 [Memorandum—July 9, 1986]

The August 12, 1986, Whatcom Community College board of trustees meeting was canceled by the board of trustees at its regular July 8, 1986, board meeting.

**WSR 86-15-016**  
**ADOPTED RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 86-55—Filed July 10, 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.

This action is taken pursuant to Notice No. WSR 86-10-075 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 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 17, 1986.

By William R. Wilkerson  
 Director

**AMENDATORY SECTION** (Amending Order 80-69, filed 7/18/80)

✓ WAC 220-36-020 SALMON FISHING AREAS—SEASONS AND LAWFUL GEAR—SALMON. It shall be unlawful to take, fish for or possess salmon taken with troll line gear for commercial purposes in Grays Harbor fishing areas (~~except during the time period and in those areas where it is open to a commercial net fishery~~).

**AMENDATORY SECTION** (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-36-021 SALMON FISHING AREAS—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Grays Harbor fishing areas except during the seasons provided for hereinafter in each respective fishing area:

- Area 2A  
 Closed during ~~((1985))~~ 1986 season.
- Area 2B -  
 6:00 p.m. July ~~((5))~~ 6 to 6:00 p.m. July 21.
- Area 2B east of a line drawn true north-south through lighted piling Number 16 on Whitcomb Flats -  
 6:00 p.m. July 21 to 6:00 p.m. August 15, ~~((1985, in those waters east of a line drawn true north-south through lighted piling Number 16 (F.I.R.4 sec. 15 ft.) on Whitcomb Flats))~~ 1986.
- Area 2B -  
~~((4:00 p.m. October 10))~~ 10:00 a.m. October 11, to ~~((6:00))~~ 10:00 ~~((a.m.))~~ p.m. October 11, ~~((1985))~~ 1986.  
~~((5:30))~~ 6:00 a.m. October ~~((27))~~ 28, to ~~((5:30))~~ 6:00 p.m. October ~~((27))~~ 28, ~~((1985))~~ 1986.  
~~((6:00))~~ 8:00 a.m. October ~~((28))~~ 30, to ~~((6:00))~~ 8:00 p.m. October ~~((28))~~ 30, ~~((1985))~~ 1986.  
 8:00 a.m. November 1 to 8:00 p.m. November 1, 1986.

- Areas 2C and 2D -  
 6:00 p.m. July ~~((5))~~ 6 to 6:00 p.m. August 15, ~~((1985))~~ 1986.  
~~((4:00 p.m.))~~ 10:00 a.m. October ~~((10))~~ 11, to ~~((6:00 a.m.))~~ 10:00 p.m. October 11, ~~((1985))~~ 1986.

**AMENDATORY SECTION** (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-36-022 SALMON FISHING AREAS—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear except during the weekly open periods hereinafter designated in the following Grays Harbor fishing areas:

- Area 2A  
 Closed during ~~((1985))~~ 1986 season.
- Areas 2B, 2C and 2D  
 Open continuously.

AMENDATORY SECTION (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-36-024 SALMON FISHING AREAS—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum sizes or larger than the maximum size stretch measure as hereinafter designated in the following Grays Harbor fishing areas:

Areas 2B, 2C and 2D

For the period July ((5)) 6 to August 15, ((+1985)) 1986: 9-inch minimum mesh.

For ((the period October 10 to)) October 11, ((+1985)) 1986: 6 1/2 inch maximum mesh.

For the period October ((27 to October 29, +1985)) 28 through November 1, 1986: No mesh restriction.

(2) It is unlawful to fish in Grays Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

AMENDATORY SECTION (Amending Order 83-30, filed 4/26/83)

✓ WAC 220-36-025 CLOSED AREAS—GRAY'S HARBOR AND TRIBUTARIES. (1) It is unlawful to take, fish for, or possess salmon taken for commercial purposes from those waters at the mouth of Grays Harbor lying westerly of a line projected from the Point Chehalis Light at Westport through the Coast Guard tower to the shore at Point Brown and easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty.

(2) During the period March 1 through July 31, it is unlawful for any person, including treaty Indian fishermen, to take, fish for, or possess foodfish taken for any purpose from the waters of the Chehalis River or any tributary of the Chehalis River upstream of the Porter Bridge.

(3) It is unlawful to fish for or possess salmon taken for commercial purposes from the Westport Boat Basin.

AMENDATORY SECTION (Amending Order 1221, filed 7/1/75)

✓ WAC 220-40-020 WILLAPA HARBOR—SEASONS AND LAWFUL GEAR—SALMON. It shall be unlawful to take, fish for or possess salmon taken with troll line gear for commercial purposes in Willapa Harbor fishing areas ((except during the time period and in those areas where it is open to a commercial net fishery)).

AMENDATORY SECTION (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-40-021 WILLAPA HARBOR—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Willapa Harbor fishing areas, except during the seasons provided for hereinafter in each respective fishing area and except as otherwise provided:

Area 2G—6:00 p.m. July ((5)) 6 to 6:00 p.m. August 15 in those waters east of a line from Toke Point to Goose Point and south of a line from Leadbetter Point to Goose Point; ((6:00)) 5:00 p.m. September ((+4)) 15 to 6:00 p.m. September ((28)) 21 in those waters west of a line drawn true north and south through Willapa River Channel light ((+10)) 7 and north of a line drawn true east and west through Nahcotta Channel light 10; 6:00 p.m. September ((28)) 21 to 6:00 p.m. October 14; 6:00 p.m. October ((21)) 20 to 6:00 p.m. October ((22)) 21; 5:30 a.m. October ((27)) 28 to 6:30 p.m. October ((28)) 31; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((+1985)) 1986.

Area 2H—6:00 p.m. September ((28)) 21 to ((6:00 p.m. October 14, 6:00 p.m. October 21 to 6:00 p.m. October 22, 5:30 a.m. October 27 to 6:30 p.m. October 28, 6:00 p.m. November 1 to)) 11:59 p.m. November 30, ((+1985)) 1986.

Areas 2J and 2K—6:00 p.m. July ((5)) 6 to 6:00 p.m. August 15; 6:00 p.m. September ((28)) 21 to 6:00 p.m. October 14; 6:00 p.m. October ((21)) 20 to 6:00 p.m. October ((22)) 21; 5:30 a.m. October ((27)) 28 to 6:30 p.m. October ((28)) 31; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((+1985)) 1986.

Area 2M—6:00 p.m. July ((5)) 6 to 6:00 p.m. ((July 31)) August 15; 6:00 p.m. September ((28)) 21 to 6:00 p.m. October 14; 6:00 p.m. October ((21)) 20 to 6:00 p.m. October ((22)) 21; 5:30 a.m. October ((27)) 28 to 6:30 p.m. October ((28)) 31; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((+1985)) 1986.

The Naselle River upstream from the Highway 101 Bridge to the fishing boundary marker on the line of pilings at the mouth of Roaring Creek Slough—6:00 p.m. October 1 to 6:00 p.m. October 14, 1986.

AMENDATORY SECTION (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-40-022 WILLAPA HARBOR—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear, except during the weekly open periods hereafter designated in the following Willapa Harbor fishing areas:

Areas 2G, 2H, 2M and the Naselle River—Open continuously.

Areas 2J and 2K—Open continuously, except for period September ((28)) 21 to October 14, during which open 6:00 p.m. ((Monday)) Sunday to 6:00 p.m. ((Tuesday)) Monday and 6:00 p.m. ((Thursday)) Wednesday to 6:00 p.m. ((Friday)) Thursday only.

AMENDATORY SECTION (Amending Order 85-64, filed 6/19/85)

✓ WAC 220-40-024 WILLAPA HARBOR—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum or larger than the maximum size stretch measure as hereinafter designated in the following Willapa Harbor fishing areas:

Areas 2G, 2H, 2J, 2K, ((and)) 2M, and the Naselle River

For the period July ((5)) 6 to August 15, ((+1985)) 1986: 9-inch minimum mesh.

For the period September ((+)) 15, to 11:59 p.m. November 18, ((+1985)) 1986: 5-inch minimum to 6-1/2 inch maximum mesh.

For the period 12:01 a.m. November 19 to 11:59 p.m. November 30, ((+1985)) 1986: 7-1/2-inch minimum mesh.

(2) It is unlawful to fish in Willapa Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

**WSR 86-15-017**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 86-57—Filed July 10, 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 restrictions in Areas 4B, 5, 6, and 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited effort, limited impact immobile set net fishery. Restrictions in 6A, 7, and 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in 6B, 9, 10, 10C, 10D, 10F, and 10G and Cedar River provide protection for Lake Washington sockeye. Restrictions in 13A and the Elwha, Dungeness, Nooksack, Skokomish, Quilcene, and White rivers and Minter Creek provide protection for Puget Sound spring chinook stocks. Restrictions in 8 and the Skagit River, below Baker River, provide protection for Baker River sockeye. Restrictions in the Skagit River above Baker River provide protection for spawning salmon stocks. Restrictions in Area 7C provide protection for chinook returning to the Samish Hatchery. Restrictions in Area 10A provide protection for Lake Washington sockeye and local summer/fall chinook. Restrictions in the Duwamish-Green, Hoko, Lyre, Pysht and the Sekiu rivers provides protection for summer/fall chinook. Restrictions in Area 6D and the Stillaguamish

River provide protection for spring and summer/fall chinook.

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 10, 1986.

By William R. Wilkerson  
 Director

NEW SECTION

WAC 220-28-601 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. Effective July 10, 1986, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:

\*Areas 4B, 5, 6, 6C, - Effective until further notice, drift gill net gear restricted to 6-inch maximum mesh when open.

\*Areas 6A, 7, 7A - Effective until further notice, gill net gear restricted to 6-inch maximum mesh when open.

\*Areas 6B, 9 - Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

\*Area 6D - Effective through September 20, closed to all commercial fishing.

\*Area 7C - Effective until further notice, closed to all commercial fishing southeasterly of a line from the mouth of Oyster Creek 237 degrees true to a fishing boundary marker on Samish Island.

\*Area 8 and the Skagit River (downstream of the Baker River) - Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

\*Area 10 - Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

\*Area 10A - Effective through August 31, closed to all commercial fishing.

\*Area 10C - Effective until further notice, closed to all commercial fishing.

\*Areas 10D, 10F, 10G - Effective through August 2, closed to all commercial fishing.

\*Area 13A - Effective until further notice, closed to all commercial fishing.

\*Elwha River - Effective through July 19, closed to all commercial fishing.

\*Dungeness River - Effective through September 20, closed to all commercial fishing.

*\*Skokomish River – Effective through July 26, closed to all commercial fishing.*

*\*Duwamish/Green Rivers – Effective July 13 until further notice, closed to all commercial fishing.*

*\*Hoko, Lyre, Pysht, and Sekiu River – Effective through September 27, closed to all commercial fishing.*

*\*Nooksack (upstream of Slater Bridge), Stillaguamish, Quilcene, and White rivers and Minter Creek – Closed to all commercial fishing until further notice.*

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

*\*Cedar River – Effective until further notice, closed to all commercial fishing.*

**WSR 86-15-018**

**ADOPTED RULES**

**HOSPITAL COMMISSION**

[Order 86-04, Resolution No. 86-04—Filed July 11, 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 methodology and criteria for approval, modification, or disapproval of annual budget submittal and rates, rate schedules, other charges, and changes therein, amending WAC 261-40-150.

This action is taken pursuant to Notice No. WSR 86-10-060 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 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 85-06, Resolution No. 85-06, filed 11/1/85)

WAC 261-40-150 **METHODOLOGY AND CRITERIA FOR APPROVAL, MODIFICATION, OR DISAPPROVAL OF ANNUAL BUDGET SUBMITTAL AND RATES, RATE SCHEDULES, OTHER CHARGES, AND CHANGES THEREIN.** The following methodology and criteria shall be utilized by the commission in reviewing and acting on annual budget submittals. The relative importance of each criterion, and the extent to which justification for variance from

the methodology and criteria is accepted, is a matter of commission discretion:

The following is effective for hospital fiscal years beginning in 1986.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit any hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) Historical admission trends, including a revised current year estimate derived from seasonally-adjusted quarterly report information;

(ii) Historical trends of outpatient volumes as measured by inflation-adjusted outpatient revenue and outpatient equivalents of admissions;

(iii) Historical trends of the average length of stay; and

(iv) Such other information as the commission may determine is appropriate as a basis for deviating from measures based upon historical trends including, but not limited to:

(A) Revisions necessary to maintain compliance with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Negotiated rate agreements that guarantee additional volumes related to a purchaser of hospital health care services;

(C) The implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(D) The opening of new health care service-related capacity for which certificate of need approval has been obtained, if required; and

(E) Other considerations presented by the hospital and determined to be appropriate by the commission.

(b) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted admission to the hospital's target net patient services revenue per adjusted admission as calculated in item (i) below and modified by item (ii) below:

(i) Each hospital's target net patient services revenue per adjusted admission shall be calculated by applying to the individual hospital the same methodology utilized by the commission in establishing the volume and operating expense components of the target dollar amount of total state-wide hospital revenue adopted by the commission in accordance with RCW 70.39.150(6), and adding a capital allowance component as calculated according to (d)(i)(B) and (C) of this subsection; provided that, the additional considerations provided for in (d)(i)(C)(I) and (II) of this subsection shall not be included in the capital allowance component of the target net patient services revenue per adjusted admission for purposes of this item.

(ii) The target net patient services revenue per adjusted admission as calculated in item (i) above shall be modified as follows, if applicable:

(A) For each hospital whose percentage increase in target net patient services revenue per adjusted admission over the current year approved level exceeds the peer group median of the target rates of increase, the hospital's target net patient services revenue per adjusted admission shall be reduced to reflect the peer group median target rate of increase.

(B) For each hospital whose target net patient services revenue per adjusted admission exceeds the peer group median of the target, the hospital's target shall be reduced by one-half of one percent for each one percent variance above the peer group median of the target.

(iii) If, after volume adjusting the revised target and the budget request to reasonably attainable levels of adjusted admissions, the requested net patient services revenue per adjusted admission does not exceed the revised target, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of subsection (5)(f), (6), and (7) of this section.

(iv) If, after volume adjusting the revised target and the budget request to reasonably attainable levels of adjusted admissions, the requested net patient services revenue per adjusted admission exceeds the revised target, further review of the components of operating expense and capital allowance will be conducted.

(c) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's

health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:

(i) Adjusting the requested level of operating expenses to reflect the adjusted admissions as determined according to (a) of this subsection, utilizing the variable cost factors described in subsection (6) of this section;

(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate;

(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:

(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;

(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;

(D) Volume adjustments of a magnitude which render the standard variable cost factors described in subsection (6) of this section inappropriate; and

(E) Other consideration presented by the hospital and determined to be appropriate by the commission.

(d) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:

(i) Capital allowance shall be computed as a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations. Interest expense on long-term debt shall be deducted from the return on net property, plant and equipment.

(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.

(I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services;

(II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.

(B) A return on net property, plant and equipment for proprietary hospitals at the rate of twelve percent and for the not-for-profit hospitals at the rate of ten percent shall be presumed appropriate; however, the commission may vary from that rate, higher or lower, where appropriate. After computation of the return, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to twelve and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

(I) The commission may determine that a hospital in peer groups 1 or 2 is experiencing financial distress and may determine to vary from the allowance for working capital.

(II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

(I) Hospitals that have been undercapitalized as determined by the average age of plant to the state-wide average; the total turnover rate of assets, which include total operating revenue divided by total assets; and the fixed asset turnover rate, which includes total operating revenue divided by net fixed assets;

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

(III) If the hospital has been approved for equity funding or accumulation of funds for a project in the future and its rates are at or below the median of its peer group and the equity funding is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body; and

(IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission.

(e) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, Veteran's Administration and Indian Health Service, are allowable.

(ii) Contractual adjustments related to bank card discounts, self-insured workers' compensation, negotiated rates and all other nongovernmental-sponsored patients

are not allowable as deductions from revenue for rate setting purposes;

(iii) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(iv) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification;

(v) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(f) Whether the reviews performed in accordance with (a), (b), (c), (d) and (e) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted admission should not exceed the 70th percentile of the peer group revenue screens unless the hospital's intensity exceeds the 70th percentile as measured by:

(A) Ratio of intensive care days to total days; and

(B) Radiology relative value units per adjusted admission; and

(C) Laboratory billable workload units per adjusted admission; and

(D) Surgery minutes per adjusted admission; or

(E) The hospital's adjusted case mix index derived from the commission hospital abstract reporting system.

(ii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iii) If the rates are not approved as requested, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order.

(6) Whether the rates implemented and revenues collected by the hospital in previous budget years conformed to the applicable commission determinations for such years. Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of either the aggregate rate per adjusted patient day, or the revenues for individual revenue centers, as either may be modified, where appropriate, for volume variance between budgeted and actual levels; such comparison shall be made using actual, rather than budgeted, deductions from revenue.

The approved capital allowance shall be considered a fixed cost when considering year-end conformance. Only that portion of total costs per patient day designated as variable according to the following schedule will be adjusted for volume variance:

Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds; fixed costs – eighty percent, variable costs – twenty percent

Peer groups 3 and 4 and specialty hospitals having fifty or more beds; fixed costs – seventy percent, variable costs – thirty percent

Peer groups 5 and 6 hospitals; fixed costs – sixty percent, variable costs – forty percent

Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs, either in the aggregate or by revenue center. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable revenue variance due to volume changes.

The hospital may submit any justifying information to explain deviations/variances from approved revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

The following is effective for hospital fiscal years beginning on or after January 1, 1987.

(1) Whether the hospital's annual budget submittal and the rates, rate schedules, other charges, and changes therein:

(a) Are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the hospital are reasonably related to the total services offered by that hospital;

(b) Are such that the hospital's costs do not exceed those that are necessary for a prudently and reasonably managed hospital;

(c) Are such that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs;

(d) Are such that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

(2) Whether the commission action will permit ~~((any))~~ the hospital to render necessary, effective and efficient service in the public interest.

(3) Whether the commission action will assure access to necessary, effective, economically viable and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(a) Rural includes all areas of the state with the following exceptions:

(i) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(ii) Areas within a twenty-mile radius of an urban area exceeding thirty thousand population; and

(iii) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam,

Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

(4) Whether the appropriate area-wide and state comprehensive health planning agencies have recommended approval, modification, or disapproval of the annual budget submittal, or the rates, rate schedules, other charges, or changes therein.

(5) Whether the proposed budget and the projected revenues and expenses would result in the rate structure most reasonable under the circumstances. The following shall be considered by the commission in making that determination:

(a) The commission shall determine whether the hospital's requested utilization statistics are reasonably attainable, based upon:

(i) Historical admission trends, including a revised current year estimate derived from seasonally-adjusted quarterly report information;

(ii) Historical trends of outpatient volumes as measured by inflation-adjusted outpatient revenue and outpatient equivalents of admissions;

(iii) Historical trends of the average length of stay; ~~((and))~~

(iv) Historical case mix indices as obtained from the Commission Hospital Abstract Reporting System; and

(v) Such other information as the commission may determine is appropriate as a basis for deviating from measures based upon historical trends including, but not limited to:

(A) Revisions necessary to maintain compliance with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;

(B) Negotiated rate agreements that guarantee additional volumes related to a purchaser of hospital health care services;

(C) The implementation or deletion of services or programs for which certificate of need approval has been obtained, if required; and

~~((The opening of new health care service-related capacity for which certificate of need approval has been obtained, if required, and~~

~~((E))~~ Other considerations presented by the hospital or other interested persons and determined to be appropriate by the commission.

(b) The commission shall utilize a principal screen to compare the hospital's requested net patient services revenue (total rate setting revenue less deductions from revenue) per adjusted ~~((admission))~~ case mix value unit to the hospital's ~~((target))~~ baseline net patient services revenue per adjusted ~~((admission))~~ case mix value unit as calculated in item (i) below and modified by item (ii) below:

(i) Each hospital's ~~((target))~~ baseline net patient services revenue per adjusted ~~((admission))~~ case mix value unit shall be calculated by applying to the individual hospital the same methodology utilized by the commission in establishing the volume ~~((and))~~, operating expense, and capital allowance components of the allocated target dollar amount of total state-wide hospital revenue adopted by the commission in accordance with RCW 70.39.150(6) ~~((, and adding a capital allowance component as calculated according to WAC 261-40-150~~

~~(5)(d)(i)(B) and (C); provided that, the additional considerations provided for in WAC 261-40-150 (5)(d)(i)(C)(1) and (2) shall not be included in the capital allowance component of the target net patient services revenue per adjusted admission for purposes of this item)).~~

~~(ii) ((The target net patient services revenue per adjusted admission as calculated in item (i) above shall be modified as follows, if applicable:~~

~~(A) For each hospital whose percentage increase in target net patient services revenue per adjusted admission over the current year approved level exceeds the peer group median of the target rates of increase, the hospital's target net patient services revenue per adjusted admission shall be reduced to reflect the peer group median target rate of increase.~~

~~(B) For each hospital whose target net patient services revenue per adjusted admission exceeds the peer group median of the target, the hospital's target shall be reduced by one-half of one percent for each one percent variance above the peer group median of the target.~~

~~(iii)) If, after volume adjusting the revised ((target)) baseline and the budget request to reasonably attainable levels of adjusted ((admissions)) case mix value units, the requested net patient services revenue per adjusted ((admission)) case mix value unit does not exceed the revised ((target)) baseline, the operating expense and capital allowance sections of the hospital's annual budget submittal will not be subject to further review provided that the resulting rates meet the criteria of ((WAC 261-40-150)) subsection (5)(f), (6), and (7) of this section.~~

~~((iv)) (iii) If, after volume adjusting the revised ((target)) baseline and the budget request to reasonably attainable levels of adjusted ((admissions)) case mix value units, the requested net patient services revenue per adjusted ((admission)) case mix value unit exceeds the revised ((target)) baseline, further review of the components of operating expense and capital allowance will be conducted.~~

~~(c) The commission shall determine whether the hospital's requested operating expenses are such that the commission can assure all purchasers of that hospital's health care services that the total costs of the services are reasonably related to the total services offered by that hospital and are such that the hospital's costs do not exceed those that are necessary for a reasonably and prudently managed hospital, based upon:~~

~~(i) Adjusting the requested level of operating expenses to reflect the adjusted ((admissions)) case mix value units as determined according to ((WAC 261-40-150 (5))) (a) of this subsection, utilizing the variable cost factors described in ((WAC 261-40-150)) subsection (6) of this section;~~

~~(ii) Applying national hospital market basket inflation forecasts to operating expenses by natural classification. National inflation forecasts will be modified to reflect regional or state-wide economic conditions, as appropriate;~~

~~(iii) Such other information as the commission may determine is appropriate as a basis for deviating from the standard variable cost ratios specified in ((WAC~~

~~261-40-150)) subsection (6) of this section or inflation forecasts. This information shall include but not be limited to:~~

~~(A) Revisions necessary to comply with the commission's Accounting and Reporting Manual for Hospitals pursuant to WAC 261-20-030;~~

~~(B) Reasonable operating expenses related to implementation or deletion of services or programs for which certificate of need approval has been obtained, if required;~~

~~(C) Reasonable operating expenses related to expansion or contraction of hospital capacity for which certificate of need approval has been obtained, if required;~~

~~(D) Volume adjustments of a magnitude which render the standard variable cost factors described in ((WAC 261-40-150)) subsection (6) of this section inappropriate; and~~

~~(E) Other consideration presented by the hospital and determined to be appropriate by the commission.~~

~~(d) The commission shall determine whether the hospital's requested capital allowance is appropriate based upon the following:~~

~~(i) Capital allowance ((shall be computed as)) includes a return on net property, plant and equipment (property, plant and equipment less accumulated depreciation) used in hospital operations, an allowance for working capital, and other considerations as determined to be appropriate by the commission. ((Interest expense on long-term debt shall be deducted from the return on net property, plant and equipment.))~~

~~(A) The value for net property, plant and equipment shall be derived from the balances at the end of the hospital's current year, as approved by the commission, and the projected balances at the end of the budget year. An average shall be calculated. The average of the net property, plant and equipment shall be the base upon which the return shall be calculated.~~

~~((+)) (I) Any capital expenditures contained in the projected balances at the end of the budget year which are subject to certificate of need approval will be excluded from the base until such time as the certificate of need has been issued by the department of social and health services;~~

~~((2)) (II) Any assets contained in net property, plant and equipment that do not relate to hospital operations, as defined in the commission's Accounting and Reporting Manual for Hospitals, pursuant to WAC 261-20-030, will be excluded from the base.~~

~~(B) A return on net property, plant and equipment ((for proprietary hospitals at the rate of 12 percent and for the not-for-profit hospitals at the rate of 10 percent)) as determined in (I), (II), and (III) below shall be presumed appropriate; however, the commission may vary from that rate, higher or lower, where appropriate. ((After computation of the return, allowable interest expense on long-term debt shall be deducted from the computed return.))~~

~~(I) The rate of return on equity financed net property, plant and equipment shall be calculated by averaging the reported interest rates on twenty-five-year "A" rated tax-exempt bonds as reported in each issue of "Rate~~



Controls" from the three months ending on August 31 of each year.

(II) The rate of return on debt financed net property, plant and equipment shall be a blended average of each hospital's average interest rate on long-term debt and the rate of return on equity financed net property, plant and equipment. The blending schedule is as follows:

(aa) For hospital fiscal years beginning in 1987: Seventy-five percent - each hospital's average interest rate on long-term debt, twenty-five percent - rate of return on equity financed net property, plant and equipment;

(bb) For hospital fiscal years beginning in 1988: Fifty percent - each hospital's average interest rate on long-term debt, fifty percent - rate of return on equity financed net property, plant and equipment;

(cc) For hospital fiscal years beginning in 1989: Twenty-five percent - each hospital's average interest rate on long-term debt, seventy-five percent - rate of return on equity financed net property, plant and equipment;

(dd) For hospital fiscal years beginning in 1990 and each year thereafter: Zero percent - each hospital's average interest rate on long-term debt, one hundred percent - rate of return on equity financed net property, plant and equipment.

(III) After computation of the return on net property, plant and equipment, allowable interest expense on long-term debt shall be deducted from the computed return.

(C) Working capital increases, if requested, shall be added to the return on net property, plant and equipment for determination of the total capital allowance. Working capital increases up to ~~((twelve))~~ thirteen and one-half percent of the increase in net patient services revenue from the approved budget in the current year to the approved budget as determined by the commission in the requested year shall be presumed appropriate; however, the commission may vary from that allowance, higher or lower, where appropriate.

~~((+))~~ (I) The commission may determine that a hospital ~~((in peer groups 1 or 2))~~ which is found essential to assure access of the rural public to basic health care services is experiencing financial distress and may determine to vary from the allowance for working capital.

~~((2))~~ (II) The commission may determine to allow additional working capital where the hospital can demonstrate to the commission's satisfaction that its payer mix would require additional funding of accounts receivable.

(D) The commission may consider other elements in the determination of appropriate capital allowance for inclusion in total rate setting revenue. These considerations include, but are not limited to, the following elements:

~~((+))~~ (I) Hospitals that have been undercapitalized as determined by ~~((the average age of plant to the state-wide average; the total turnover rate of assets, which include total operating revenue divided by total assets; and the fixed asset turnover rate, which includes total operating revenue divided by net fixed assets;~~

~~(2))~~ an average accounting age of property, plant and equipment which exceeds one hundred fifty percent

of the state-wide average; and a total turnover rate of assets which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest "Hospital Industry Analysis Report" of the healthcare financial management association or a fixed asset turnover rate which exceeds the upper quartile of far west hospitals of the same bed size category as defined in the latest "Hospital Industry Analysis Report" of the healthcare financial management association, provided that:

(aa) The total level of capital allowance for undercapitalized hospitals should not exceed one hundred twenty-five percent of the baseline level; and

(bb) The requested rate per adjusted admission, as revised to reflect the hospital's case mix index, does not exceed the peer group median; and

(cc) The resulting increase in the rate per adjusted case mix value unit does not exceed one hundred twenty-five percent of the baseline median rate of increase.

(II) Whether that portion of debt principal payments which exceeds the total depreciation expense in the budget year should be allowed;

~~((3))~~ (III) If the hospital has been approved for equity funding or accumulation of funds for a project in the future and its rate ~~((s are))~~ per adjusted case mix value unit is at or below the median of its peer group ~~((and the equity funding)),~~ the proposed project is consistent with the hospital's long-range plan and financing plan which have been approved by the hospital's governing body, the proposed project is consistent with the health systems plan of the appropriate health systems agency, and any equity funding allowed in total rate setting revenue is maintained in a separate subaccount within board designated assets and cannot be used for any other purpose without prior approval of the commission; and

~~((4))~~ (IV) If the hospital has an approved certificate of need and related financing consistent with the approved certificate of need and the impact on rates of the additional funding is determined not to be excessive by the commission.

(e) Whether the budgeted deductions from revenue are appropriate:

(i) Contractual adjustments related to governmental programs, such as titles V, XVIII, XIX of the Social Security Act, Department of Labor and Industries, self-insured workers' compensation, Veteran's Administration, and Indian Health Service ~~((;))~~ are allowable.

(ii) Contractual adjustments related to bank card discounts, ~~((self-insured workers' compensation;))~~ negotiated rates and all other nongovernmental-sponsored patients are not allowable as deductions from revenue for rate setting purposes;

(iii) Bad debts and charity will be trended as a percentage of total rate setting revenue over time and any significant changes will require justification;

(iv) Administrative adjustments exceeding one-tenth of one percent of total rate setting revenue will require justification;

(v) Deductions from revenue may be recomputed based on determinations in all other areas of the budget.

(f) Whether the reviews performed in accordance with ~~((WAC 261-40-150 (5)))~~ (a), (b), (c), (d) and (e) of this subsection result in rates, rate schedules, other charges, and changes therein which are the most reasonable under the circumstances.

(i) Rate setting revenue per adjusted ~~((admission))~~ case mix value unit should not exceed the 70th percentile of the peer group revenue screens as adjusted for each hospital's case mix index unless the ~~((hospital's intensity exceeds the 70th percentile as measured by:~~

- ~~(A) Ratio of intensive care days to total days, and~~
- ~~(B) Radiology relative value units per adjusted admission, and~~
- ~~(C) Laboratory billable workload units per adjusted admission, and~~
- ~~(D) Surgery minutes per adjusted admission, or~~
- ~~(E) The hospital's adjusted case mix index derived from the commission hospital abstract reporting system.)~~ hospital demonstrates to the commission's satisfaction that the relatively high rates are acceptable.

(ii) The commission may consider any other information it determines is appropriate as the basis for deviating from these criteria including the relative level of deductions from revenue experienced by the hospitals;

(iii) If the rates are not approved as requested, the hospital must submit revised rates to the commission within twenty days of the date of service of the decision and order.

(6) Whether the rates implemented and revenues collected by the hospital in previous budget years conformed to the applicable commission determinations for such years.

(a) Conformance will be determined by comparing, at the end of the budget year, actual revenues for the budget year to commission-approved revenues, on the basis of ~~((either))~~ the aggregate rate per adjusted ~~((patient day, or the revenues for individual revenue centers, as either))~~ case mix value unit. The revenues may be modified, where appropriate, for volume variance between budgeted and actual levels ~~((such comparison shall be made using))~~ of adjusted case mix value units.

(b) Actual allowable, rather than budgeted, deductions from revenue will be used in the conformance calculation.

(c) The approved capital allowance shall be considered a fixed cost when considering year-end conformance.

(d) Only that portion of total operating costs ~~((per patient day))~~ designated as variable according to the following schedule will be adjusted for volume variance:

~~((Peer groups 1 and 2 and specialty hospitals having fewer than fifty beds))~~ (i) Peer Group A and specialty hospitals having fewer than fifty beds; fixed costs - eighty percent, variable costs - twenty percent;

~~((Peer groups 3 and 4 and specialty hospitals having fifty or more beds, fixed costs - seventy percent, variable costs - thirty percent~~

~~Peer groups 5 and 6 hospitals, fixed costs = sixty percent, variable costs = forty percent))~~ (ii) Peer Group B and specialty hospitals having from fifty to one hundred seventy-five beds; fixed costs - sixty-five percent, variable costs - thirty-five percent;

~~((iii) Peer Group C and specialty hospitals having more than one hundred seventy-five beds; fixed costs - fifty percent, variable costs - fifty percent.~~

(e) Alternatively, the hospital may submit suggested ratios of fixed costs to variable costs ~~((either in the aggregate or by revenue center))~~ by natural classification of expense. Upon approval by the commission, such approved ratios will be used only prospectively to determine allowable ~~((revenue))~~ operating expense variance due to volume changes.

(f) The hospital may submit any proposed justifying information to explain deviations/variances from approved revenues.

(i) Any proposed justifying information must include at least the following supporting information:

~~(A) The exact nature and extent of the factors contributing to excess revenue;~~

~~(B) The date at which hospital management became aware of the factors contributing to excess revenue;~~

~~(C) The date at which hospital management increased rates above the allowable level taking into account volume changes and actual deductions from revenue;~~

~~(D) An explanation of efforts to reduce other components of the budget to offset the factors contributing to the excess revenues; and~~

~~(E) An explanation of why the hospital did not seek a budget amendment.~~

(ii) In no event will increased operating expenses be accepted as justification if the volume adjusted allowable operating expenses equal or exceed the actual level.

(iii) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been controlled by hospital management.

(iv) In no event will proposed justifying information be accepted if the commission determines that the factors contributing to excess revenues could have been anticipated by the hospital or could have been identified by the hospital in sufficient time to submit a budget amendment in accordance with WAC 261-20-045.

(v) In no event will capital allowance in excess of the approved level be accepted as justification.

(vi) Hospitals will be allowed to retain any actual capital allowance in excess of the approved level that results from cost effective practices as defined as, and measured by, actual operating expenses that are below the volume adjusted approved operating expenses.

(g) Staff shall notify each hospital found to be out of conformance based on this subsection, and a hearing shall be conducted by the commission on conformance within sixty days. If the commission determines that a hospital's revenues have not conformed to the applicable determinations for that year, a decision and order will be issued reducing the hospital's current budget and rates by the amount that actual revenues exceed allowable revenues.

(7) Whether the hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage or who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

**WSR 86-15-019**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
[Filed July 11, 1986]

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

- Amd WAC 356-14-075 Y-rate—Administration.
- Amd WAC 356-15-061 Shift premium schedule.
- New WAC 356-15-140 Special pay—Employment problems.
- Amd WAC 356-18-090 Vacation leave—Accrual;

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.

This notice is connected to and continues the matter in Notice Nos. WSR 86-12-052 and 86-13-048 filed with the code reviser's office on June 3, 1986, and June 13, 1986.

Dated: July 10, 1986  
By: Leonard Nord  
Secretary

**WSR 86-15-020**  
**ADOPTED RULES**  
**PIERCE COLLEGE**

[Order 86-1, Resolution No. 86-1—Filed July 11, 1986]

Be it resolved by the board of trustees, District 11, of Pierce College (formerly Fort Steilacoom Community College), acting at the Pierce College Campus, P-12 Board Room, that it does adopt the annexed rules relating to existing rules to reflect the new college name

(Pierce College) and the new time and place for board meetings.

This action is taken pursuant to Notice No. WSR 86-11-047 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 28B.19.050(2).

This rule is promulgated under the general rule-making authority of Community College District 11 as authorized in RCW 28B.50.140.

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

APPROVED AND ADOPTED July 9, 1986.

By Community College District 11  
Board of Trustees  
Jack Watkins, Jr.  
Chairman

AMENDATORY SECTION (Amending D-1, filed 9/20/67)

✓ WAC 132K-04-001 INTRODUCTION. The (~~Clover Park Community College~~) Pierce College board of trustees, under law, is charged with the responsibility of Community College District #11. The authority is vested in the board, not in its individual board members. To assist the board in carrying out its responsibilities, it employs a president of the college district and delegates to him the responsibility for administering the district under policies approved by the board.

Policies of the board of trustees are found in the records of board action and in the policies and procedures manual of which this document is a part. The bylaws which follow contain rules adopted by the board which are in force and which relate to the organization and powers of the board and its method of conducting business.

AMENDATORY SECTION (Amending D-1, filed 9/20/67)

✓ WAC 132K-04-050 BOARD MEETINGS—AGENDA. The order of the agenda governing all regular meetings of the board of trustees of (~~Clover Park Community College~~) Pierce College shall be as follows:

- (1) Roll call
- (2) Establishment of quorum
- (3) Approval of minutes of the previous meeting
- (4) Recommendations for action of the board
- (5) New business
- (6) Correspondence
- (7) Reports to the board
- (8) Chairman calls for agenda items for the next meeting
- (9) Adjournment

The order of the agenda may be changed by the chairman with the consent of the board members present.

The chairman shall announce at the beginning of each meeting that members of the audience may speak to any item on the agenda at the time of its presentation to the board. The chairman shall have the right to limit the length of time used by a speaker for the discussion of a subject.

AMENDATORY SECTION (Amending D-1, filed 9/20/67)

✓ WAC 132K-04-080 OFFICERS OF BOARD. At the first regular meeting of the board each year, the board shall elect, from its membership, a chairman and vice chairman to serve for the ensuing year. In addition, the president of the ((~~Clover Park Community College~~)) Pierce College district shall serve as secretary to the board of trustees as specified by state law. The secretary may, at his discretion, appoint his executive secretary or other appropriate college staff member to act as recording secretary for all regular and special meetings of the board.

The chairman, in addition to any duties imposed by rules and regulations of the state board, shall preside at each regular or special meeting of the board, sign all legal and official documents recording actions of the board, and review the agenda prepared for each meeting of the board. The chairman shall, while presiding at official meetings, have full right of discussion and vote.

The vice chairman, in addition to any duties imposed by rules and regulations of the state board shall act as chairman of the board in the absence of the chairman.

The secretary of the board shall be the president of the college district. In addition to any duties imposed by rules and regulations of the state board, he shall keep the official seal of the board, maintain all records of meetings and other official actions of the board. He shall give notice of all meetings in the manner required by the bylaws and state statutes.

The secretary shall also be responsible for board correspondence, compiling the agenda of meetings, and distributing the minutes of the meetings and related reports.

The secretary, or his designate, must attend all regular and special meetings of the board, and official minutes must be kept of all such meetings.

AMENDATORY SECTION (Amending D-1, filed 9/20/67)

✓ WAC 132K-04-110 OFFICIAL SEAL. The board of trustees shall maintain an official seal for use upon any or all official documents of the board. The seal shall have inscribed upon it the name of the college which shall be:

((~~"Clover Park Community College"~~))  
Pierce College  
District No. 11  
State of Washington

AMENDATORY SECTION (Amending D-1, filed 9/20/67)

✓ WAC 132K-04-130 DELEGATION OF RESPONSIBILITY. It shall be the responsibility of the ((~~Clover Park Community College~~)) Pierce College board of trustees to establish policy and to evaluate the success of the college operation. To administer the college, the board of trustees shall employ a college district president and hold him responsible for the interpretation of board policy into administrative action and for the administration of the college in general.

Specific policies and their administrative interpretation shall be described in detail in the several sections of the official policies and procedures manual of the college district.

AMENDATORY SECTION (Amending Order, filed 5/5/69)

✓ WAC 132K-12-180 DISCIPLINARY ACTION. Any action which reflects discredit upon the employer or is a direct hindrance to the effective performance of institutional functions shall be considered sufficient cause for disciplinary action. Sufficient cause shall include but not be limited to: Neglect of duty, inefficiency, incompetence, insubordination, indolence, conviction of a crime involving moral turpitude, malfeasance, or gross misconduct.

(1) Reprimand. The appointing authority may reprimand an employee for cause. If such reprimand is to be put in writing, it shall be addressed to the employee and a signed copy shall be sent to the director for inclusion in the employee's personnel file. A permanent employee who is reprimanded in this manner may appeal for a hearing in writing to the director within five calendar days of receipt of the reprimand. (RCW 41.06.170)

(2) Suspension. The appointing authority may suspend an employee without pay for cause for a period or periods not exceeding fifteen calendar days for any single offense. The appointing authority shall notify the employee concerned in writing by certified mail, with a copy ((~~to~~ ~~to~~)) to the director, not later than one day after the suspension is made effective. Such notice shall include the specified charges for and the duration of the suspension. Any permanent employee who is suspended shall have the right to appeal to the committee not later than thirty calendar days after the effective date of such action.

(3) Demotion. The appointing authority may demote an employee for cause. A written statement of the specified charges for any such action shall be furnished to the employee by certified mail and a copy filed with the director at least fifteen calendar days prior to the effective date of the action. No demotion shall be made as a disciplinary action unless the employee to be demoted is eligible for employment in the lower class, and shall not be made if any permanent employee in the lower class will be laid off by reason of the action. A permanent employee who is demoted shall have the right to appeal to the committee not later than thirty calendar days after the effective date of dismissal.

The appointing authority will be expected to discuss employee deficiencies with the employee prior to filing written complaint in the employee's permanent record.

AMENDATORY SECTION (Amending Order, filed 5/5/69)

WAC 132K-12-242 ELECTION AND BARGAINING RIGHTS. Any organization desiring exclusive recognition shall request in writing of the director that an election be held to determine whether the majority of such employees in an appropriate unit desire to designate it as their representative for the purpose of this rule. Upon the receipt of such a request, the director shall request an independent and neutral person or association to determine whether thirty percent or more of the employees of the unit have indicated their desire to be represented by that organization for such purposes. The independent and neutral person or association shall make such a determination on the basis of records of dues-paying memberships, signed authorizations to represent, or other reliable evidence.

If the independent and neutral person or association determines that thirty percent or more of the employees of the appropriate unit desire to be represented by that organization for such purposes, the director will publish a notice that an election will be held to determine whether the employees of the unit desire the requesting organization or any other organization to represent them for the purposes of collective bargaining.

Any other organization of employees showing proof of at least ten percent of the employees within the unit desiring to designate the organization as their representative shall, within seven days after the publication of such a notice by the director, file with the director a request in writing that its name be included on the ballot in the election to be held. No organization shall be permitted to have its name placed on the ballot used in the election unless such a request has been received within seven days after the publication of the notice that an election will be held.

The notice published by the director pursuant to these rules shall state the date, hours, and polling places for the election. The notice shall also designate a chief election officer of the election and charge him with the duty of preparing the ballots and promulgating instructions concerning the details of the election to be conducted pursuant to these rules.

In any election conducted pursuant to these rules, lists of certified employees eligible to vote shall be prepared by the institution listing employees by voting places. Such lists shall be posted in places where notices to employees are customarily posted at least twenty-four hours before the election. Such lists shall be for informational purposes and shall not be conclusive as to the right of an employee to vote in an election.

The election officer shall designate at least one inspector for each polling place to observe the conduct of the election. Any organization whose name shall appear on the ballot in the election shall also be entitled to have one inspector present at each polling place to observe the conduct of the election. Each organization shall also be entitled to have an inspector present during the counting

of the ballots cast. Such inspectors must refrain from electioneering during the election. They may challenge the eligibility of any person to vote in the election, and upon such challenge the ballot of that person shall be treated as provided in these rules. Inspectors shall also report in writing to the chief election officer any conduct which they observe in the course of balloting which they believe may have improperly affected the result of the voting at the polling place at which they serve as observers.

The ballots used in any election held pursuant to this part shall be in the following form:

To select for representation purposes for collective bargaining, a majority organization to represent

..... of .....  
 (description of appropriate unit) (the institution)

Vote for one

Organization X .....

Organization Y .....

No Organization .....

Do not sign your name or put other identifying marks on this ballot.

At the time of the election the name of each employee voting shall be recorded by his signature written beside his name on the voting list for the polling place at which he votes. Each employee may cast only one ballot in any election held pursuant to these rules, and the presence of a signature beside the name of an employee desiring to vote shall automatically constitute grounds for challenge to his right to cast a ballot in an election.

Any voter who incorrectly marks his ballot may obtain a new ballot by returning the incorrectly marked ballot to the chief election officer's inspector. Such incorrectly marked ballot shall be marked void in the presence of the inspectors of organizations participating in the election before the new ballot is delivered to the voter.

Voters shall be provided with tables or desks so arranged that a voter may mark his ballot without making it possible for other persons to observe the ((matter ~~manner~~)) manner in which he has marked it.

Each voter shall fold his ballot so that the manner in which he has marked it cannot be observed and shall then place it in the locked ballot box provided at the designated voting place.

A challenged ballot shall be placed in an envelope bearing no identifying marks. It shall then be placed in another envelope upon which shall be written the name of the employee desiring to cast the ballot, the reasons for which the ballot was challenged, by whom it was challenged and the polling place at which it was challenged, and the envelope shall be sealed and initialed by the election inspectors.

At the time for closing the polls, all employees present and waiting at the polling place shall be entitled to vote. The ballot box shall then be sealed. All unused ballots shall then be counted in the presence of election inspectors.

When all voting has terminated at a polling place, the election inspectors will bring to the chief election officer the following: (1) Signed voting list of eligible certificated employees, (2) all unused ballots, (3) all challenged

ballots, and (4) the sealed ballot box containing all ballots cast.

The challenged ballots previously placed in separate envelopes shall be placed in a sealed envelope marked "challenged ballots" and sent along with the tally sheet to the chief election officer. The challenged ballots shall not be opened or counted unless the counting of such ballots might affect the results of the election. If the challenged ballots might affect the results of the election, the chief election officer shall conduct an investigation into, or if necessary a formal hearing on, the validity of the challenges made. If he concludes that the challenge was properly made, that ballot shall be excluded from the count. Otherwise, such ballot shall be counted as cast.

When ballot boxes from all voting places have been received by the chief election officer's inspector, he shall open them and thoroughly mix all ballots cast so that it is impossible to identify the polling place from which any particular ballot came. The ballots cast shall be separated into the categories as they have been cast for organizations participating in the election, for no organization, and void ballots which are unintelligible or for an organization not participating in the election. The ballots in these categories shall be counted by the chief election officer with the assistance of such of his election inspectors as shall be necessary in the presence of the inspectors for the organizations participating in the election. After the ballots have been so counted the inspector designated by the organizations to serve at the counting of the ballots shall indicate by his signature upon the tally sheet that he agrees with the count made, or in case of disagreement, he shall write a short statement of his grounds for disagreement with the count. The chief election officer shall certify to the director the results of the election within 48 hours after the polls have been closed. The used ballots, the unused ballots, the challenged ballots, and the signed voting lists of eligible certificated employees shall be kept by the chief election officer or some person designated by him for one year after the election.

No election signs, banners, or buttons shall be permitted in the room in which the balloting takes place, nor shall any person in that room discuss the advantages or disadvantages of representation by any organization whether on the ballot or otherwise, nor shall any person in that room engage in any other form of electioneering.

Any organization which appears on the ballot, or any employee, may within five days after the certification of the results of the election under the provisions of this part, file objections to the conduct of the election with the chief election officer pursuant to this rule. The election officer shall investigate such objections and if necessary hold formal hearings thereon and report such findings to the director. If the director shall conclude that the conduct objected to may have improperly affected the results of the election he shall order a new election. Otherwise he shall overrule the objections and the results of the election shall be considered final. Objections to the conduct of the election which are not filed in accordance with the provisions of this section shall be waived and of no effect.

An organization of employees which receives a majority of the valid votes cast in an election held in accordance with these rules shall be recognized as the exclusive representative of the employees of that bargaining unit. If more than one organization of employees has participated in an election and a majority of the valid votes cast has not been either for representation by one of the organizations or for no representation, a run-off election shall be held. In such a run-off only those two choices receiving the highest number of valid votes cast in the initial election shall appear on the ballot.

Another election shall not be held until the lapse of one year from the date of the certification of the results of the earlier election.

Alternate recognition procedure. As an alternate procedure to the voting described previously, the director shall certify an employee organization as exclusive representative of the employees of a bargaining unit when such an organization shows proof that it represents a majority of such employees and such proof is not contested by the institution, or any other interested party. Prior to certification the director shall give ten days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining unit. Such notice shall inform all other interested parties that an election may be requested in accordance with these rules and that the petition may be contested by appropriate request or objection in writing filed with the director of personnel within ten days.

Representation upon certification. When an employee organization has been certified as the exclusive representative of the employees of a bargaining unit, it shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees. Individual grievances or minority group grievances of employees may, however, be presented to the appointing authority and may be adjusted by the appointing authority so long as the adjustment is not inconsistent with the collective agreement and the exclusive representative has had an opportunity to review such adjustments. Minority employee organizations may also present their view to the appointing authority.

Decertification. Upon petition to the director by not less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by a majority of the votes cast in a secret vote of the employees of the bargaining unit, provided twelve months have elapsed since the last certification. The election shall be conducted in accordance with these rules. No question concerning representation may be raised within six months of an election in a bargaining unit.

AMENDATORY SECTION (Amending Order 4, filed 1/13/71)

✓ WAC 132K-16-010 INTRODUCTION. Broadly stated, the purpose of ((~~Fort Steilacoom Community College~~)) Pierce College, District No. 11, is to provide opportunities for all who desire to pursue educational goals. To implement this objective, it is necessary to insure that an environment is created wherein all students

may progress in accordance with their capabilities and intensity of interest. The responsibility to create and maintain such an environment is shared by all members of the college; students, faculty and administration.

It is the intent that rights and responsibilities specified herein shall apply on any campus, site, or location and to any student enrolled in any program, course or class under jurisdiction of Community College District No. 11 and that where feasible the same or similar procedures be followed.

**AMENDATORY SECTION** (Amending Order 4, filed 1/13/71)

**WAC 132K-16-040 RIGHTS AND RESPONSIBILITIES. (1) \*Freedom of speech**

(a) As an institution of higher learning devoted to the search for truth in a democratic society, (~~Fort Steilacoom Community College~~) Pierce College is dedicated to the maintenance and expression of a spirit of free inquiry. For its students, accordingly, it promotes the development of an atmosphere of open exchange and of conditions conducive to critical evaluation of divergent points of view.

(b) All students shall have the right to address members of the student body in such a fashion that does not materially and substantially disrupt the operation of the college.

(c) It is expected that off-campus speakers will contribute to the exploration of new ideas and become an integral part of the educative process at (~~Fort Steilacoom~~) Pierce College. Therefore, any student, faculty member or administrator may invite a speaker to be heard on the campus of the college, subject to the restraints imposed by federal, state, and/or municipal constitutions and statutes, as well as the rules and regulations of the college, provided the following circumstances exist:

(i) The person or group inviting the speaker has submitted the request form to the director of student activities at least one week before the date of the scheduled meeting, for permission to use college facilities.

(ii) Suitable facilities are available.

(iii) That an opportunity is provided at the end of the speaker's presentation for discussion of, and, if desired, opposition to the views of the speaker.

(d) Requests by persons to speak on the campus shall be made to the director of student activities and shall be subject to the above regulations.

(e) Questions concerning any speaker's application shall be referred to a standing committee consisting of two students, two faculty members, and two administrators appointed by the respective groups.

This committee shall be continually empowered to deliberate and determine any action deemed necessary to preserve -

(i) The right of the audience to hear speakers,

(ii) The freedom of the speaker to express whatever view he holds,

(iii) The right of the institution and community to offer meaningful discussion and/or rebuttal.

(f) The director of student activities will serve as the spokesman for the committee and the college in relationships with speakers and their representatives.

(g) It is understood that the trustees, administration, faculty, and students do not necessarily endorse views of speakers.

\*This policy does not apply to those speakers who are brought on campus as part of the in-class instructional program, even if open to the public.

(2) Right of assembly

(a) (~~Fort Steilacoom Community College~~) Pierce College will preserve the rights of its students who wish to assemble but will not permit this assembly to materially and substantially disrupt an operation of the college.

(b) Nonstudents who participate in or aid or abet any assembly or assemblies in violation of this section shall be subject to prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college.

(3) Distribution of material on campus

(a) Distribution on campus of printed material for purely commercial purposes, or material which is inconsistent with the preservation of the educational environment is prohibited.

(b) The director of student activities shall have responsibility for this determination.

(c) Any question about decisions of the director shall be referred to a standing committee composed of two students, two faculty members and two administrators, who shall make final disposition of the matter.

(d) Distribution on campus of printed material by students or student groups shall always be permitted, subject to the following:

(i) Materials for posting shall be stamped in the office of the director of student activities to indicate how long they are to be displayed.

(ii) All materials must bear identification as to publishing agency and distributing organization or individual.

(iii) Distribution of material shall be in such a manner as not to materially or substantially disrupt the operation of the college.

(iv) Materials for posting shall be posted in those areas designated for that purpose.

(v) The distributing agency, group or individual is responsible for the condition, removal or resultant litter of distributed materials.

(e) Distribution of material on campus by noncollege related people is prohibited.

(f) Any distribution of the materials regulated in this section shall not be construed as approval of the same by the college or by the board of trustees of Community College District No. 11.

(4) Use of alcohol and drugs

(a) The possession, use, sale, or distribution of any intoxicant or illegal drug on the college campus is prohibited.

(b) The use of illegal drugs by any (~~Fort Steilacoom Community College~~) Pierce College student attending a college sponsored event is also prohibited, even though the event does not take place at the college.

(c) The use of alcohol by students attending such events shall conform to state law.

AMENDATORY SECTION (Amending Order 4, filed 1/13/71)

✓ WAC 132K-16-060 PROCEDURES. ((+)) Disciplinary authority of the office of the dean of students

((+)) (1) All disciplinary proceedings will be initiated by the office of the dean of students. Disciplinary proceedings will be conducted informally between the student and the dean of students. The dean may also establish advisory panels to advise or act for him in disciplinary matters.

((b)) (2) In all cases the student shall be advised of his rights by reference to the ((Fort Steilacoom Community College)) Pierce College student rights and responsibilities, specifically WAC 132K-16-070.

((c)) (3) In order that the informality of procedure in these instances not mislead a student as to the seriousness of the matter under consideration, the student involved should be apprised at the initial conference of the potential seriousness of the charges being considered. If further consideration reveals that more severe disciplinary action may be appropriate, the student shall be so advised in writing.

((d)) (4) After considering the evidence in the case and interviewing the student or students involved, the dean of students may take any of the following actions:

((i)) (a) Terminate the inquiry, exonerating the student or students.

((ii)) (b) Dismiss the case after whatever counseling and advice may be appropriate.

((iii)) (c) Impose sanctions directly (warning, reprimand, disciplinary probation, dismissal) subject to the student's right of appeal described below. The student shall be notified of the action taken; this notice must be in writing when sanctions are imposed.

AMENDATORY SECTION (Amending Order 4, filed 1/13/71)

✓ WAC 132K-16-070 GUIDELINES AND SAFEGUARDS. (1) In the event that it becomes necessary for the college to take disciplinary action against a student, the following procedural steps will be followed prior to such action.

(a) The student will be notified in writing -

(i) Of the charges which will include the specific regulations alleged to be violated and the names of the complaining witnesses.

(ii) Of the date, time and place of the hearing relative to the charge and the general nature of the planned proceedings, including the statement that a new hearing date will be fixed if additional time to prepare a response to the charge is desired.

(iii) Of the opportunity to present information to establish innocence or mitigation of the circumstances, including a specific statement that supporting witnesses or statements will be welcome and that a student may have the assistance of or utilize a spokesman in the presentation of his position at the hearing.

(b) Notification will be given the student, prior to the receipt of any evidence at the hearing, that the student will not be required to give evidence which may be self-incriminating.

(c) The student will be advised of his right and appeal procedures and will sign a statement indicating that he has been apprised of these rights and appeal procedures.

(d) No transcription of the testimony will be made at this hearing; however, records of the disposition of the case will be maintained.

(2) Appeals

(a) Any disciplinary decisions involving ((Fort Steilacoom Community College)) Pierce College students may be appealed to the disciplinary appeals committee by the involved student or other students, faculty, or administrators, with the written consent of the involved student.

(b) The disciplinary appeals committee shall be a standing committee composed of three students and three faculty members.

(i) Faculty members - as chosen by the faculty senate.

(ii) Student members - appointed by the chairman of the student board of directors of ((Fort Steilacoom Community College)) Pierce College.

(c) The committee shall select a chairman from their membership, and he shall be a voting member. This committee will function as a hearing committee and will make decisions according to a majority vote. In the case of a tie, each committee member's recommendation will be referred to the president of the college for his decision in the case. The decision of this committee or college president (in case of a tie) will be referred to the dean of students for action.

(d) Any decision of the disciplinary appeals committee or the college president may be appealed, by the involved student, to the board of trustees of Community College District No. 11 for review. The decision of the board of trustees shall be referred to the dean of students for action.

(3) Due process The following committee procedures are established to satisfy the requirements of procedural due process.

(a) No member of the committee, who is otherwise interested in the case, will sit in judgment during the proceedings. Replacement faculty appointments will be made by the president of the faculty senate and replacement student appointments will be made by the chairman of the student board of directors of ((Fort Steilacoom Community College)) Pierce College.

(b) The student will be notified, in writing, of the reasons for the proposed hearing at least one week before the scheduled committee hearing. If the student finds the date fixed inconvenient or burdensome, a new hearing date will be fixed upon request by the student, in writing, directed to the disciplinary appeals committee.

(c) The student appearing before the committee has the right to be assisted in his defense by an advisor or spokesman of his choice.

(d) The burden of proof rests upon the individual or official bringing the charge.



(e) The student has the opportunity to testify and to present evidence and witnesses. He has the opportunity to hear and question all witnesses.

(f) Thorough record will be made of the committee hearing. The student shall receive a written report of committee hearings regarding his case.

(4) Readmission

(a) A student dismissed from the college may be readmitted only on written petition to the dean of students. Such petitions must indicate how specific conditions have been met and any reasons which support a reconsideration of the matter. If the petition is refused, the dismissed student may appeal to the disciplinary appeals committee under the rules set forth under disciplinary proceedings.

(5) Student rights and responsibilities policy review

(a) This document shall be reviewed by the student board of directors and the dean of students at least once each year.

AMENDATORY SECTION (Amending Order 5, filed 2/11/71)

✓ WAC 132K-20-010 PURPOSE. The board of trustees of Community College District No. 11 hereby establishes the following rules on faculty tenure, the purpose of which is twofold:

(1) To protect faculty appointment rights and faculty involvement in the establishment and protection of those rights at (~~Fort Steilacoom Community College~~) Pierce College and all subsequent community colleges hereafter established within Community College District No. 11; and

(2) To assure that tenure is granted to faculty members of such character and scholarly ability that the district, so far as its resources permit, can justifiably undertake to employ them for the rest of their academic careers. However, after tenure is granted to a faculty member, it becomes the responsibility of each tenured faculty member to maintain his teaching excellence and pursue professional improvement. It will be the primary responsibility of the tenured faculty members as a group to maintain a program of professional improvement. The college will maintain a program of continuing evaluation of instruction to facilitate this process.

AMENDATORY SECTION (Amending Order 27, filed 4/9/75)

✓ WAC 132K-20-020 DEFINITIONS. As used in this chapter the following terms and definitions shall mean:

(1) "Appointing authority" shall mean the board of trustees of Community College District No. 11.

(2) The definition of "tenure," "faculty appointment," "probationary appointment," shall be the same as are contained within section 33, chapter 283, Laws of 1969 ex. sess., as amended by sections 1 and 3, chapter 5, Laws of 1970, by chapter 33, Laws of 1974 ex. sess. and as are hereafter amended.

(3) "Regular college year" shall mean a faculty appointment inclusive of consecutive fall, winter, and spring quarters.

(4) "President" shall mean the president of (~~Fort Steilacoom Community College~~) Pierce College and of any other college hereafter established within Community College District No. 11, or in such president's absence, the acting president.

(5) "College" shall mean (~~Fort Steilacoom Community College~~) Pierce College and any subsequent community college hereafter established within Community College District No. 11.

(6) "Review committee" shall mean a committee composed of three faculty members who hold either faculty appointments or probationary faculty appointments and two administrators, and one student appointed pursuant to WAC 132K-20-030.

(7) "Full time" shall mean a faculty member holding a contract for maximum specified teaching days of the regular college year and who is receiving monetary compensation from his position on the full-time faculty salary schedule.

AMENDATORY SECTION (Amending Order 43, filed 3/12/81)

✓ WAC 132K-20-070 PROCEDURE RELATING TO THE DISMISSAL OF A TENURED OR PROBATIONARY FACULTY MEMBER FOR CAUSE.

(1) A dismissal review committee created for the express purpose of hearing dismissal cases shall be established no later than October 15 of each academic year (except if this provision is passed after October 15 of any academic year, the dismissal review committee will be chosen within thirty days after passage of this provision), and shall be comprised of the following members:

(a) One member chosen by the college president

(b) Two faculty members and two alternates shall be chosen by the faculty acting in a body. (The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff and the teaching faculty. The representatives of the teaching faculty shall represent a majority of the members on each review committee. The members representing the teaching faculty on each review committee shall be selected by a majority of the teaching faculty and faculty department heads acting as a body.)

(c) The college president shall choose one alternate member to serve on the dismissal review committee should the regularly appointed member be unable to serve on the committee.

(d) The alternate shall be called upon if the first appointee is the subject of review.

(e) The dismissal review committee will select one of its members to serve as chairman.

(2) When the president receives or initiates a formal written recommendation about a faculty member which may warrant dismissal, he shall inform that faculty member. Within ten days after having been so informed, the faculty member will be afforded an opportunity to meet with the president or his designee and the chairman of the division. At this preliminary meeting, which in dismissal cases shall be an information-gathering session, an adjustment may be mutually agreed upon. If the matter is not settled or adjusted to the satisfaction of the

college president, he shall recommend that the faculty member be dismissed.

(3) If the president recommends that the faculty member be dismissed, he shall:

(a) Deliver a short and plain statement to the faculty member which shall contain

(i) The grounds for dismissal in reasonable particularity;

(ii) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(iii) Reference to any particular statutes or rules involved.

(b) Call into action the dismissal review committee (~~and deliver the above statement to the members of the dismissal review committee~~) and deliver the above statement to the members of the dismissal review committee, if the academic employee requests a hearing.

(4) After receiving the president's recommendation for dismissal, the affected academic employee may request a hearing within the following five days. If the president does not receive this request within five days, the academic employee's right to a hearing will be deemed waived.

(5) If the president receives a request for a hearing, the dismissal review committee shall, after receiving the written recommendation from the college president, establish a date for a committee hearing giving the faculty member so charged twenty days notice of such hearing, and inform in writing the faculty member so charged of the time, date and place of such hearing.

(6) The dismissal review committee shall:

(a) Hear testimony from all interested parties, including but not limited to other faculty members and students and receive any evidence offered by same;

(b) Afford the faculty member whose case is being heard the right of cross-examination and the opportunity to defend himself and be accompanied by legal counsel;

(c) Allow the college administration to be represented by an assistant attorney general.

(7) The dismissal review committee shall appoint a presiding or hearing officer. Such presiding or hearing officer shall not be a voting member of the committee; it shall be his responsibility to:

(a) Make all rulings regarding the evidentiary and procedural issues presented during the course of the dismissal review committee hearings;

(b) Meet and confer with the members of the dismissal review committee and advise them in regard to procedural and evidentiary issues considered during the course of the committee's deliberations;

(c) Appoint a court reporter, who shall operate at the direction of the presiding officer and shall record all testimony, receive all documents and other evidence introduced during the course of hearing, and record any other matters related to the hearing as directed by the presiding officer;

(d) The hearing officer shall prepare proposed findings of fact and a record for review by the appointing authority which shall include:

(i) All pleadings, motions and rulings;

(ii) All evidence received or considered;

(iii) A statement of any matters officially noticed;

(iv) All questions and offers of proof, objections and rulings thereon;

(v) Proposed findings and exceptions;

(vi) A copy of the recommendations of the dismissal review committee.

(8) A copy of the above shall be transcribed and furnished to the faculty member whose case is being heard.

(9) The hearing shall be closed. However, interested parties, including but not limited to faculty members and students, will be given an opportunity to present evidence.

(10) Within ten business days of the conclusion of the hearing, the dismissal review committee will arrive at its recommendations in conference on the basis of the hearing. Before doing so, it should give the faculty member or his counsel(s) and the representative designated by the president of the college the opportunity to argue orally before it. If written briefs would be helpful, the dismissal review committee may request them. The dismissal review committee may proceed to a recommendation promptly or await the availability of a transcript if making a fair recommendation would be aided thereby. Within ten business days of the conclusion of the hearing the president of the college, the faculty member and the board of trustees will be presented with recommendations in writing and given a copy of the record of the hearing.

(11) The board of trustees shall meet within thirty days subsequent to its receipt of the dismissal review committee recommendations to consider those recommendations. The board of trustees shall afford the parties the right to oral and written argument with respect to whether they will dismiss the faculty member involved. The board of trustees may hold such other proceedings as they deem advisable before reaching their decision. A record of the proceedings at the board level shall be made and the final decision shall be based only upon the record made before the board and the dismissal review committee, including the briefs and oral arguments. The decision to dismiss or not to dismiss shall rest, with respect to both the facts and the decision, with the board of trustees after giving reasonable consideration to the recommendation of the dismissal review committee. The dismissal review committee's recommendations shall be advisory only and in no respect binding in fact or law upon the decision (~~maker~~)—maker, the board of trustees. The board of trustees shall within ten days following the conclusion of their review, notify the charged faculty member in writing of its final decision.

(12) Suspension of the faculty member by the president during the administrative proceedings involving him (prior to the final decision of the board of trustees) is justified if immediate harm to himself or others is threatened by his continuance. Any such suspension shall be with pay.

(13) Except for such simple announcements as may be required covering the time of the hearing and similar matters, no public statements about the case shall be made by the faculty member, the dismissal review committee or administrative officers of the board of trustees

until all administrative proceedings and appeals have been completed.

(14) Any dismissed faculty member shall have the right to appeal the final decision of the board of trustees within ten days of the receipt of the notice of dismissal. The filing of an appeal shall not stay enforcement of the decision of the board of trustees.

(15) If the president of the Community College District No. 11 initiates a formal written recommendation that a faculty member be dismissed and the board of trustees decides to retain the faculty member, or if the trustees' decision to dismiss a faculty member is reversed by a court, all evidence concerning the dismissal will be removed from the faculty member's permanent personnel file if the reason for the denial of the recommendation was the president's failure to establish the facts which were the basis for the dismissal recommendation.

~~((If the facts which were the basis for the dismissal recommendation were shown to the satisfaction of the trustees and the courts, but the dismissal recommendation was not followed because the trustees or the courts decided that the facts were not sufficient to warrant dismissal, the facts which were shown would be retained in the faculty member's permanent personnel file along with a record of the outcome of the dismissal proceeding.~~

~~If the facts are to be retained in the faculty member's permanent personnel file, the faculty member will be given an opportunity to review the facts and to write an explanation which will be retained along with the findings of fact.))~~ If the facts which were the basis for the dismissal recommendation were shown to the satisfaction of the trustees and the courts, but the dismissal recommendation was not followed because the trustees or the courts decided that the facts were not sufficient to warrant dismissal, the facts which were shown would be retained in the faculty member's permanent personnel file along with a record of the outcome of the dismissal proceeding.

If the facts are to be retained in the faculty member's permanent personnel file, the faculty member will be given an opportunity to review the facts and to write an explanation which will be retained along with the findings of fact.

AMENDATORY SECTION (Amending Order 38, filed 11/13/78)

WAC 132K-20-080 DESIGNATION OF ADMINISTRATIVE APPOINTMENTS. The following positions are hereby designated administrative appointments in respect to which tenure may not be acquired:

- ~~((a))~~ (1) President.
- ~~((b))~~ (2) Dean of instruction.
- ~~((c))~~ (3) Dean of students.
- ~~((d))~~ (4) Dean of administrative services/director of classified personnel((+)).

~~((e))~~ (5) Associate dean of students for student development.

~~((f))~~ (6) Associate dean basic education, community service and military((+)).

~~((g))~~ (7) Associate dean for career education.

~~((h))~~ (8) Controller associate dean of administrative services.

~~((i))~~ (9) Director of learning center resource.

~~((j))~~ (10) Associate dean of student services((+)).

~~((k))~~

~~((l))~~

~~((m))~~ (11) Any ~~((other{s}))~~ others specifically so designated by the appointment authority.

AMENDATORY SECTION (Amending Order 13, filed 2/20/73)

WAC 132K-116-010 INTRODUCTION. Section 1. ~~((Fort Steilacoom Community College))~~ Pierce College District Number Eleven hereby establishes these regulations to govern pedestrian and vehicular traffic and parking upon state lands devoted mainly to the educational activities of ~~((Fort Steilacoom Community College))~~ Pierce College.

AMENDATORY SECTION (Amending Order 36, filed 9/6/77)

WAC 132K-116-025 PERMITS REQUIRED FOR VEHICLES ON CAMPUS. Section 4. Except as provided in ~~((section 5 [WAC 132K-116-030] of these regulations))~~ WAC 132K-116-030, no person shall drive any vehicle, nor shall any person stop, park, ~~((leave or))~~ leave or abandon ~~((any))~~ any vehicle, whether attended or unattended, upon the campus of the college without a permit issued by the parking office of the college.

Abandoned vehicle((+)): For purposes of this chapter ~~((+ +))~~, "abandoned vehicle((+))" shall mean any vehicle left on college property in violation of college parking rules and without the written consent of the college for a period of 24 hours or longer((+)). Written consent shall be granted the owner or operator of an abandoned vehicle who is unable to remove the vehicle from the place where it is located and so notifies the physical plant director and requests assistance((+)).

(1) Permission to drive on campus or to park thereon will be shown by ~~((the))~~ the display of a valid permit issued by the parking office of the college.

(2) A valid permit is:

(a) An unexpired parking sticker properly registered and displayed in accordance with instructions, or

(b) A temporary permit authorized by the parking office of the college and displayed in accordance with instructions on the permit, or

(c) A parking permit issued by the college parking booth attendant, which permit must be displayed on the vehicle in accordance with instructions.

(3) Parking permits are not transferable.

(4) The college reserves the right to refuse the issuance of a parking permit.

AMENDATORY SECTION (Amending Order 36, filed 9/6/77)

WAC 132K-116-065 DISABLED AND INOPERATIVE OR ABANDONED VEHICLES—IMPOUNDING. Section 12. No disabled ~~((or))~~ or inoperative ~~((or))~~ or abandoned vehicle shall be parked

on the campus without a permit to do so. Vehicles which have been disabled, inoperative or abandoned may be impounded and stored at the expense of either or both the owner and operator thereof following 24 hours notice posted at a conspicuous place on the vehicle((+)). Neither the college nor its employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

Impoundment without notice((+)). A vehicle may be impounded without notice to the owner or operator in the following circumstances((+)):

((+)) (1) When in the judgment of the physical plant director, the vehicle is obstructing or may impede the flow of traffic; or

((+)) (2) when in the judgment of the physical plant director, the vehicle poses an immediate threat to public safety((+)).

AMENDATORY SECTION (Amending Order 36, filed 9/6/77)

✓ WAC 132K-116-135 PROCEDURE—ISSUANCE OF SUMMONS OR TRAFFIC TICKETS. Section 26. Upon probable cause to believe that a violation of these regulations has occurred, an officer of the college parking office may issue a summons or traffic ticket setting forth the date, the approximate time, the locality, and the nature of the violation. Such summons may be served by attaching or affixing a copy thereof to the vehicle allegedly involved in such violation, or by placing a copy thereof in some prominent place outside such vehicle. Vehicles not displaying a valid permit may be towed after the third violation citation has been issued((+)). (See section 32((+))) Questions pertaining to citations may be directed to the physical plant department, Room 3014.

AMENDATORY SECTION (Amending Order 36, filed 9/6/77)

✓ WAC 132K-116-140 GRIEVANCE PROCEEDINGS—BOND FOR APPEARANCE—DATE OF HEARING. Section 27. (1) The summons or traffic ticket issued pursuant to ((section 26 {WAC 132K-116-135})) WAC 132K-116-135 shall direct the alleged violator to appear before the college physical plant director within five school days. At that time, the alleged violator will be informed of the next meeting of the college parking committee which will convene on the last Thursday of each month.

(2) The alleged violator may then elect to waive his right to appear before the college parking committee and pay the appropriate fine or appeal the violation. If the alleged violator elects to appeal the violation, he/she will be informed that the appeal must be made in writing to the college physical plant director giving full particulars, listing witnesses, evidence, etc., within five school days following the issuance of summons or traffic ticket((+)).

The college parking committee shall consist of the college dean of students as chairperson, the college dean of administrative services, and the physical plant director.

Chapter 132K-120 WAC  
STUDENT PUBLICATIONS CODE OF THE ASSOCIATED STUDENTS OF ((FORT STELLACOOM COMMUNITY COLLEGE)) PIERCE COLLEGE

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-010 STUDENT PUBLICATIONS BOARD. The ((Fort Steilacoom Community College)) Pierce College student publications board is a body whose primary responsibility is the judicious enforcement of policy pertaining to student publications which has been adopted through the prescribed administrative channels. The board may instigate its own action or take action at the request of any individual or group. Its decisions shall be based solely upon the fair and impartial interpretation of the student publications code and pertinent statements of purpose or philosophy or codes of ethics for the publication involved in addition to information presented to the board in relation to the issue(s) under consideration. Although the deliberations of the board are not comparable to those of a court of law and legal procedures do not apply, it is the responsibility of the board to afford all aggrieved parties concerned the right of due process and a fair and impartial hearing.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-015 STUDENT GOVERNMENT AUTHORITY AND RESPONSIBILITY. The student government shall exercise its authority and responsibility concerning student publications through its monetary appropriation powers and the ((ASFSEE)) ASPC president's appointment of student members of the student publications board. The student government, through its monetary appropriation powers, may at the end of the fiscal year, vote to discontinue publication of a student publication for the coming fiscal year. However, the student government is prohibited from arbitrary discontinuation of budgeted funds and consequent suspension or discontinuation of a student publication during a fiscal year.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-020 COLLEGE AUTHORITY AND RESPONSIBILITY. Legally, ((Fort Steilacoom Community College)) Pierce College is the publisher of all student publications. Therefore, all student publications come under the purview of the board of trustees and the college president who have the authority and responsibility to determine the broad policies and procedures which are to govern student publications. The authority and responsibility for promoting and enforcing those policies and procedures, except where specifically noted herein, has been delegated by the board of trustees and the college president to the student publications board through this student publications code.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-025 STUDENT PUBLICATIONS BOARD MEMBERSHIP AND RULES.

There shall be seven voting members, including:

- (A) Four students to be selected as follows:
  - (1) Two students appointed by the outgoing student senate.
  - (2) Two students appointed by the incoming ~~((ASFSEE))~~ ASPC president.

(B) Three instructors or administrators to be selected as follows:

- (1) One administrator to be appointed by the college president.
- (2) Two instructors to be appointed by the faculty.

Ex officio (nonvoting) members shall include:

- (A) The manager of student programs.
- (B) The student editor-in-chief of each student publication.
- (C) The faculty advisor to each student publication.
- (D) ~~((ASFSEE))~~ A Pierce College alumnus (selected by the voting members of the student publications board).
- (E) A professional journalist (selected by the voting members of the student publications board).

Terms of office for voting student publications board members shall commence at the beginning of summer quarter and expire at the end of the following spring quarter. Appointments will be made after the spring ~~((ASFSEE))~~ ASPC election but prior to the end of spring quarter. Student senate members and staff members of student publications may not be members of the student publications board. Student vacancies shall be filled by appointment by the ~~((ASFSEE))~~ ASPC president. Faculty or administrative vacancies shall be filled by the faculty or presidential appointment respectively.

The voting members shall elect from their ranks a chairman and designate a secretary to record minutes of the meetings. A meeting may be called by the chairman or any three voting members. A quorum shall be necessary to conduct business and shall consist of five voting members.

At the end of spring quarter, the minutes of all board meetings and other board records shall be transmitted to the board secretary selected for the next academic year.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-045 STUDENT PUBLICATIONS BOARD RESPONSIBILITIES. The role of the student publications board is to do all within its power to foster at ~~((Fort Steilacoom Community College))~~ Pierce College an environment conducive to the maintenance, growth, and development of student publications of the highest quality. Responsibilities concomitant with this role include:

- (A) Soliciting from the faculty advisor to each student publication recommendations for the appointment of the student editor-in-chief and making final appointment of the student editor-in-chief.

(B) Insuring that the "canons of journalism," as adopted by the American Society of Newspaper Editors and as they may be reasonably applied to all student publications, are actively practiced.

(C) Insuring that any statements of purpose or philosophy or codes of ethics as adopted by the student government and approved by the college president or his designee for a specific student publication are actively practiced.

(D) Providing constructive criticism to all students and college personnel involved in production of student publications.

(E) Establishing standards for student participation in the production of student publications.

(F) Providing for speedy and fair disposition or resolution of questions and complaints pertaining to student publications.

(G) Soliciting from the college community and forwarding to the appropriate personnel recommendations pertaining to policies, procedures, and practices concerning student publications.

(H) Soliciting from the faculty advisor and student editor-in-chief budget request recommendations and documentation, and approving a final request for each publication for admission to the ~~((ASFSEE))~~ ASPC budget sub-committee.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-065 BUDGETS AND FISCAL AFFAIRS. Budget requests and expenditures for student publications shall be administered in accordance with the provisions of the ~~((ASFSEE))~~ ASPC financial code.

AMENDATORY SECTION (Amending Order 28, filed 11/10/75)

✓ WAC 132K-120-085 AMENDMENT PROCEDURES. Proposed amendments to this code may be submitted to the ~~((ASFSEE))~~ ASPC student senate at any regularly scheduled meeting of the ~~((ASFSEE))~~ ASPC student senate. At the following regularly scheduled meeting, the proposed amendment shall be read for the first time. The proposed amendment may be voted upon at any regularly scheduled meeting following the first reading only if the time elapsed between the first reading and voting does not exceed one month. Amendments will be certified as passed by the ~~((ASFSEE))~~ ASPC president when two-thirds of the ~~((ASFSEE))~~ ASPC student senate, sitting in quorum, vote in the affirmative. The proposed amendment will then be forwarded for final approval to the college president or his designee. Approved amendments shall be returned to the ~~((ASFSEE))~~ ASPC student senate for insertion into the official copy of the ~~((ASFSEE))~~ ASPC student publications code.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓ WAC 132K-122-010 GENERAL POLICY. ~~((Fort Steilacoom Community College))~~ Pierce College desires

to insure that information contained in the educational records of its students is treated responsibly with due regard for its personal nature, and for the students', college's, and the community's needs. This chapter implements this general policy and responds to the requirements of Public Law 93-380 (Family Educational Rights and Privacy Act of 1974).

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓ WAC 132K-122-020 DEFINITIONS. For purposes of this chapter, the following terms shall have the definitions shown:

(1) A "student" is any person who is or has been in attendance at (~~(Fort Steilacoom Community College)~~) Pierce College with respect to whom (~~(Fort Steilacoom)~~) Pierce College maintains educational records or other information personally-identifiable by name, identification number, or other means of recognition.

(2) The term "education records" means those records, files, documents, and other materials maintained by (~~(Fort Steilacoom)~~) Pierce College which contain information directly related to the individual student. The term does not include:

(a) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker, thereof and which are not accessible to or revealed to any other person except a person appointed to replace or assume responsibilities of the originator of the records on a temporary basis;

(b) Records made and maintained in the normal course of business which relates exclusively to the person's capacity as an employee and which are not available for any other purposes: PROVIDED, That this exception does not extend to records relating to individuals in attendance at (~~(Fort Steilacoom)~~) Pierce College who are employed as a result of their status as a student;

(c) Records of a student which are created or maintained by a physician, psychiatrist or other officially recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are created, maintained or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment: PROVIDED, HOWEVER, That such records can be personally reviewed by a physician or other appropriate professional of the student's choice;

(d) Records and/or documents of the (~~(Fort Steilacoom)~~) Pierce College security office which are kept apart from the educational records and which are maintained solely for law enforcement purposes and which are not made available to persons other than law enforcement officials of the same jurisdiction;

(e) Records which contain only information relating to a person after that person was no longer a student at (~~(Fort Steilacoom)~~) Pierce College such as those dealing with activities of an alumni leaving (~~(Fort Steilacoom)~~) Pierce College.

(3) The term "directory information" means the student's name, dates of attendance, and degrees received.

Directory information may be disclosed at the discretion of the college and without the consent of the student unless he or she elects to prevent disclosure as provided for in WAC (~~(132K-122-100)~~) 132K-122-100.

(4) The term "personally identifiable" means data or information which includes: The name of the student, the student's parent(s), or other family members; the address of the student; a personal identifier such as the student's social security number or student number; a list of personal characteristics which would make the student's identity easily traceable; telephone number; date of birth; academic/occupational intent; information for participants in officially recognized athletic events; or other information which would make the student's identity easily traceable.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓ WAC 132K-122-030 TYPE AND LOCATION OF EDUCATION RECORDS. (~~(Fort Steilacoom Community College)~~) Pierce College maintains, as student education records, records of the following general types: Academic, financial, counseling, personnel and placement records. For purposes of this chapter, these records are under the control of the college registrar who is located in the administration building and whose telephone number is 552-3983.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓ WAC 132K-122-040 THE RIGHT TO INSPECT AND VIEW RECORDS. (1) (~~(Fort Steilacoom)~~) Pierce College students shall have the right to review and inspect their education records.

(2) A request by a student for a review of information contained in a student's education records should be made in writing to the (~~(Fort Steilacoom Community College)~~) Pierce College registrar who shall require presentation of proper identification including validation of identity by way of the student's identification card and/or signatures of the requesting student.

(3) The registrar must respond to a request for inspection and review of education records within a reasonable period of time but in no case more than 45 days after the request has been made.

(4) (~~(Fort Steilacoom Community College)~~) Pierce College shall respond within 30 days of receipt of a reasonable student request for explanation and interpretation of the student's education records provided that such requests are in writing and signed by the requesting student and specific as to the portion or portions of the education records thought to be interpreted and explained.

(5) After reviewing his or her records, a student may request an amendment of the records if the student believes them to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. The college shall, within 30 days after receipt of a written request for correction or deletion of information

contained in the records signed by the student and specific as to the information to be deleted or corrected, inform the student of whether the request is accepted or denied. If the request for correction or deletion of inaccurate or misleading or otherwise inappropriate data has been denied, the student may seek redress through the hearing procedures provided for below and may place a written statement of rebuttal in his or her records.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓WAC 132K-122-080 PRIOR CONSENT TO DISCLOSURE AND WAIVER OF STUDENT RIGHTS. (1) The written consent required in WAC (~~(132K-122-070)~~) 132K-122-070 above shall be signed and dated by the student and shall include:

- (a) A specification of the records to be disclosed;
- (b) The purpose or purposes of the disclosure;
- (c) The party or class of parties to whom the disclosure may be made.

(2) A student may waive any (~~(or forfeit)~~) of his or her rights under this chapter by submitting a written, signed and dated waiver to the officer of the registrar. Such a waiver shall be specific as to the records and persons or institutions covered. A waiver shall continue in effect according to its terms unless revoked in writing which is signed and dated.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓WAC 132K-122-100 PREVENTION OF THE DISCLOSURE OF DIRECTORY INFORMATION. A student may refuse to permit the disclosure of directory information as defined by WAC (~~(132K-122-020(3))~~) 132K-122-020(3) by filing a request to prevent disclosure of directory information with the office of the registrar by the end of the third week of the fall quarter of each academic year. A separate request to prevent disclosure of directory information must be filed for each academic year.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓WAC 132K-122-120 DENIAL OF COPIES OF EDUCATION RECORDS. (~~(Fort Steilacoom Community College)~~) Pierce College reserves the right to deny a request for a copy of all or any portion of the student education records where the student is indebted to the institution for an outstanding or overdue debt.

AMENDATORY SECTION (Amending Order 37, filed 9/2/77)

✓WAC 132K-122-130 NOTICE OF RIGHTS. In order to insure that (~~(Fort Steilacoom Community College)~~) Pierce College students are fully apprised of their rights under this chapter, the college shall at the beginning of each academic year make available upon request to each student during the registration process a copy of this chapter. In addition, the college shall post at conspicuous places on the campus information the students

of the existence of this chapter and of the availability of copies.

AMENDATORY SECTION (Amending Order 18, filed 5/11/73)

✓WAC 132K-276-040 OPERATIONS AND PROCEDURES. The district is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. The college district is operated under the supervision and control of a board of trustees. The board of trustees is made up of five members each appointed by the governor to a term of five years. The trustees meet the (~~(first Tuesday)~~) second Wednesday of each month at (~~(2:30)~~) 12:30 p.m. in the district office board room of Community College District No. 11, unless public notice is given of a (~~(special meeting)~~) different time and location. At such time the trustees exercise the powers and duties granted it under RCW 28B.50.140.

AMENDATORY SECTION (Amending Appendix, filed 9/20/67)

✓WAC 132K-995-990 APPENDIX—COMMUNITY COLLEGE ACT OF 1967—DEFINITIONS AND DISTRICTS. (~~(CLOVER PARK COMMUNITY COLLEGE.)~~) PIERCE COLLEGE.

POLICIES & PROCEDURES MANUAL	1111.00
BOARD OF TRUSTEES	1112.00
Community College Act of 1967	
Definitions & Districts	

NEW SECTION. Section 3. As used in this act, unless the context requires otherwise, the term:

(2) "College board" shall mean the state board for community college education created by this act;

(4) "District" shall mean any one of the community college districts created by this act;

(5) "Board of Trustees" shall mean the local community college board of trustees established for each community college district within the state;

(6) "Council" shall mean the coordinating council for occupational education;

(10) "Community college" shall include where applicable, vocational-technical and adult education programs conducted by community colleges and vocational-technical institutes whose major emphasis is in post-high school education.

NEW SECTION. Section 4. The state of Washington is hereby divided into twenty-two community college districts as follows:

(11) The eleventh district shall encompass all of Pierce County, except for the present boundaries of the common school districts of Tacoma and Peninsula;

POLICIES & PROCEDURES MANUAL 1113.00-1  
Board of Trustees  
Community College Act of 1967  
Establishing & Organizing District Boards

NEW SECTION. Section 10. There is hereby created a community college board of trustees for each community college district as set forth in this act. Each community college board of trustees shall be composed of five trustees, who shall be appointed by the governor from a list of nominees submitted by the nominating committee in accordance with section 11 of this act.

The initial appointees to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, one for three years, one for four years, and one for five years.

Thereafter, until July 1, 1969, the successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

Every trustee shall be a resident and qualified elector of his community college district. No trustee may serve as a member of the board of directors of any school district, or as an elected officer or member of the legislative authority of any municipal corporation.

Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the community college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

NEW SECTION. Section 11. In each community college district of the state there is hereby created a nominating committee to select no less than five nominees for consideration by the governor for the initial trustees. The nominating committee shall be composed of each member of the state legislature residing within the boundaries of the community college district to be served.

The senior legislator on each committee shall serve as chairman of the committee and shall call the meeting at some conveniently located place and shall set the time of the meeting.

POLICIES & PROCEDURES MANUAL 1113.00-2  
Board of Trustees  
Community College Act of 1967  
Establishing & Organizing District Boards

Section 11. (cont'd) The members of the nominating committee shall be entitled to per diem and expenses as provided in RCW 44.04.120 and such payments shall be a proper charge to the college board.

NEW SECTION. Section 12. Within forty-five days after the effective date of this act, each nominating committee shall submit a list of no less than five nominees, who shall be residents of the community college district, to the governor for selection of the community college district board of trustees for that district. In preparing the list of names to be submitted to the governor, the members of the committee shall give consideration to geographical exigencies, and the interests of labor, industry, agriculture and the professions. In the event that the nominating committee from any district fails to submit a list of nominees to the governor by the prescribed date, he shall appoint the trustees for that district from registered voters residing within that district, observing the same considerations as prescribed for the committee in making its nominations.

NEW SECTION. Section 13. Within thirty days of their appointment or July 1, 1967, whichever is sooner, the various district boards of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this 1967 act as they deem necessary. At such organizational meeting it shall elect from among its members a chairman and a vice chairman, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. The chief executive officer of the community college district shall serve as secretary of the board. Three trustees shall constitute a quorum, and no action shall be taken by less than a majority of the trustees of the board. The first order of business after organization shall be to prepare for the orderly assumption of the duties and responsibilities of the administration and management of the community college district and the facilities thereof. The district boards shall transmit a report in writing to the college board before October 1st of each year which report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and all expenditures made by or on behalf of the district boards, such other information as it may deem necessary or useful, and any other additional information which may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state.

POLICIES & PROCEDURES MANUAL 1114.00-1  
Board of Trustees  
Community College Act of 1967  
Powers & Duties of the Board of Trustees

NEW SECTION. Section 14. Each community college board of trustees:

- (1) Shall operate all existing community colleges and vocational-technical institutes in its district;



(2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of section 9(3) of this act;

(3) Shall employ for a period to be fixed by the board a college president for each community college, a director for each vocational-technical institute or school operated by a community college, a district president in the event there is more than one college and/or separated institute or school located in the district, members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand.

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community college;

(6) May, with the approval of the college board, issue and sell revenue bonds for the construction, reconstruction, erection, equipping with permanent fixtures, (demolition and major alteration of buildings or other capital assets,) and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community college in accordance with the provisions of RCW 28.76.180 through 28.76.210 [RCW 28B.10.300-28B.10.330] where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

POLICIES & PROCEDURES MANUAL 1114.00-2  
Board of Trustees  
Community College Act of 1967  
Powers & Duties of the Board of Trustees

(b) Employ necessary employees to govern, manage and operate the same.

(8) May receive such gifts, grants, conveyances, devises and bequests of personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs

as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the community college district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community college or colleges under its control, and notwithstanding any other provision of law, publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate;

(13) Shall enforce the rules and regulations prescribed by the state board for community college education for the government of community colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community college education as the board of trustees may in its discretion deem necessary or appropriate to the administration of community college districts: Provided, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships and discipline: PROVIDED FURTHER, That the board of trustees may suspend or expel from community colleges students who refuse to obey any of the duly promulgated rules and regulations;

POLICIES & PROCEDURES MANUAL 1114.00-3  
Board of Trustees  
Community College Act of 1967  
Powers & Duties of the Board of Trustees

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this act. Such delegated powers any duties may be exercised in the name of the district board.

(15) May perform such other activities consistent with this act and not in conflict with the directives of the college board; and

(16) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

NEW SECTION. Section 15. Any resident of the state may enroll in any program or course maintained or conducted by a community college district upon the same terms and conditions regardless of the district of his residence.

**WSR 86-15-021**  
**EMERGENCY RULES**  
**BOARD OF PILOTAGE COMMISSIONERS**  
 [Order 86-5, Resolution No. 86-5—Filed July 11, 1986]

Be it resolved by the Board of Pilotage Commissioners, acting at Pier 52, Seattle, Washington 98104, that it does adopt the annexed rules relating to pilotage rates for the Puget Sound pilotage district, WAC 296-116-300.

We, the Board of Pilotage Commissioners, 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 127' foreign registered catamaran is operating on the waters of Puget Sound without a Washington state pilot. This tariff amendment will allow the immediate employment of a state pilot on the vessel for a rate that is more reasonable than the present tariff.

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

This rule is promulgated pursuant to RCW 88.16.035(4) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED July 10, 1986.

By Ralph E. White  
 Chairman

AMENDATORY SECTION (Amending Order 86-1, Resolution No. 86-1, filed 12/30/85)

WAC 296-116-300 PILOTAGE RATES FOR THE PUGET SOUND PILOTAGE DISTRICT. These rates shall become effective on January 1, 1985.

CLASSIFICATION	RATE
Ship length overall (LOA) Charges:	per LOA rate schedule in this section
Boarding fee: Per each boarding/deboarding at the Port Angeles pilot station.	\$ 26.00

CLASSIFICATION	RATE
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Dead ship towing charge: LOA of tug + LOA of tow + beam of tow	Double LOA Zone
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	
Waterway and bridge charges: Ships up to 90' beam:	
A charge of \$133.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$63.00 per bridge.	
Ships 90' beam and/or over:	
A charge of \$179.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$126.00 per bridge.	
(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)	
In a case where two pilots are employed for a single vessel waterway or bridge transit, a second pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.	
Compass adjustment	\$178.00
Radio direction finder calibration	\$178.00
Launching vessels	\$267.00
Trial trips, 6 hours or less	\$ 72.00 per hr.
(Minimum \$435.00)	
Trial trips, over 6 hours (two pilots)	\$142.00 per hr.
Shilshole Bay - Salmon Bay	\$104.00
Salmon Bay - Lake Union	\$ 83.00
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$104.00
Cancellation charge	LOA Zone I
Cancellation charge - Port Angeles (when pilot is ordered and vessel proceeds without stopping for pilot.)	LOA Zone I
Docking delay after anchoring:	\$ 72.00
Applicable harbor shift rate to apply, plus \$72.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$72.00 for every hour or fraction thereof.	
Sailing delay	\$ 72.00 per hour
No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$72.00 for every hour or fraction thereof.	

CLASSIFICATION

RATE

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

Slow-down — \$72.00 per hour for all time in excess of time spent in that particular transit for that speed of advance normal for vessel that is slowed.

Super ships — Additional charge to LOA zone mileage of \$0.0444 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons. In excess of 50,000 gross tons, the charge shall be \$0.0531 per gross ton.

Delayed arrival Port Angeles

(When pilot is ordered and vessel does not arrive within two hours without notification of change of ETA.)

Transportation to vessels on Puget Sound:

March Point or Anacortes

Bangor

Bellingham

Bremerton

Cherry Point

Dupont

Edmonds

Everett

Ferndale

Manchester

Mukilteo

Olympia

Point Wells

Port Gamble

Port Townsend (Indian Island)

Semiahmoo (Blaine)

Tacoma

Tacoma Smelter

Winslow

(a) Interport shifts: Transportation paid to and from both points.

(b) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.

(c) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(d) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.40 per mile.

Regular scheduled high speed small passenger service to British Columbia:

Rate per round trip for high speed small passenger vessels, not exceeding one hundred fifty feet in length and less than five hundred gross tons, operated and manned by United States Coast Guard licensed personnel, operating regular service exclusively between Puget Sound and British Columbia ports. This tariff shall be inclusive of one refueling movement per day.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

\$ 72.00 per hour

\$ 72.00 per hour

\$ 96.00

56.00

106.00

29.00

125.00

56.00

20.00

36.00

115.00

44.00

35.00

72.00

20.00

51.00

73.00

131.00

37.00

42.00

29.00

\$ 350.00

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
Up to 449	126	195	340	509	687	893
450 - 459	128	200	343	518	696	896
460 - 469	132	203	346	525	707	900
470 - 479	137	207	351	536	710	903
480 - 489	139	212	353	545	716	906
490 - 499	142	214	357	555	723	912
500 - 509	148	218	362	563	729	917
510 - 519	150	224	366	571	735	920
520 - 529	152	232	373	574	742	929
530 - 539	158	235	378	580	753	938
540 - 549	161	239	384	586	767	946
550 - 559	164	245	387	594	773	955
560 - 569	170	254	395	599	781	966
570 - 579	174	258	399	601	788	972
580 - 589	181	262	406	606	794	982
590 - 599	189	267	409	610	804	992
600 - 609	195	276	415	612	813	998
610 - 619	206	279	422	616	822	1008
620 - 629	215	283	428	621	831	1018
630 - 639	227	289	432	623	838	1028
640 - 649	237	295	437	626	848	1035
650 - 659	250	301	444	631	857	1045
660 - 669	258	304	449	634	866	1053
670 - 679	265	310	453	644	875	1061
680 - 689	271	316	459	651	883	1071
690 - 699	279	322	464	662	893	1091
700 - 719	292	332	474	670	909	1106
720 - 739	308	343	485	679	929	1124
740 - 759	322	357	496	687	946	1143
760 - 779	335	372	507	696	966	1160
780 - 799	351	385	518	707	982	1180
800 - 819	364	399	527	713	998	1196
820 - 839	378	412	538	723	1018	1212
840 - 859	394	429	549	731	1035	1232
860 - 879	407	444	560	750	1053	1249
880 - 899	422	458	571	768	1071	1268
900 - 919	435	472	581	786	1091	1286
920 - 939	450	485	594	804	1106	1304
940 - 959	464	499	602	822	1124	1320
960 - 979	477	514	614	838	1143	1339
980 - 999	494	527	624	857	1160	1357
1000 & over	507	544	636	875	1180	1374

WSR 86-15-022

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Order PM 604—Filed July 11, 1986]

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

- Amd WAC 308-48-010 Definitions.
- Amd WAC 308-48-060 Against concealment of crime.
- Rep WAC 308-48-120 Apprentices—Credit limitations for prior employment.

Rep	WAC 308-48-130	College credit.
Amd	WAC 308-48-140	Reciprocity.
Amd	WAC 308-48-150	Course of training funeral director apprentice.
Amd	WAC 308-48-160	Embalmer's apprentice.
Amd	WAC 308-48-165	Examination subjects.

This action is taken pursuant to Notice No. WSR 86-09-006 filed with the code reviser on April 4, 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 State Board of Funeral Directors and Embalmers as authorized in RCW 18.39.175(4).

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 Ian D. Morrison  
Chairman

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

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

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

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

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

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

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

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

✓ WAC 308-48-060 AGAINST CONCEALMENT OF CRIME. (1) No licensee or apprentice shall remove or embalm a dead body when he has information indicating crime or intentional violence in connection with the cause of death, until permission is first obtained from a county coroner or other qualified official.

(2) Any licensee or apprentice having or obtaining, as a result of his services, any information in relation to a

possible crime shall forthwith communicate such information to a proper law-enforcement officer.

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

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

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

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

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

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

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

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

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

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

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

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

✓ WAC 308-48-150 COURSE OF TRAINING—FUNERAL DIRECTOR APPRENTICE. (1) For the purposes of RCW ~~((18.39.030))~~ 18.39.035, the term "one year course of training" shall include assisting a licensed funeral director in conducting at least twenty-five funerals and assisting in the burial and/or final disposition of at least twenty-five human bodies.

(2) The term "one year" shall consist of at least eighteen hundred hours of employment and cannot be

completed in a period of time less than one calendar year.

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

- ~~(a) Funeral arranging to include:~~
  - ~~(i) Public relations and business ethics;~~
  - ~~(ii) Study of different religious, fraternal and military rites and procedures;~~
  - ~~(iii) Selection room arrangement, conduct and procedure;~~
  - ~~(iii) Selection room arrangement, conduct and procedure;~~
  - ~~(iv) Assisting at committal services;~~
  - ~~(v) Arranging for clergy, cemetery, organist, pallbearers, newspaper items, flowers, including shipment of remains in United States and overseas;~~
  - ~~(vi) Assisting family and friends during visitation;~~
  - ~~(vii) Assisting family and friends during services;~~
  - ~~(viii) Funeral procession organizing and control.~~
- ~~Subtotal = 1,000 hours:~~
- ~~(b) Administrative duties to include:~~
  - ~~(i) Completing and filing vital statistics reports for the state and other state and federal reports;~~
  - ~~(ii) Basic bookkeeping, including sales tax, withholding, unemployment taxes (federal and state);~~
  - ~~(iii) Knowledge of preparing statement of services;~~
  - ~~(iv) Completing and filing death certificates (obtaining transit permits when necessary);~~
  - ~~(v) Completing and filing social security forms;~~
  - ~~(vi) Completing and filing veterans' forms;~~
  - ~~(vii) Completing and filing cremation certificates.~~
- ~~Subtotal = 440 hours:~~
- ~~(c) Merchandising to include:~~
  - ~~(i) Knowledge of casket displays (product knowledge);~~
  - ~~(ii) Buying, pricing, overhead determination, etc.;~~
  - ~~(iii) Color coordination, types of caskets, vaults, urns, burial clothing, etc.~~
- ~~Subtotal = 100 hours:~~
- ~~(d) Funeral home maintenance to include:~~
  - ~~(i) Parlors and viewing rooms, chapel, lounges and foyers, selection room, preparation room, offices, etc.;~~
  - ~~(ii) All outside areas, including pavements and walkways, parking lots, lawn areas, lighting fixtures, etc.~~
- ~~Subtotal = 90 hours:~~
- ~~(e) Automotive service to include:~~
  - ~~(i) Care and operation of equipment;~~
  - ~~(ii) Knowledge of service area;~~
  - ~~(iii) Location of hospitals, city and county morgues, nursing homes, etc.;~~
  - ~~(iv) Flower vehicle, lead cars, limousines, etc.~~
- ~~Subtotal = 100 hours:~~
- ~~(f) Personal attitudes and appearance to include:~~
  - ~~(i) Reinforcement of beliefs in the value of what you are doing;~~
  - ~~(ii) Standards of personal appearance, dress and conduct;~~
  - ~~(iii) Location and availability of pathologists, doctors, clergy, hospitals, etc., with emphasis of "how we can serve them."~~
- ~~Subtotal = 30 hours:~~

~~(g) Background information = laws and regulations to include:~~

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

~~Subtotal = 40 hours:~~

~~TOTAL HOURS = 1,800.))~~

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

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

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

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

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

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

~~Reviser's note: The above amendatory section was filed by the agency as WAC 38-48-160. However, the other rules for the Department of Licensing are found in Title 308 WAC. The section amended above appears to be WAC 308-48-160, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.~~

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

WAC 308-48-165 EXAMINATION SUBJECTS. Effective March 1, 1983, the following ((national

board)) examinations will be administered to all funeral director and embalmer license applicants:

(1) For funeral directors, the funeral service arts exam covering sociology, psychology and counseling, funeral directing and professional relationships, business law, funeral service law, funeral merchandising and accounting;

(2) For embalmers, the funeral service science exam covering embalming, restorative art, microbiology, pathology, chemistry and anatomy.

Applicants will also be required to successfully complete a state exam in the following subjects:

(3) For funeral directors, signs of death, sanitary science and state law governing the practice of funeral directing, and the preparation, burial, disposal or shipment of human remains;

(4) For embalmers, physiology, sanitary science and state law governing the practice of embalming, and the preparation, burial, disposal or shipment of human remains.

#### REPEALER

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

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

✓ WAC 308-48-130 COLLEGE CREDIT.

#### **WSR 86-15-023**

##### **ADOPTED RULES**

#### **DEPARTMENT OF LICENSING (Securities Division)**

[Order SDO-89-86—Filed July 14, 1986]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at 1300 Quince Street, Olympia, WA 98504, the annexed rules relating to definition of terms and exemption from registration:

New WAC 460-44A-200 Exemption from registration for secondary transactions pursuant to RCW 21.20.320(15).

Amd WAC 460-10A-160 Recognized securities manual.

This action is taken pursuant to Notice No. WSR 86-11-034 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 21.20.450 (as to both rules) and RCW 21.20.320(15) (as to WAC 460-44A-200) and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 21.20.320(15) (as to WAC 460-44A-200) and RCW 21.20.320(2) (as to WAC 460-10A-160) which directs that the Department of Licensing has authority to implement the provisions of the Securities Act of Washington.

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 9, 1986.

By Theresa Anna Aragon  
Director

#### NEW SECTION

✓ WAC 460-44A-200 EXEMPTION FROM REGISTRATION FOR SECONDARY TRANSACTIONS PURSUANT TO RCW 21.20.320(15) The term "securities previously sold and distributed to the public" as used in RCW 21.20.320(15) shall not include securities sold and distributed pursuant to Securities and Exchange Commission Regulation D that have not been registered with the Securities Administrator of this state pursuant to the Securities Act of Washington. The Administrator finds that in enacting RCW 21.20.320(15) the legislature did not contemplate the exemption of offers and sales of securities in the state of Washington that have been reviewed by neither the Securities and Exchange Commission nor the Securities Administrator of this state.

#### AMENDATORY SECTION

✓ WAC 460-10A-160 RECOGNIZED SECURITIES MANUAL. For the purpose of RCW 21.20.320(2) "Recognized securities manual" shall mean: Fitch Investors Service, Moodys Investors Service (except for Moodys International manual), and Standard and Poor's Corporation((s)) Records; provided Moodys OTC Industrial manual is a "recognized securities manual" for the purposes of RCW 21.20.320(2) only with respect to outstanding securities of issuers meeting the following requirements:

(1) an entry describing the issuer and meeting the informational requirements of RCW 21.20.320(2) was published in Moodys Investors Service OTC-Industrial manual and and such an entry has appeared continuously in that manual since August 9, 1986 and the issuer has not subsequently reorganized, merged, consolidated, or had a stock split; or

(2) securities of the issuer have been registered with the Securities and Exchange Commission pursuant to section 12 of the Securities and Exchange Act of 1934, and the issuer has been subject to the reporting requirements of section 13 of that act, and has promptly filed all reports required by section 13 for the three reporting periods immediately preceding the claim of the RCW 21.20.320(2) transactional exemption.

**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 86-15-024

NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF ECOLOGY

[Memorandum—July 14, 1986]

Municipal Wastewater Treatment Construction Grants  
Federal FY 1987 Construction Grants Project Priority  
List

The Washington Department of Ecology is seeking public comment on the proposed FY 1987 federal project priority list for municipal wastewater treatment construction grants and revision of the federal fact sheet. The project priority list identifies projects scheduled to receive federal grant assistance in federal fiscal year 1987 beginning October 1, 1986.

A hearing will be held on Friday, August 29, 1986, at 1:30 p.m. to receive testimony. The hearing will be located at:

EFSEC Hearing Room  
Rowesix Building Complex  
4224 Sixth Avenue Southeast  
Building #1  
Lacey, Washington 98503

The proposed FY 1987 project priority list and revised fact sheet will be available July 29, 1986, from Ms. Erin Guthrie, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, or by telephone (206) 459-6068.

The department encourages all interested parties to provide testimony. Written comments will be accepted until September 1, 1986. Persons unable to attend the hearing may mail comments to: Washington Department of Ecology, Erin Guthrie, Mailstop PV-11, Olympia, Washington 98504.

## WSR 86-15-025

ADOPTED RULES  
GAMBLING COMMISSION

[Order 159—Filed July 14, 1986]

Be it resolved by the Washington State Gambling Commission, acting at Port Angeles, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-02-020 and 230-40-120.

This action is taken pursuant to Notice No. WSR 86-11-005 filed with the code reviser on May 9, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 9.46.050(3) and [9.46].070 (1), (2) and (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.

APPROVED AND ADOPTED July 10, 1986.

By Ronald O. Bailey  
Deputy DirectorAMENDATORY SECTION (Amending Order 144,  
filed 7/9/85)

✓ WAC 230-02-020 TIME AND PLACE OF MEETINGS. Regular public meetings of the commission shall normally be held (~~in March, June, September, and December. Each such regular meeting shall be held in Olympia, Washington, beginning~~) quarterly at the hour of 10:00 a.m., date and place to be set by the commission with at least two weeks advance notice. Additional public meetings necessary to discharge the business of the commission may be called from time to time.

AMENDATORY SECTION (Amending Order 154,  
filed 10/14/85)

✓ WAC 230-40-120 LIMITS ON WAGERS IN CARD GAMES. The following limits shall not be exceeded in making wagers on any card game. For games in which the following method of wagering is allowed:

(1) Multiple wagers per player per hand during each round, each wager or raise shall not exceed \$5.00. There shall be no more than a total of two raises per round irrespective of the number of players: PROVIDED, That in card games providing for three or more rounds of betting, the wager or raise for the last round of betting, shall not exceed \$10.00.

(2) Single wagers per player per hand during each round (no raises), each wager shall not exceed \$5.00.

(3) Single wager per player per game, each wager shall not exceed \$5.00.

(4) Amount per point, each point shall not equal more than five cents in value.

(5) An ante, except for panguingue (pan), shall not be more than twenty-five cents per person per hand to be played, contributed by each player, or the dealer of each hand, subject to house rules, may ante for all players before dealing in an amount not to exceed \$2.00. In lieu of an ante, the licensee may, by house rule, authorize one blind and not more than two straddles. The blind will not exceed \$1.00 and the straddles will not exceed \$3.00. The blind and straddle will become part of the player's wager. The maximum betting round when a blind and straddle are used shall not exceed \$15.00.

(6) Forced wagers or raises in poker are prohibited except as an ante. In other authorized games, forced wagers and raises are prohibited except as they may be expressly included within the basic definition of the particular card game in Hoyle's Modern Encyclopedia of Card Games, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974 1st Edition, pages 219-277.

(7) Panguingue (pan) - maximum value of a chip for payoff will not exceed \$2.00. Ante will not exceed one chip. No doubling of conditions. Players going out, may collect not more than two chips from each participating player.

No licensee shall allow these wagering limits to be exceeded in a card game on his premises.

**WSR 86-15-026**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 230-02-350 and 230-40-055; and new section WAC 230-08-165;

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 chapter 9.46 RCW.

This notice is connected to and continues the matter in Notice No. WSR 86-11-005 filed with the code reviser's office on May 9, 1986.

Dated: July 13, 1986  
 By: Ronald O. Bailey  
 Deputy Director

**WSR 86-15-027**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 230-02-110, 230-02-120, 230-02-130, 230-02-350, 230-08-010, 230-08-130 and 230-08-160; new sections WAC 230-02-125, 230-02-135, 230-02-360, 230-02-370 and 230-02-380; and repealing WAC 230-08-100;

that the agency will at 10:00 a.m., Friday, September 12, 1986, in the Westwater Inn, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 9.46 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 12, 1986.

Dated: July 13, 1986  
 By: Ronald O. Bailey  
 Deputy Director

**STATEMENT OF PURPOSE**

Title: Amendatory sections WAC 230-02-110 Gross receipts defined, 230-02-120 Net receipts defined, 230-02-130 Net income defined, 230-02-270 Punchboard defined, 230-02-350 Commercial stimulant defined, 230-08-010 Monthly records, 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs, and 230-08-160 Quarterly activity reports by operators of social and public card rooms; new sections

WAC 230-02-125 Adjusted net receipts defined, 230-02-135 Gross sales defined, 230-02-360 Licensed premises defined, 230-02-370 Food and drink business defined, and 230-02-380 Established business defined; and repealing WAC 230-08-100 Political contributions of licensees to be reported.

Description of Purpose: To clarify the financial terms used in the regulation of authorized gambling activities and redefine the punchboard.

Statutory Authority: RCW 9.46.020 (5) and (18), 9.46.070 (1), (2), (8), (9), (11), (12), (13), (14) and (20) and 9.46.140(1).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-02-110 clarifies the term "gross receipts"; 230-02-120 clarifies the term "net receipts"; 230-02-125 establishes and defines the term "adjusted net receipts"; 230-02-130 clarifies the term "net income"; 230-02-135 defines the term "gross sales"; 230-02-270 redefines the punchboard to include electronic devices that operate similar to the paper punchboards; 230-02-350 clarifies the term "commercial stimulant"; 230-02-360 defines a licensed premises; 230-02-370 defines a food and drink business; 230-02-380 defines an established business; 230-08-010 clarifies the type of records to be maintained by licensees for determination of commercial stimulant; 230-08-130 clarifies the information to be reported on the punchboard/pull tab quarterly report; 230-08-160 clarifies the information to be reported on the social and public card room quarterly report; and 230-08-100 eliminates the requirement for licensees to report to the commission their political contributions.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm; and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments and new rules.

Agency Comments: The agency believes the proposed amendments and new rules are self-explanatory and need no further comment.

These amendments and new rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules.

**AMENDATORY SECTION** (Amending Order 5, filed 12/19/73)

WAC 230-02-110 GROSS RECEIPTS DEFINED. "Gross receipts" means ((all money, and all other things of value, received by a person or organization during a given period of time)) the monetary value that would be due to any operator of a gambling activity for any chance taken, for any table fees for card playing, or other fees for participation, as evidenced by required records. The value shall be stated in U.S. currency, before any deductions for prizes or any other expenses. In the absence of records, gross receipts shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.



AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-02-120 NET RECEIPTS DEFINED. "Net receipts" means all ~~((money, and all other things of value, received by a person or organization during a given period of time, less the amount of money paid out as cash prizes, or expended for prizes actually distributed to winners, during the same period of time))~~ gross receipts from any gambling activity, less the monetary value or, in the case of merchandise, the actual cost, of any prizes that were awarded.

NEW SECTION

WAC 230-02-125 ADJUSTED NET RECEIPTS DEFINED. "Adjusted net receipts" means the income from all gambling activities that are compared to gross sales for determination of commercial stimulant compliance. Adjusted net receipts are determined by deducting the following expenses from net receipts, when they are supported by verifiable records and actually paid out during the period:

(1) Federal, state, and local taxes and fees, other than income taxes, directly relating to the gambling activity: PROVIDED, That taxes and fees may be deducted using the accrual accounting method if all accounting records are normally maintained on the accrual method and notice is provided to the commission; and

(2) The cost of one (1) licensed card room employee to be on duty any time the activity is open for business: PROVIDED, That the total cost allowed shall not exceed \$8.50 per hour of operation.

AMENDATORY SECTION (Amending Order 5, filed 12/9/73)

WAC 230-02-130 NET INCOME DEFINED. "Net income" means net receipts, less all other expenses ~~((directly))~~ related to the operation of a licensed activity and paid out during the same period of time: PROVIDED, That expenses must be reported on the accrual basis if the records are normally maintained on that basis.

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

**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 230-02-135 GROSS SALES DEFINED. "Gross sales" means the monetary value actually received for all non-gambling goods and services, sold to persons who do not hold a substantial interest in the business, and occurring on the licensed gambling premises. The value shall be stated in U.S. currency and net of any sales taxes or discounts. Income received from sales made on behalf of others or in partnership with third parties, commissions, or income splitting schemes, shall be recorded at the net monetary value actually realized by the licensed business.

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-02-270 PUNCHBOARD DEFINED. ~~((A-p)) (1) "Punchboard" ((is)) means a board or device containing a number of ((holes or)) receptacles of uniform size in which are placed ((mechanically and)), at random, ((serially numbered slips of paper or other substance which may be punched or drawn from said hole or receptacle by any person desiring to do so, and which the public, upon payment of a consideration, may punch or draw such numbered slips of paper or other substance from such hole or receptacle and obtain an award if the number drawn corresponds to a winning number.)) punches (slips of paper or other substance, imprinted with numbers or symbols) and which:~~

~~(a) A specific serial number is assigned to the punchboard and printed on each punch;~~

~~(b) A flare or face sheet covers the receptacles and sets out the winning numbers or symbols and prizes which may be won;~~

~~(c) Upon the payment of consideration, a player may select and remove a punch from a receptacle; and~~

~~(d) A prize is awarded if the number or symbol, set out on the selected punch, matches a symbol on the flare or face sheet.~~

~~(2) In the alternative, electronic devices may be used to replace the receptacles and punches with representative electronic positions and~~

~~randomly assigned numbers or symbols: PROVIDED, That the following conditions must be met:~~

~~(a) A physical flare or face sheet must cover the electronic positions and no video representation of a punchboard is used;~~

~~(b) To select a chance a player must physically punch a hole in the flare or face sheet;~~

~~(c) Numbers or symbols must be assigned to each electronic position prior to the first punch by a player and remain fixed to the assigned positions during the entire play of the game;~~

~~(d) A receipt, setting out the numbers, symbols, or punch number selected, is furnished to the player after each punch is selected;~~

~~(e) Must provide a commission approved audit trail; and~~

~~(f) The electronic device and the flare must be submitted to, and approved by, the commission prior to being offered for sale in the state.~~

**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 125, filed 11/15/82)

WAC 230-02-350 COMMERCIAL STIMULANT DEFINED. ~~((An activity is operated as a commercial stimulant, for the purposes of chapter 9.46 RCW and these rules, only when it is an incidental activity operated in connection with, and incidental to, an established business, primarily engaged in the sale of food or drink for consumption on the premises, with the primary purpose of increasing the volume of sales of food and drink for consumption on that business premises:))~~

~~Gambling activities authorized for use as commercial stimulants shall be deemed as not being used for this purpose when the combined gross receipts from all such gambling activities, less that amount paid out for or as prizes, and less that amount paid out in federal, state, and local taxes or fees, directly related to the gambling activities, and less that amount paid out in expenses incurred directly as a result of providing a card room employee to be on duty and in the licensed card room area in compliance with WAC 230-40-400 which shall not exceed \$8.50 per hour of operation, are more than the total of the gross receipts from the food and drink business during any calendar quarter.))~~

~~"Commercial stimulant" means any licensed gambling activity, when operated only as an incidental activity, by an established food and drink business with the primary purpose of increasing the volume of food and drink sales for on premises consumption. For purposes of RCW 9.46 and these rules, gambling activities shall qualify as a commercial stimulant only when the combined adjusted net receipts from punchboards, pull tabs, and public card rooms are less than the total gross sales from the food and drink business.~~

NEW SECTION

WAC 230-02-360 LICENSED PREMISES DEFINED. "Licensed premises" means the physical building and property, upon which the licensed gambling activity occurs, as set out and approved on the license application: PROVIDED, That where only a portion of a building is leased, only that portion set out in the lease document on file with the commission, shall be considered the licensed premises: PROVIDED FURTHER, That when owners or holders of a substantial interest, of a food and drink business, licensed to conduct gambling activities, also operate additional and separate businesses in the same building or on the same property, only the gross sales from the licensed food and drink business, as set out and approved on the license application, shall be included for commercial stimulant purposes.

NEW SECTION

WAC 230-02-370 FOOD AND DRINK BUSINESS DEFINED. "Food and drink business" means any business which is primarily engaged in the sale of food and drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises: PROVIDED, That for purposes of RCW 9.46 and these rules, a business is determined to be primarily a "food and drink business" when the total gross sales of food and drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises: PROVIDED FURTHER, That food and drink items furnished to employees, without their actually paying for it, shall be treated as sales only if:

(1) Detailed records are maintained;

(2) The sale is recorded at estimated cost, but not more than two dollars and fifty cents (\$2.50) per meal; and

(3) No more than one meal per employee is recorded during any four hour work shift, not to exceed two (2) meals during any 24 hour period.

#### NEW SECTION

WAC 230-02-380 ESTABLISHED BUSINESS DEFINED. "Established business" means any business who has applied for and received all licenses or permits required by any state or local jurisdictions and has been open to the public for a period of not less than ninety (90) days: PROVIDED, That the commission may grant "established" status to a business that:

- (1) Has completed all construction and is ready to conduct business;
- (2) Has obtained all required licenses and permits;
- (3) Provides the commission a planned operating schedule which includes estimated gross sales; and
- (4) Passes an inspection by the commission.

#### AMENDATORY SECTION (Amending Order 155, filed 3/14/86)

WAC 230-08-010 MONTHLY RECORDS. Every person or organization licensed to operate any authorized gambling activity shall keep and maintain permanent monthly records of all of the activities of the licensee related to each licensed activity. These records must include all financial transactions and contain enough detail to determine compliance with the requirements of WAC 230-04-050 and 230-04-080. These records shall be kept separate for each month and shall include, but not necessarily be limited to, all details of the following:

- (1) The gross receipts from the conduct of each of the activities licensed.
- (2) Full details on all expenses related to each of the activities licensed.
- (3) The total cost of all prizes paid out for each of the activities licensed.
- (4) With respect to those organizations licensed as qualified bona fide charitable or bona fide nonprofit organizations, except agricultural fairs, records ~~((which))~~ shall clearly show in detail how those proceeds from each licensed activity obtained by the licensee were used or disbursed by that licensee.
- (5) With respect to ~~((persons licensed to stimulate food and drink business))~~ commercial stimulant licensees, records shall include at least the following details:
  - (a) ~~((F))~~ Gross sales of food and drink ~~((sales))~~ for consumption on their licensed premises;
  - (b) ~~((F))~~ Gross sales of food and drink ~~((sales))~~ for ~~((off-premises))~~ consumption off the licensed premises; and
  - (c) ~~((A))~~ Gross sales from all other business activities occurring on ~~((transactions directly related to))~~ the licensed ~~((business))~~ premises.
- (6) In addition to any other requirement set forth in these rules, licensees for the operation of punchboards and pull tabs shall be required to prepare a detailed monthly record for punchboards and pull tab series removed from play during that month. This detailed monthly record shall be recorded in a standard format prescribed by the commission and shall disclose for each set at minimum the following information:
  - (a) The name of the punchboard or pull tab series;
  - (b) The Washington state identification stamp number issued by the commission and placed thereon;
  - (c) The series number of each pull tab series or punchboard;
  - (d) The date placed out for play;
  - (e) The date removed from play;
  - (f) The total number of tabs in each pull tab series or the total number of punches in each punchboard;
  - (g) The number of pull tabs or punches remaining after removal from play;
  - (h) The number of pull tabs or punches played from the pull tab series or punchboard;
  - (i) The cost to the players to purchase one pull tab or one punch;
  - (j) The gross receipts as defined in WAC 230-02-110;
  - (k) The total prizes paid, including both cash and merchandise (calculated by the cost to the licensee) prizes;
  - (l) The net receipts (gross receipts less total prizes paid);
  - (m) The cash over or short determined by (1) subtracting actual cash from net receipts for punchboards and pull tabs which pay cash prizes, and (2) subtracting actual cash from gross receipts for punchboards and pull tabs which award merchandise prizes; and

(n) The actual cash received from the operation of each pull tab series or punchboard; and,

In the alternative, with written commission approval, licensees operating pull tabs may record (m) and (n) in total on a daily, weekly, or monthly basis.

(7) Copies of all additional financial data which support tax reports to any and all governmental agencies.

Each of these records shall be maintained by the licensee for a period of not less than three years from the end of the fiscal year for which the record is kept unless the licensee is released by the commission from this requirement as to any particular record or records.

#### AMENDATORY SECTION (Amending Order 147, filed 2/22/85)

WAC 230-08-130 QUARTERLY ACTIVITY REPORTS BY OPERATORS OF PUNCHBOARDS AND PULL TABS. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st  
 April 1st through June 30th  
 July 1st through September 30th  
 October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or post-marked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee then the preparer shall also sign the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include ~~((among other items;))~~ the following:

- (1) ~~((The g))~~ Gross ~~((receipts of the licensee from all sources))~~ sales, other than licensed gambling activities during the reporting period~~((:));~~
- (2) Th~~((e))~~at portion of the ~~((receipts set out in response to (1) above))~~ gross sales that relate~~((d))~~s solely to the sale of food and drink for consumption on the premises~~((:));~~
- (3) The gross receipts from punchboards and the gross receipts from pull tabs~~((:));~~
- (4) The total amount of cash prizes paid out and the cost to the licensee of all merchandise prizes paid out, for punchboards and for pull tabs~~((:));~~
- (5) ~~((A))~~ Full details of all expenses relat~~((ing directly))~~ed to the purchase and operation of punchboards and pull tabs~~((:));~~ and
- (6) Total net income.

#### AMENDATORY SECTION (Amending Order 147, filed 2/22/85)

WAC 230-08-160 QUARTERLY ACTIVITY REPORTS BY OPERATORS OF SOCIAL AND PUBLIC CARD ROOMS. Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st  
 April 1st through June 30th  
 July 1st through September 30th  
 October 1st through December 31st.

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or post-marked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the highest ranking executive officer or his designee. If the report is prepared by someone other than the licensee or his employee, then the preparer shall also sign the report.

The report shall be completed in accordance with the related instructions furnished with the report. The report shall include ~~(among other items,)~~ the following:

(1) ~~((The g))~~ Gross ~~((receipts of the licensee from all sources))~~ sales, other than licensed gambling activities during the report period ~~((:));~~

(2) ~~Th((e))~~at portion of the ~~((receipts set out in response to (1) above))~~ gross sales that relate ~~((d))s~~ solely to the sale of food and drink for consumption on the premises ~~((:));~~

(3) Gross receipts from the collection of fees charged for allowing persons to play ~~((:));~~

(4) Full details ~~((on all expenses directly related to the operation of the card room, including))~~ of all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the card room, including:

(a) ~~((a))~~ A description of the work performed by that person ~~((:));~~

(b) The hourly wage, including benefits; and

(c) The total hours worked during the period.

(5) Full details of all other expenses related to the operation of the card room;

(6) ~~((5))~~ The net income or loss from the operation of the card room for the reporting period ~~((:));~~

(7) The normal days and times of operation of the card room;

(8) The total hours the card room was open during the period; and

(9) Full details of any meals furnished employees included in (1) or (2) above as sales.

PROVIDED, That persons licensed under Class D - general, no fee charged, are exempt from all portions of this rule.

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:

WAC 230-08-100 POLITICAL CONTRIBUTIONS OF LICENSEES TO BE REPORTED.

**WSR 86-15-028**

**PROPOSED RULES**

**HIGHER EDUCATION PERSONNEL BOARD**

[Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning suspended operation, WAC 251-22-240;

that the agency will at 9:00 a.m., Friday, September 5, 1986, in the Lecture Hall, Building 7, Highline Community College, Midway, 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 28B.16 RCW.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Dated: July 14, 1986

By: John A. Spitz

Director

**STATEMENT OF PURPOSE**

This statement is related to the notice filed with the code reviser on July 14, 1986, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-22-240 Suspended operations.

Description of Purpose: To specify legal means for suspending operations by the institutions and related boards in the state of Washington.

Statutory Authority: Chapter 28B.16 RCW to implement the provisions of that section.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Summary of Proposed Rule Modification: To ensure compliance with the overtime provisions of the Fair Labor Standards Act as it applies to the application of suspended operation.

Reasons Supporting Proposed Action: The Congress passed and the President signed legislation amending the Fair Labor Standards Act, and as a result, overtime provisions affecting classified employees were modified.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is the result of federal law, *Garcia v. San Antonio Metropolitan Transit Authority*, \_\_\_ U.S. \_\_\_, 105 S.Ct. 1005 (1985).

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-22-240 SUSPENDED OPERATION. (1) Notwithstanding the provisions of WAC 251-10-030, if the chief executive officer of the institution determines that the public health or property or safety is jeopardized and it is advisable due to emergency conditions to suspend the operation of all or any portion of the institution, the following will govern classified employees:

(a) When prior notification has not been given, employees released until further notice after reporting to work, shall receive a minimum of four hours pay for the first day. The following options shall be made available to affected employees not required to work for the balance of the closure:

(i) Vacation leave, personal holiday; or

(ii) Accrued compensatory time (where applicable); or

(iii) Leave without pay; or

(iv) Reasonable opportunity to make up work time lost as a result of the suspended operation as provided in subsection (1)(c) of this section.

(b) Employees required to work shall receive their regular rate of pay for work performed during the period of suspended operation. Overtime worked during the closure will be compensated as provided in chapter 251-09 WAC. The personnel officer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operation.

(c) Employees who lose regular work time as a result of suspended operation may request to work additional hours during the ninety-day period immediately following the suspended operation. Compensation for such additional work shall be granted on a compensatory time basis at time and one-half for employees assigned to scheduled or non-scheduled work period positions and not less than straight time nor more than time and one-half for excepted work period positions, and shall be part of the institution's suspended operations procedures. The amount of compensation earned under this section should not exceed the amount of salary lost by the employee due to suspended operation. Management directed overtime shall be compensated as provided in chapter 251-09 WAC.

(2) Each institution/related board, together with the appropriate exclusive representative(s), shall develop and file with the director, subject to approval, a procedure to provide for staffing during periods

of suspended operation. The procedure shall include identification of the manner in which employees will be notified of suspended operation by the chief executive officer.

(3) The provisions of this rule may be utilized only when an institutional procedure has been approved by the director and an official declaration of suspended operation has been made by the chief executive officer of the institution.

(4) The provisions of this section and institutional procedures adopted hereunder may not be in effect in excess of fifteen calendar days unless within the fifteen days the personnel officer requests the director's or designee's approval of an extension. Such approval is subject to confirmation by the board.

**WSR 86-15-029**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order DE-86-16—Filed July 14, 1986]

I, Phillip C. Johnson, [deputy] director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to reservation of future public water supply for Thurston County, chapter 173-591 WAC.

This action is taken pursuant to Notice No. WSR 86-10-071 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 RCW 90.54.050(1) which directs that the Department of Ecology has authority to implement the provisions of chapter 225, Laws of 1971.

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 14, 1986.

By Phillip C. Johnson  
 Deputy Director

Chapter 173-591 WAC  
**RESERVATION OF FUTURE PUBLIC WATER  
 SUPPLY FOR THURSTON COUNTY**

WAC	
173-591-010	Purpose.
173-591-020	Authority.
173-591-030	General.
173-591-040	Reservation area defined.
173-591-050	Definitions.
173-591-060	Petition received—Notice.
173-591-070	Reservation.
173-591-080	Future nonpublic water supply—Policy uses.
173-591-090	Monitoring program.
173-591-100	Water quality.
173-591-110	Exemptions.
173-591-120	Regulation review.
173-591-130	Reservation boundary maps.

NEW SECTION

✓WAC 173-591-010 **PURPOSE.** The purpose of this chapter is to reserve ground waters within Thurston county for future public water supply.

NEW SECTION

✓WAC 173-591-020 **AUTHORITY.** This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW and chapter 173-590 WAC.

NEW SECTION

✓WAC 173-591-030 **GENERAL.** (1) These rules shall apply to ground waters in Thurston county, as defined in WAC 173-591-040 and 173-591-070(4), as specified in Figure II-2 of the coordinated water system plan for Thurston county, dated May 1982, as approved by the department of social and health services for the purposes of reserving ground waters for future public supply, and as shown as the reservation source of supply subareas on the Thurston county reservation source of supply subarea boundary map in WAC 173-591-130, Illus. 2.

(2) The reservation adopted under this chapter will be for the specific geographical area so named the "Reservation Boundaries" as shown in Figure II-1 of the coordinated water supply plan for Thurston county, dated May 1982, as approved by the department of social and health services for the purposes of reserving ground waters for future public water supply, and shown on the Thurston county reservation area boundary map in WAC 173-591-130, Illus. 1.

(3) Appropriation of reserved waters under this chapter shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW and chapter 173-513 WAC Instream resources protection program—Deschutes River basin, water resource inventory area (WRIA) 13 (adopted 6/24/80) and chapter 173-511 WAC Instream resources protection program—Nisqually River basin, water resource inventory area (WRIA) 11 (adopted 2/2/81) and chapter 173-514 WAC Instream resources protection program—Kennedy-Goldsborough Water Resource Inventory Area (WRIA 14) (adopted 1/23/84).

NEW SECTION

✓WAC 173-591-040 **RESERVATION AREA DEFINED.** "Thurston county reservation area" and "Thurston county reservation source of supply area" shall mean those lands lying within Thurston county described as follows:

Location	Township	Range	Sections
Reservation Area	16N	3W	1-3, 10-12
	16N	2W	1-12
	16N	1W	4-9
	17N	3W	1, 2, 3 (portion), 10-15, 22-27, 34-36
	17N	2W	1-36
	17N	1W	1-21, 27 (portion), 28-33

Location	Township	Range	Sections
	17N	1E	6, 7, portions of 3, 8, 18
	18N	3W	1-4, 9-16, 21 (portion), 22 (portion), 23-25, 36
	18N	1W	1-36
	18N	1E	6, 7, 17-20, 29-32, portions of 5, 8, 16, 28
	19N	3W	12, 13, 23-28, 33-36, (portions in Thurston county)
	19N	2W	portion in Thurston county
	19N	1W	portion in Thurston county
	19N	1E	portion in Thurston county
<b>Reservation Source of Supply Area</b>			
Airport	17N	2W	3, 10-15, 22-24 & portions of 9, 16, 21 east of Interstate 5
	18N	2W	34
Allison Springs	18N	2W	18
Black Lake	17N	2W	4-8, 17-20, 29-31 & portions of 9, 16, 21, 18 & 33 west of Interstate 5
	18N	2W	31-33
Deschutes Valley	17N	2W	12
	18N	2W	25, 26, 35, 36
Hawks Prairie	18N	1W	1-8 & portions of 9-12 north of Interstate 5
	19N	1W	25-36
	18N	1E	portion of 6 west of Nisqually river
	19N	1E	portions of 30 & 31 west of Nisqually river
McAllister Springs	18N	1E	19
Mottman Industrial Park	18N	2W	27-29
Southeast	17N	1W	2-11, 14-23
	18N	1W	19-21, 28-34

**NEW SECTION**

✓ WAC 173-591-050 DEFINITIONS. For the purpose of this chapter the following definitions shall be used:

- (1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, fire fighting, and attendant commercial, industrial and irrigation uses.
- (2) "Director" means the director of the state of Washington department of ecology or the director's authorized representative.
- (3) "Department" means the department of ecology unless otherwise specified.
- (4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses.
- (5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan adopted by utilities covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity, including a federal or state agency or county which operates a public water supply system or who contemplates such an operation.

**NEW SECTION**

✓ WAC 173-591-060 PETITION RECEIVED—NOTICE. A petition requesting the reservation of ground waters in Thurston county pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Thurston county for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, game, and social and health services for the purpose of soliciting their comments.

**NEW SECTION**

✓ WAC 173-591-070 RESERVATION. (1) The department, having received a final environmental impact statement dated January 16, 1985, and having conducted an investigation of the surrounding impacts of the proposed reservation and having heard comments solicited through the notice of receipt of petition and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does hereby reserve portions of those ground waters for future public water supplies in Thurston county.

(2) The department finds that to provide peaking capacity on a daily basis the appropriate amount of the reservation shall be 40,589 gallons per minute, limited to a maximum annual withdrawal of 22,931 acre-feet/year, provided that the total annual withdrawal and diversion from all sources shall not exceed

48,225 acre-feet/year. This is intended to serve the estimated population of 288,092 in fifty years. The amount of this reservation shall be reviewed by the department at least once every ten years to ensure that public water supplies are provided for the entire reservation period.

(3) A map showing the reservation area boundary is shown in Figure II-1 of the coordinated water system plan for Thurston county, dated May 1982, as approved by the department of social and health services for the purposes of reserving water for future public water supply purposes, and shown as the reservation area boundary map in WAC 173-591-130, Illus. 1.

(4) Due to the nature of the geographic distribution of the ground waters to be reserved and the development patterns that are anticipated in Thurston county, the reserved ground waters are intended to be beneficially utilized from the unconsolidated materials overlying bedrock, and are prorated to the subareas designated in Figure V-1 of the coordinated water system plan for Thurston county, dated May 1982, as approved by the department of social and health services for the purpose of reserving water for future public water supply purposes, and shown as the reservation source of supply subareas map in WAC 173-591-130, Illus. 2. The reserved ground waters are generally prorated to the reservation source of supply subareas as follows, with the totaled reserved quantity to be obtained from within the boundary area.

Source Location	Reservation Quantities	
	Instantaneous (GPM)	Annual (Af/Yr)
Airport	2,500	1,486
Allison Springs	2,000	1,888
Black Lake	2,000	1,888
Deschutes Valley	1,969	1,170
Hawks Prairie	7,000	4,160
McAllister Springs	2,000	—
Mottman Indust. Park	2,000	1,888
Southeast	14,426	8,573
Total	40,589	22,931

(5) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.070 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(6) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters for each subarea identified in subsection (4) of this section and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(7) No permit issued as described in subsection (5) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

NEW SECTION

WAC 173-591-080 FUTURE NONPUBLIC WATER SUPPLY-POLICY USES. If applications are made for the use of the ground water reserved in WAC

173-591-070(2) for purposes other than public water supplies, as defined in WAC 173-591-050 (6) and (7), the director may issue a permit allowing such uses but these uses shall be junior in priority to all rights issued pursuant to WAC 173-591-070. Interim uses authorized in this section may be reduced or curtailed in right when necessary to allow to full utilization of higher priority rights established in WAC 173-591-070. The department may limit or otherwise condition junior water rights permits as necessary to ensure availability of the reserved ground waters for public water supply purposes consistent with this chapter.

NEW SECTION

WAC 173-591-090 MONITORING PROGRAM.

(1) The department, in cooperation with local government agencies, shall implement a comprehensive monitoring program, the purpose of which is to maintain accurate information on the quality and quantity of ground water reserved in WAC 173-591-070(2).

(2) Under this monitoring program surface and ground water levels will be periodically recorded as well as the levels of any lakes that are maintained by ground waters.

NEW SECTION

WAC 173-591-100 WATER QUALITY. As a general rule, an element of a ground water right is the right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities, construction methods, water use, or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state. Local governments with land use authority are urged to exercise their authorities in such a manner as to protect the quality of the public ground waters reserved for future public water supply by this chapter.

NEW SECTION

WAC 173-591-110 EXEMPTIONS. Wells for single family domestic, stock watering, or other purposes for which the withdrawal is less than 5,000 gallons per day, with priority dates subsequent to the effective date of this regulation, shall be junior to rights issued pursuant to WAC 173-591-070. The quantities of water withdrawn by such wells will not be subtracted from the waters reserved by this regulation.

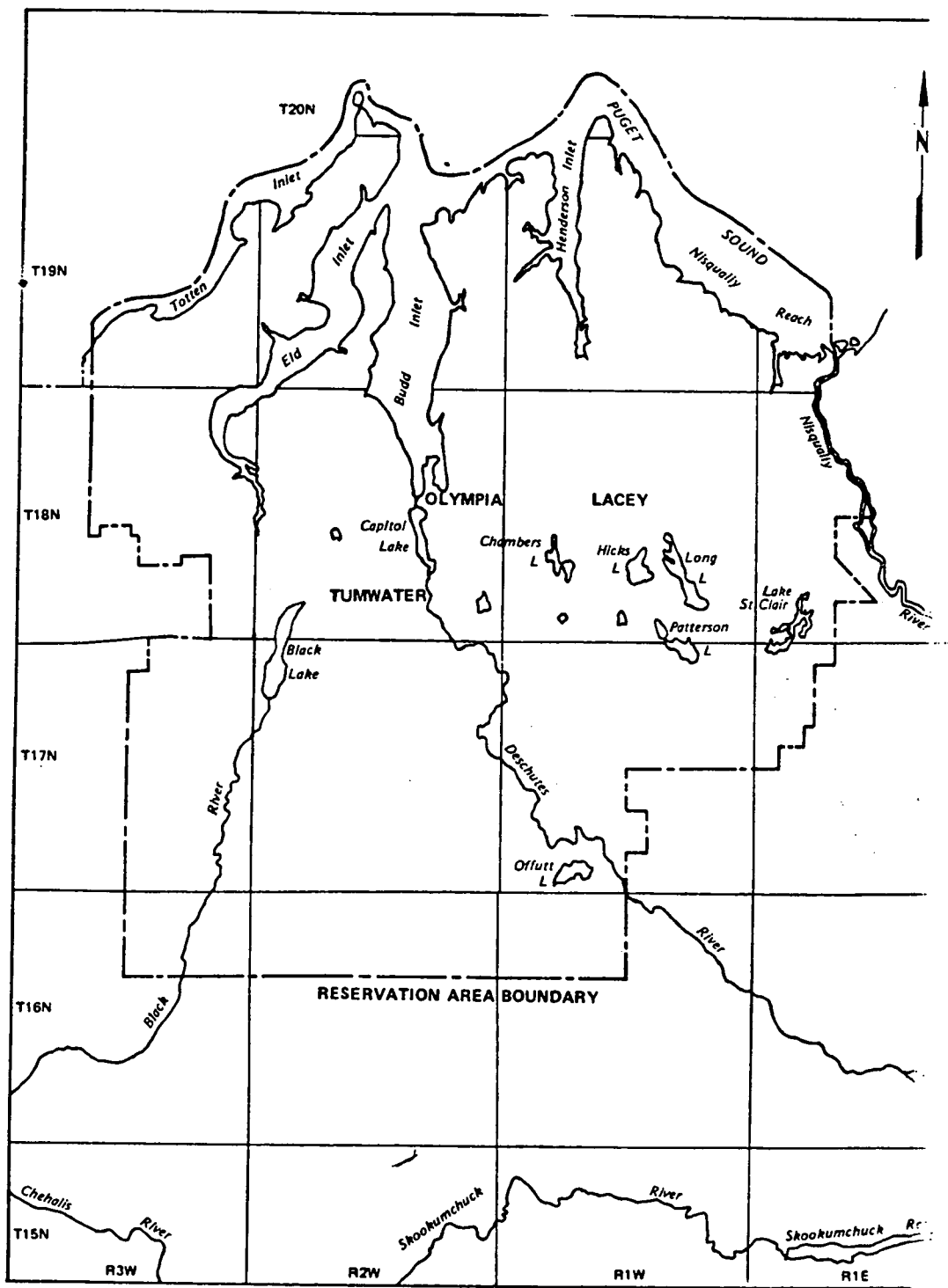
NEW SECTION

WAC 173-591-120 REGULATION REVIEW. This chapter shall be reviewed, and changed as necessary, at least once every ten years.

NEW SECTION

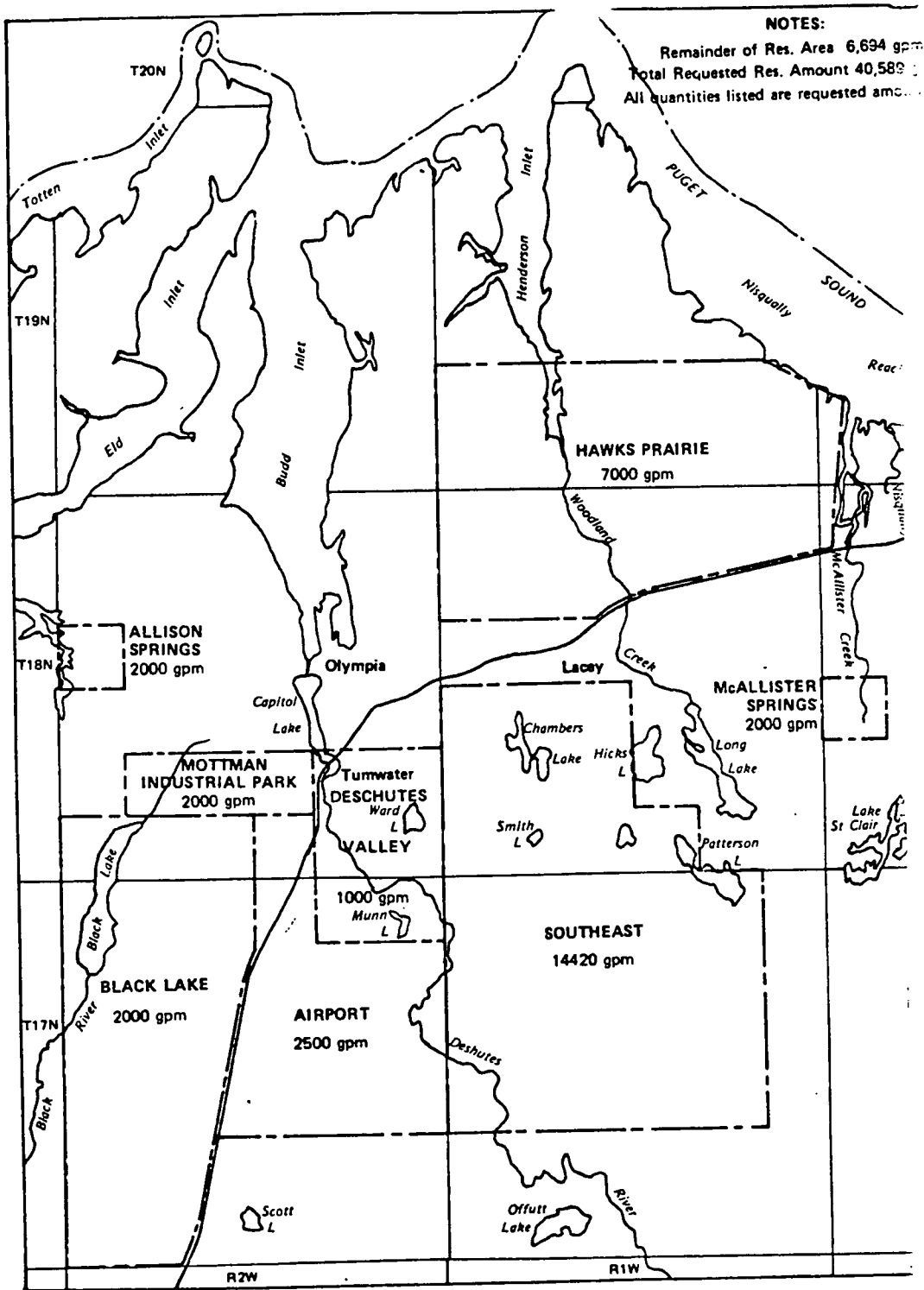
WAC 173-591-130 RESERVATION BOUNDARY MAPS. Thurston county reservation area and reservation source of supply subareas shall include those lands that lie within the heavy outline on the following maps:

THURSTON COUNTY RESERVATION AREA BOUNDARY MAP



THURSTON COUNTY RESERVATION AREA BOUNDARY MAP  
WAC 173-591-130  
ILLUSTRATION 1

THURSTON COUNTY RESERVATION SOURCE OF SUPPLY SUBAREAS BOUNDARY MAP



THURSTON COUNTY RESERVATION SOURCE OF SUPPLY SUBAREAS BOUNDARY MAP  
WAC 173-591-130  
ILLUSTRATION 2



**WSR 86-15-030**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order DE-86-17—Filed July 14, 1986]

I, Phillip C. Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to reservation of future public water supply for Clark County, chapter 173-592 WAC.

This action is taken pursuant to Notice No. WSR 86-10-072 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 RCW 90.54.050(1) which directs that the Department of Ecology has authority to implement the provisions of chapter 225, Laws of 1971.

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 14, 1986.

By Phillip C. Johnson  
 Deputy Director

Chapter 173-592 WAC  
**RESERVATION OF FUTURE PUBLIC WATER  
 SUPPLY FOR CLARK COUNTY**

<b>WAC</b>	
173-592-010	Purpose.
173-592-020	Authority.
173-592-030	General.
173-592-040	Reservation source of supply area defined.
173-592-050	Definitions.
173-592-060	Petition received—Notice.
173-592-070	Reservation.
173-592-080	Monitoring program.
173-592-090	Water quality.
173-592-100	Exemptions.
173-592-110	Regulation review.
173-592-120	Reservation source of supply area map.

NEW SECTION

✓ WAC 173-592-010 **PURPOSE.** The purpose of this chapter is to reserve ground waters within Clark county for future public water supply.

NEW SECTION

✓ WAC 173-592-020 **AUTHORITY.** This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW and chapter 173-590 WAC.

NEW SECTION

✓ WAC 173-592-030 **GENERAL.** (1) These rules shall apply to ground waters in Clark county, as defined

in WAC 173-592-040 and 173-592-070(5) as specified in the coordinated water system plan for Clark county, dated March, 1983, and approved by the department of social and health services for the purposes of reserving ground waters for future public supply. The location of the reserved waters is further defined in Attachment 1A of the revised petition requesting reservation of ground waters for future public water supply purposes, dated August 12, 1985, and shown on the reservation source of supply area boundary map in WAC 173-592-120, Illus. 1.

(2) Appropriation of reserved waters under this chapter shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW.

NEW SECTION

✓ WAC 173-592-040 **RESERVATION SOURCE OF SUPPLY AREA DEFINED.** "Clark county reservation source of supply area" shall mean those lands lying within Clark county described as follows:

Township	Range	Sections
2N	1W	1, 2, 11, 12, 13, 24
3N	1W	1, 2, 12, 13, 24, 25, 36
4N	1W	1, 2, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35, 36
5N	1W	36
2N	1E	1-29, 34-36
3N	1E	1-36
4N	1E	1-36
5N	1E	31-36
1N	2E	1-5, 11, 12
2N	2E	1-36
3N	2E	1-36
4N	2E	1-36
5N	2E	31-36
1N	3E	1-17
2N	3E	1-36
3N	3E	1-36
4N	3E	1-36
5N	3E	31-36
1N	4E	1-18, 20-24
2N	4E	6, 7, 18, 19, 25-36
3N	4E	6, 7, 18, 19, 30, 31
4N	4E	6, 7, 18, 19, 30, 31
5N	4E	31

NEW SECTION

✓ WAC 173-592-050 **DEFINITIONS.** For the purpose of this chapter the following definitions shall be used:

(1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, fire fighting, and attendant commercial, industrial, and irrigation uses.

(2) "Director" means the director of the state of Washington department of ecology or the director's authorized representative.

(3) "Department" means the department of ecology unless otherwise specified.

(4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-

half acre of lawn or garden per dwelling, and other incidental household uses.

(5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling, and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission, and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan developed by utilities and adopted by Clark county and approved by the department of social and health services covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity, including a federal or state agency or county which operates a public water supply system or who contemplates such an operation.

NEW SECTION

✓ WAC 173-592-060 PETITION RECEIVED—NOTICE. A revised petition, dated August 12, 1985, requesting the reservation of ground waters in Clark county pursuant to chapter 173-590 WAC, and a coordinated water system plan approved by the secretary of the department of social and health services, dated March, 1983, were received and accepted by the department. Notice of the receipt of proper petition was published in a newspaper of general circulation in Clark county for two consecutive weeks, and the director sent notice thereof to the directors of the departments of fisheries, game, and social and health services for the purpose of soliciting their comments.

NEW SECTION

✓ WAC 173-592-070 RESERVATION. (1) The department, having heard comments solicited through the notice of receipt of petition and having reviewed a final declaration of nonsignificance under the authority of WAC 197-11-340 (State Environmental Policy Act) and having found ground waters to be generally available for the purposes of the reservation and that the proposed use of the ground waters will result in the maximum net benefit for the people of the state, does

hereby reserve portions of those ground waters for future public water supplies in Clark county.

(2) The department finds that the appropriate amount of the reservation shall be 97,000 gallons per minute and 65,300 acre-foot/year. This is intended to serve the estimated population of 629,200 in fifty years. The amount of this reservation shall be reviewed by the department in consultation with local government at least once every ten years to ensure that adequate public water supplies are provided for the entire reservation period.

(3) A map showing the reservation source of supply boundaries is shown in Attachment 1A of the revised petition, dated August 12, 1985, requesting reservation of ground water in Clark county for future public water supplies. The map showing the reservation source of supply area boundary is incorporated in this regulation in WAC 173-592-120, Illus. 1.

(4) Waters reserved herein may be utilized within the geographical boundaries of Clark county consistent with the department of social and health services approved coordinated water system plan, dated March 1983.

(5) Due to the nature of the geographic distribution of the ground waters to be reserved in Clark county, the reserved ground waters are intended to be beneficially utilized from the following aquifers, as identified in Attachment 1A of the revised petition, dated August 12, 1985:

- 1A Columbia River Alluvium
- 1B-2B Upper Troutdale
- 1C Sandy River Mudstone

(6) The priority date of any permit issued pursuant to RCW 90.03.290 and 90.44.060 which authorizes withdrawal and use of public water for public water supply pursuant to the reservation provided in subsection (2) of this section shall be the effective date of this regulation.

(7) A record of all ground water permits issued pursuant to the reservation provided in subsection (2) of this section shall be maintained by the department in a manner that will readily show the quantities that have been allocated from the reserved ground waters, and the quantities of unappropriated ground waters that may remain in the reserved status available for appropriation.

(8) No permit issued as described in subsection (6) of this section shall authorize a withdrawal that causes a lowering of the water levels below a reasonable or feasible pumping lift in any withdrawal facilities of a senior ground water right holder.

NEW SECTION

✓ WAC 173-592-080 MONITORING PROGRAM. (1) The department, in cooperation with local government agencies, shall implement a comprehensive monitoring program, the purpose of which is to maintain accurate information on the quality and quantity of ground water reserved in WAC 173-592-070(2).

(2) Under this monitoring program surface and ground water levels will be periodically recorded as well as the levels of any lakes that are maintained by ground waters.

NEW SECTION

✓ WAC 173-592-090 WATER QUALITY. As a general rule, an element of a ground water right is the right to use waters of quality appropriate to the beneficial use. In addition to the protection of the availability of ground water to the water withdrawal facilities of ground water right holders, it shall be the policy of the department to protect the quality of the ground waters of the state and in relation thereto to discourage any withdrawal facilities, construction methods, water use, or disposal practices which would contaminate or otherwise reduce the quality of the ground waters or impair the beneficial uses of ground waters of the state. Local governments with land use authority shall be urged to exercise their authorities in such a manner as to protect the quality of the public ground waters reserved for future public water supply by this chapter.

NEW SECTION

✓ WAC 173-592-100 EXEMPTIONS. Wells for single family domestic, stock watering, or other purposes, for which the withdrawal is less than 5,000 gallons per day, with priority dates subsequent to the effective date of this regulation, shall be junior to it, and the quantities of water withdrawn by exempted wells will not be subtracted from the waters reserved by this regulation.

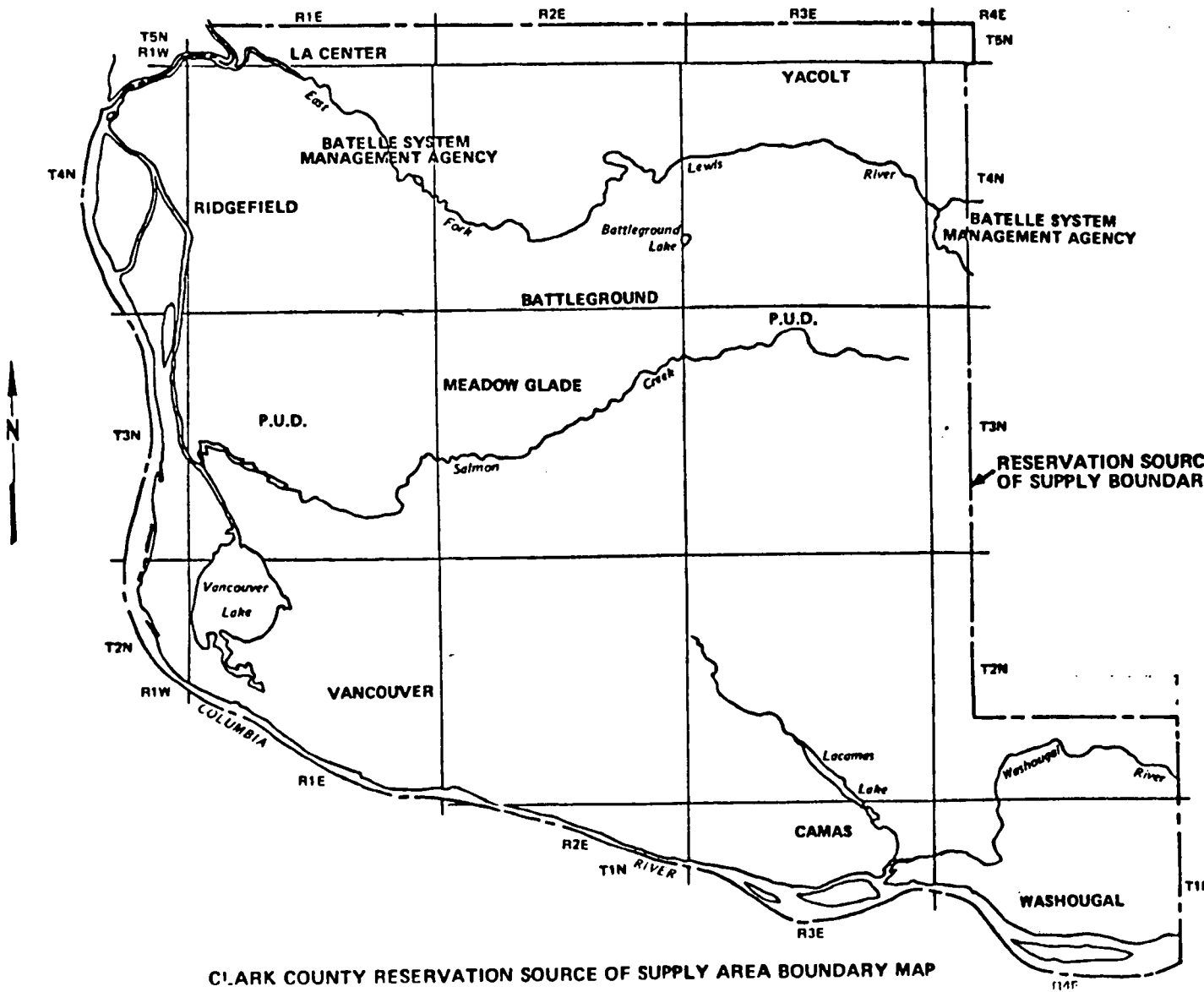
NEW SECTION

✓ WAC 173-592-110 REGULATION REVIEW. This chapter shall be reviewed, and changed as necessary, at least once every ten years.

NEW SECTION

WAC 173-592-120 RESERVATION SOURCE OF SUPPLY AREA MAP. Clark county reservation source of supply area shall include those lands that lie with the heavy outline on the following map:

CLARK COUNTY RESERVATION SOURCE OF SUPPLY AREA BOUNDARY MAP



CLARK COUNTY RESERVATION SOURCE OF SUPPLY AREA BOUNDARY MAP

**WSR 86-15-031**  
**EMERGENCY RULES**  
**DEPARTMENT OF NATURAL RESOURCES**  
 [Order 480—Filed July 14, 1986]

I, Brian J. Boyle, Commissioner of Public Lands, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the adoption of an emergency rule describing hazardous areas protected by the Department of Natural Resources which are closed to entry from midnight July 13, 1986, to midnight October 11, 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 the described forest areas contain an abnormal concentration of forest fuels and, because of the usual summer increase in drying conditions, are particularly exposed to fire danger.

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

This rule is promulgated pursuant to section 21, chapter 100, 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 July 13, 1986.

By Brian J. Boyle  
 Commissioner of Public Lands

**NEW SECTION**

**WAC 332-26-020 OLYMPIC AREA CLOSURES.** *Clallam, Grays Harbor, and Jefferson Counties.*

*Clallam County: Township 30 North, Range 14 West: Section 24, S1/2NW1/4, NE1/4, N1/2SW1/4, N1/2SE1/4, Section 26, NE1/4, E1/2NW1/4, Section 28, SESE, Section 29, S1/2SW1/4, NWSW, SWNW, SE1/4, Section 32, W1/2NW1/4, SW1/4, Section 33, N1/2NW1/4, SW1/4. Township 30 North, Range 13 West: Section 13, N1/2SW1/4 east of 9000 Rd., W1/2NW1/4 west of 9000 Rd, Section 19, W1/2NW1/4, Section 22, W1/2NW1/4, W1/2SW1/4, Section 23, S1/2NE1/4, SE1/4, E1/2SW1/4, Section 24, W1/2 west of 9000 Rd, Section 26, N1/2NE1/4, SENE, E1/2SW1/4, west of Lake Pleasant Rd, Section 35, E1/2SE1/4 west of Conley Rd, Section 36, SESW, W1/2SW1/4 east of Conley Rd. Township 29 North, Range 15 West: Section 12, SW1/4, S1/2NW1/4, Section 23, E1/2SE1/4, Section 24, S1/2, SWNW, Section 25, N1/2NW1/4, SWNW. Township 29 North, Range 14 West: Section 12, SW1/4, Section 13, NENW, N1/2NE1/4 west of East Fork Dickey, Section 21, N1/2SE1/4, E1/2SW1/4. Township 28 North, Range 14 West: Section 19, SENE North of Kilmer Rd, Section 20, W1/2NW1/4 north and west of Kilmer Rd.,*

*E1/2SE1/4, Section 21, SWSW. Township 26 North, Range 12 West: Section 7, N1/2SE1/4 north of Hwy 101, Section 24, NW1/4, SW1/4, W1/2NE1/4, W1/2SE1/4, Section 25, S1/2, NW1/4, Section 27, S1/2SW1/4 south of 1714 Rd, Section 28, S1/2SE1/4, S1/2SW1/4 south of 1715 Rd, Section 34, NE1/4, NENW.*

*Grays Harbor County: Township 17 North, Range 10 West: Section 3, NE1/4NE1/4, NW1/4NE1/4, S1/2NE1/4, portions North of Little Hoquiam, River, NW1/4, NE1/4, SW1/4 North of Little Hoquiam River, Lots 1 and 2; Section 4, NW1/4NE1/4, S1/2NE1/4, N1/2NW1/4, S1/2NW1/4, N1/2SW1/4, NE1/4SE1/4, NW1/4NE1/4, Lots 3 and 4; Section 5, N1/2NE1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4NW1/4, SE1/4NW1/4, N1/2SE1/4. Township 18 North, Range 10 West, Section 10, E1/2, Except NE1/4NE1/4, Section 13, West of East Fork Hoquiam River, Section 14, All, Section 15, NE1/4, (Except NE1/4NE1/4), E1/2NE1/4, E1/2SW1/4, E1/2, W1/2SW1/4, SW1/4SE1/4, Section 23, All, Section 24, West of East Fork Hoquiam River, Section 25, West of East Fork Hoquiam River, Section 26, SW1/4, SW1/4SE1/4 at this junction then North all of Section 26, Section 27, SW1/4NW1/4, NE1/4SW1/4, NW1/4SW1/4, SW1/4SW1/4, SE1/4SW1/4, Section 28, SW1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, NW1/4SE1/4, SWSE1/4, SE1/4SE1/4, Section 32, SE1/4SW1/4, NW1/4SE1/4, SW1/4SE1/4, SE1/4SE1/4, Section 33, NE1/4NE1/4, NW1/4NE1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, SE1/4SE1/4, NW1/4SE1/4, SW1/4SE1/4, E1/2SW1/4, E1/2NW1/4, Section 34, NW1/4NE1/4, SW1/4NE1/4, NW1/4, SW1/4, NW1/4SE1/4, SW1/4SE1/4.*

*Jefferson County: Township 27 North, Range 14 West: Section 2, (West of Goodman Mainline), Section 3, All, Section 4, All, Section 5, E1/2NE1/4, E1/2SE1/4, Section 8, NE1/4, SE1/4, E1/2SW1/4, E1/2NW1/4, Section 9, All, Section 10, All, Section 11, All, Section 15, All, Section 16, NE1/4, SE1/4, N1/2SW1/4, NW1/4. Township 27 North, Range 13 West: Section 30, SE1/4SE1/4, Section 31, NE1/4NE1/4 (East of Goodman Mainline), Section 32, (East of Goodman Mainline), Section 33, All, Section 34, All, Section 35, All, Township 27 North, Range 12 West: Section 29, SW1/4, SE1/4, Section 32, NW1/4. Township 27 North, Range 11 West: Section 27, NW1/4, N1/2NE1/4, SW1/4NE1/4, NW1/4SE1/4, Section 34, S1/2NE1/4, NE1/4NE1/4. Township 26 North, Range 13 West: Section 4, N1/2N1/2, Section 3, North of Goodman Mainline.*

When, in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this Notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

### NEW SECTION

WAC 332-26-040 CENTRAL AREA CLOSURES. Lewis County.

Lewis County: Township 11 North, Range 5 West: Section 1, all except N1/2N1/2; Section 2, all; Section 3, E1/2, part E1/2W1/2 lying east of Chehalis River; Section 8, part S1/2 lying south and east of West Fork of Chehalis River; Section 9, S1/2, part NW1/4 lying south of West Fork of Chehalis River, S1/2NE1/4; Section 10, all except part NW1/4 lying northwest of Chehalis River; Section 11, part N1/2 lying north of Salmon Creek; part NW1/4SW1/4; Section 12, N1/2; Section 15, all; Section 16, all; Section 17, E1/2, part W1/2 lying east of West Fork of Chehalis River. Township 12 North, Range 5 West: Section 1, SW1/4, part SE1/2 lying south of Sand Creek; Section 2, S1/2; Section 11, all; Section 12, W1/2, W1/2E1/2, part N1/2N1/2NE1/4; Section 13, W1/2, W1/2E1/2; Section 14, E1/2, part W1/2 lying east of Big Creek; Section 34, all except W1/2NW1/4NW1/4; Section 35, part S1/2NW1/4, SW1/4, part SE1/4. Township 12 North, Range 6 East: Section 3, W1/2, SE1/4, part of W1/2NE1/4, part of SE1/4NE1/4; Section 4, part of NE1/4, part of E1/2NE1/4NW1/4; Section 10, part of NE1/4NE1/4; Section 11, part of N1/2. Township 13 North, Range 3 East: Section 3, all; Section 6, all; Section 15, all; section 23, N1/2, SE1/4. Township 13 North, Range 6 East: Section 28, part of S1/2, part of SW1/4NE1/4, part of E3/4 NW1/4; Section 33, part of E1/2, part of NW1/4, part of E3/4 SE1/4. Township 14 North, Range 2 East: Section 10, all; Section 11, all; Section 12, all; Section 13, all; Section 24, E1/2. Township 14 North, Range 3 East: Section 1, all; Section 2, all; Section 3, all; Section 4, all; Section 5, all; Section 6, all; Section 7, all; Section 8, all; Section 9, all; Section 10, all; Section 11, all; Section 12, all; Section 13, all; Section 14, all; Section 15, all; Section 16, all; Section 17, all; Section 18, all; Section 19, all; Section 20, all; Section 21, all; Section 22, all; Section 23, N1/2; Section 27, all; Section 29, E1/2; Section 33, all. Township 14 North, Range 4 East: Section 6, all except SE1/4. Township 15 North, Range 3 East: Section 34, all; Section 35, S1/2.

When, in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

### NEW SECTION

WAC 332-26-050 NORTHWEST AREA CLOSURES. Whatcom, Skagit and Snohomish Counties.

Whatcom County: Township 41 North, Range 6 East: Section 33, all; Section 34, all; Section 35, all. Township 40 North, Range 6 East: Section 1, W1/2, W1/2E1/2; Section 2, all; Section 3, E1/2, NW1/4; Section 4, NE1/4. Township 39 North, Range 5 East: Section 16, W1/2E1/2. Township 38 North, Range 6 East: Section 34, SE1/4SW1/4, SE1/4. Township 37 North, Range 6 East: Section 3, W1/2; Section 4, E1/2W1/2, E1/2; Section 15, all except S1/2S1/2SW1/4; Section 21, SE1/4; Section 27, W1/2 except NE1/4NW1/4; Section 28, SW1/4SW1/4; Section 29, E1/2SE1/4; Section 32, N1/2NE1/4, SE1/4NE1/4; Section 33, all; Section 34, all except NE1/4.

Skagit County: Township 36 North, Range 8 East: Section 15, W1/2SE1/4; Section 17, SE1/4NW1/4, E1/2E1/2, S1/2SW1/4, NE1/4SW1/4, W1/2SE1/4; Section 18, all except SE1/4NE1/4 and NE1/4SE1/4; Section 19, W1/2, W1/2E1/2, E1/2NE1/4; Section 20, all; Section 22, N1/2NE1/4; Section 36, SE1/4, E1/2SW1/4. Township 36 North, Range 7 East: Section 2, E1/2, W1/2SE1/4; Section 6, all except W1/2W1/2; Section 7, NE1/4; Section 8, SW1/4; Section 17, N1/2NW1/4, W1/2NE1/4, SE1/4NE1/4. Township 36 North, Range 6 East: Section 3, W1/2, NE1/4SE1/4, N1/2NE1/4, SW1/4NE1/4; Section 4, E1/2SW1/4, SE1/4; Section 9, N1/2NE1/4NW1/4, N1/2NE1/4; Section 10, N1/2; Section 24, SE1/4; Section 25, N1/2NE1/4; Section 35, SE1/4, SE1/4SW1/4, N1/2. Township 35 North, Range 11 East: Section 14, NE1/4, NE1/4SE1/4. Township 35 North, Range 8 East: Section 26, SE1/4NW1/4, S1/2; Section 27, S1/2NW1/4, S1/2; Section 28, all except

SW1/4NW1/4; Section 33, all; Section 34, all; Section 35, all. Township 35 North, Range 6 East: Section 1, W1/2NE1/4; Section 12, S1/2NE1/4, SE1/4. Township 34 North, Range 9 East: Section 26, SE1/4. Township 33 North, Range 10 East: Section 24, NW1/4, E1/2SW1/4.

Snohomish County: Township 29 North, Range 6 East: Section 5, SE1/4SW1/4; Section 6, SW1/4, S1/2NW1/4; Section 8, NE1/4NW1/4. Township 28 North, Range 8 East: Section 23, SW1/4SE1/4; Section 26, NW1/4NE1/4, NE1/4NE1/4 westerly of County Road, SE1/4NE1/4. Township 27 North, Range 8 East: Section 8, S1/2NW1/4. Township 27 North, Range 7 East: Section 9, part S1/2S1/2; Section 14, NW1/4NW1/4; Section 15, NE1/4NE1/4, W1/2SW1/4; Section 16, all; Section 21, NE1/4NE1/4.

When, in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension and by removing the posted notice of hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

"Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations."

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Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

#### NEW SECTION

WAC 332-26-060 SOUTH PUGET AREA CLOSURES. King, Pierce and Mason Counties.

King County: Township 21 North, Range 7 East, All lands lying east of the Burlington Northern Railroad tracks within the following: E1/2 SE1/4, NW1/4 SE1/4, SE1/4 NE1/4 of Section 21; All of Section 22 except the W1/2 NW1/4 and the north 160 feet of the NW1/4 SW1/4; All of Section 27 north of Coal Creek and west of the Weyerhaeuser Mainline road. Township 22 North, Range 9 East, S1/2 SE1/4 of Section 3; All of Section 4; N1/2 NE1/4 of Section 10; N1/2 NE1/4, NE1/4 NW1/4 of Section 13. Township 22 North, Range 10 East, All of Section 19; SE1/4, E1/2 SW1/4 of Section 21. Township 23 North, Range 7 East, SW1/4 of Section 14; N1/2 of Section 22. Township 24 North, Range 7 East, N1/2 of Section 3. Township 24 North, Range 8 East, W1/2 SE1/4 of Section 24.

Township 24 North, Range 9 East, All of Section 19. Township 25 North, Range 7 East, W1/2 NW1/4 of Section 14; NE1/4, N1/2 SE1/4, NE1/4 SW1/4 of Section 15; SE1/4, SE1/4 NW1/4 of Section 34. Township 26 North, Range 9 East, W1/2 NW1/4, N1/2 S1/2 of Section 6; All of Section 14. Township 26 North, Range 7 East, NE1/4, portions of W1/2 SW1/4 of Section 13.

Pierce County: Township 14 North, Range 6 East, All of Section 19; All of Section 30; All of Section 31; All of Section 32.

Mason County: Township 25 North, Range 2 West, NW1/4, SW1/4, SW1/4 SE1/4 of Section 3; All of Section 4; N1/2NE1/4, SE1/4 NE1/4, E1/2 SE1/4 of Section 5; All of Section 9; W1/2 NE1/4, SE1/4 NW1/4, S1/2 SW1/4 of Section 10; NW1/4 NW1/4 above Hwy 101 of Section 15. Township 26 North, Range 2 West, S1/2 SW1/4 SW1/4 of Section 28; SW1/4 SW1/4, S1/2 SE1/4 SW1/4, S1/2 S1/2 SE1/4 of Section 29; S1/2 SW1/4 NW1/4, W1/2 SW1/4, W1/2 NE1/4 SW1/4, SE1/4 SW1/4, S1/2 S1/2 SE1/4 of Section 30; N1/2, SE1/4 of Section 32; NW1/4, S1/2 of Section 33; SW1/4 SW1/4 of Section 34.

When in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this Notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above described areas against fire, the following rule will be enforced:

Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

**WSR 86-15-032**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt,

amend, or repeal rules relating to gas and electric energy conservation plans, WAC 480-90-177 and 480-100-207. The proposed sections are shown below as Appendix A, Cause No. U-86-92. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed adoptions on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 1:30 p.m., Wednesday, September 3, 1986, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive, 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 September 24, 1986.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.28.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 8, 1986, and may submit replies to initial comments by August 29, 1986.

Dated: July 11, 1986

By: Paul Curl  
Acting Secretary

#### STATEMENT OF PURPOSE

In the matter of adopting WAC 480-90-177 and 480-100-207 relating to gas and electric energy conservation plans.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.04.160 which direct that the commission has authority to implement the provisions of chapter 80.28 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to require gas and electric utilities to prepare and file with the commission on a biennial basis energy conservation plans, specifying in general the nature of the information that should be developed.

Promulgation of the proposed rules is sought by petition filed by Representatives Nelson and Todd, of the Washington State Legislature. Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, Washington, phone (206) 753-6451, and members of his staff will be responsible for implementation and enforcement of the proposed rules.

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

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.04.160.

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

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection,

and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### APPENDIX "A"

##### NEW SECTION

WAC 480-90-177 GAS ENERGY CONSERVATION PLAN. (1) Each gas company regulated by the commission shall file with the commission on a biennial basis on January 1st of each odd-numbered year an energy conservation plan. The plan shall set forth at least the following information:

(a) A description of the conservation programs in which the company is currently involved, or expects to be involved, and the amount of energy (expressed in annual average megawatts or an equivalent measure) each program is expected to produce over the next two-year and twenty-year periods following the date of filing.

(b) An estimate of the potential cost-effective energy available in the company service area through conservation over the next two-year and twenty-year periods following the date of filing.

(c) A description of plans, if any, to maximize the development of cost-effective energy available through conservation in the company service area over the next two-year and twenty-year periods following the date of filing.

(d) A description of plans to weatherize residences occupied by low income households, including rentals, within the service territory, including an analysis of the number of residences which could qualify as low income, and specific goals to accomplish weatherization.

(e) A description of efforts made to identify conservation resources available in other service areas which might be available for transfer to the utility to reduce the need to develop resources other than conservation.

(f) If there are no conservation programs currently operating, or if the implementation of plans specified in subsection (c) of this section will fail to achieve the estimate specified in subsection (b) of this section, a discussion of what factors inhibit the production of energy through conservation for the particular company and how those inhibiting factors may be reduced or eliminated for the next two-year and twenty-year periods.

(2) The plan shall utilize the best information available to the utility and may estimate potential conservation available based on data obtained from model conservation programs.

##### NEW SECTION

WAC 480-100-207 ELECTRIC ENERGY CONSERVATION PLAN. (1) Each electrical company regulated by the commission shall file with the commission on a biennial basis on January 1st of each odd-numbered year an energy conservation plan. The plan shall set forth at least the following information:

(a) A description of the conservation programs in which the company is currently involved, or expects to be involved, and the amount of energy (expressed in annual average megawatts or an equivalent measure) each program is expected to produce over the next two-year and twenty-year periods following the date of filing.

(b) An estimate of the potential cost-effective energy available in the company service area through conservation over the next two-year and twenty-year periods following the date of filing.

(c) A description of plans, if any, to maximize the development of cost-effective energy available through conservation in the company service area over the next two-year and twenty-year periods following the date of filing.

(d) A description of plans to weatherize residences occupied by low income households, including rentals, within the service territory, including an analysis of the number of residences which could qualify as low income, and specific goals to accomplish weatherization.

(e) A description of efforts made to identify conservation resources available in other service areas which might be available for transfer to the utility to reduce the need to develop resources other than conservation.

(f) If there are no conservation programs currently operating, or if the implementation of plans specified in subsection (c) of this section will fail to achieve the estimate specified in subsection (b) of this section, a discussion of what factors inhibit the production of energy through conservation for the particular company and how those inhibiting factors may be reduced or eliminated for the next two-year and twenty-year periods.



(2) The plan shall utilize the best information available to the utility and may estimate potential conservation available based on data obtained from model conservation programs.

### WSR 86-15-033

#### PROPOSED RULES

#### DEPARTMENT OF COMMUNITY DEVELOPMENT

[Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Community Development intends to amend rules concerning the conditions and procedures under which state funds will be made available to assist local emergency shelter programs;

that the agency will at 2 - 4 p.m., Thursday, August 28, 1986, in the Fifth Floor Conference Room, Department of Community Development, 9th and Columbia Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The amendment of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.63A.060 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is section 217, chapter 6, Laws of 1985 1st ex. sess.

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

Dated: July 10, 1986

By: Chuck Clarke  
Deputy Director

#### STATEMENT OF PURPOSE

Title: Chapter 365-120 WAC, State funding of local emergency shelter programs.

Statutory Authority: RCW 43.63A.060 and chapter 34.04 RCW.

Specific Statute Rule is Intended to Implement: Section 217, chapter 6, Laws of 1985 1st ex. sess.

Summary of Rule and Reasons Supporting Proposed Action: This chapter sets forth amendments to the conditions and procedures under which state funding will be made available to assist local emergency shelter programs.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Katherine Friedt, Assistant Director, Division for Community Services, Department of Community Development, Ninth and Columbia Building, GH-51, Olympia, Washington 98504-4151, (206) 753-4979.

Organization Proposing the Rule: Department of Community Development.

Agency Comments or Recommendations: None.

Is this Rule Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

#### 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 subcontract 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 ~~((x))~~ 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 nonprofit 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 86-15-034

#### PROPOSED RULES

#### DEPARTMENT OF COMMUNITY DEVELOPMENT

[Filed July 14, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Community Development intends to amend rules concerning the conditions and procedures under which state funds will be made available to assist local food banks and food distribution centers;

that the agency will at 2 - 4 p.m., Wednesday, August 27, 1986, in the Fourth Floor Conference Room, Department of Community Development, 9th and Columbia Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The amendment of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 43.63A.060 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is section 217, chapter 6, Laws of 1985 1st ex. sess.

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

Dated: July 10, 1986

By: Chuck Clarke  
Deputy Director

#### STATEMENT OF PURPOSE

Title: Chapter 365-140 WAC, State funding of local emergency food programs.

Statutory Authority: RCW 43.63A.060 and chapter 34.04 RCW.

Specific Statute Rule is Intended to Implement: Section 217, chapter 6, Laws of 1985 1st ex. sess.

Summary of Rule and Reasons Supporting Proposed Action: This chapter sets forth amendments to the conditions and procedures under which state funding will be made available to assist local emergency food programs.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Katherine Friedt, Assistant Director, Division for Community Services, Department of Community Development, Ninth and Columbia Building, GH-51, Olympia, Washington 98504-4151, (206) 753-4979.

Organization Proposing the Rule: Department of Community Development.

Agency Comments or Recommendations: None.

Is this Rule Necessary as the Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

#### 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 86-15-035

#### PROCLAMATION NO. 86-04

#### OFFICE OF THE GOVERNOR

#### Declaring an Emergency in the City of Spokane

A lightning storm on May 20, 1986, caused loss of electrical power to the city of Spokane upriver Hydroelectric Dam complex. The loss of power rendered the flood gates inoperable. The water quickly overtopped the earthen portion of the dam and caused it to fail. The dam failure resulted in extensive damage to downstream property in the city of Spokane.

The severity and magnitude of the damage is beyond the capabilities of the affected political subdivision, thereby constituting an emergency, as defined by the

Washington State Comprehensive Emergency Management Plan and the Revised Code of Washington.

NOW, THEREFORE, I, BOOTH GARDNER, Governor of the state of Washington, as a result of the aforementioned flooding and under the provisions of Chapter 43.06 RCW and RCW 38.52.060, do hereby proclaim that a State of Emergency exists in Washington State and that the Washington State Comprehensive Emergency Management Plan be executed. The resources of the state of Washington are authorized to be employed to assist affected political subdivisions in a concerted effort to cope with the emergency. Additionally, the Division of Emergency Management is instructed to coordinate all state assistance to the affected areas. The Division is also instructed to determine whether Federal disaster assistance is needed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 11th day of July, Nineteen Hundred and Eighty-Six.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Laura Eckert

Assistant Secretary of State

**WSR 86-15-036**  
**PROPOSED RULES**  
**CEMETERY BOARD**  
[Filed July 15, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington Cemetery Board intends to adopt, amend, or repeal rules concerning Definitions: Sale or transfer of ownership or control of any cemetery, new section WAC 98-20-020;

that the agency will at 10:00 a.m., Thursday, July 31, 1986, in the Sea-Tac Tower #1, Suite 500, 18000 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 68.05.100.

The specific statute these rules are intended to implement is RCW 68.05.255.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 31, 1986.

This notice is connected to and continues the matter in Notice No. WSR 86-12-068 filed with the code reviser's office on June 4, 1986.

Dated: June 30, 1986  
By: Margaret A. Gaffney  
Assistant Attorney General

**WSR 86-15-037**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
[Order BLS 100—Filed July 15, 1986]

I, Theresa Anna Aragon, director of the state of Washington Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fee for whitewater river for-hire registration, new section WAC 308-300-310.

This action is taken pursuant to Notice No. WSR 86-11-062 filed with the code reviser on May 21, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to section 11(2), chapter 217, Laws of 1986, and RCW 43.24.086 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 11, 1986.

By Theresa Anna Aragon  
Director

NEW SECTION

✓ WAC 308-300-310 FEE FOR WHITEWATER RIVER FOR-HIRE REGISTRATION. The annual registration application or renewal fee for any person carrying passengers for hire on whitewater river sections in the state shall be \$12.00.

**WSR 86-15-038**  
**ADOPTED RULES**  
**UNIVERSITY OF WASHINGTON**  
[Order 86-2—Filed July 16, 1986]

Be it resolved by the board of regents of the University of Washington, acting at Seattle, Washington, that it does adopt the annexed rules relating to use of university facilities.

This action is taken pursuant to Notice No. WSR 86-07-007 filed with the code reviser on March 7, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to RCW 28B.20.130 and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public

Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED April 25, 1986.

By Elsa Kircher Cole  
Assistant Attorney General

AMENDATORY SECTION (Amending Order 82-2, filed 7/22/82, effective 10/1/82)

✓WAC 478-136-015 ADMINISTRATIVE RESPONSIBILITIES. (1) The board of regents delegates to the president of the university the authority to regulate the use of university facilities.

(2) Under this authority, the president has appointed the committee on the use of university facilities to provide for proper review of the use of university facilities; to establish within the framework of this policy, guidelines and procedures governing such use; and to establish policies regarding fees and rental schedules where appropriate. Inquiries concerning the use of university facilities may be directed to the Secretary of the Committee, 400 Administration Building (AI-10), 543-2560.

(3) Sponsorship of an event by an academic or administrative unit of the university implies that professional judgment has been applied to the content of the program, the qualifications of the individuals conducting the event, the manner of presentation, and that the event is consistent with the teaching, research, and/or public service mission of the university.

(4) Approval of a facilities use request by the committee on the use of university facilities implies the proposed event has been reviewed with regard to the general facilities policy; the direct and indirect costs to the institution; environmental, health and safety concerns; wear and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the campus community, surrounding neighborhoods and the general public.

(5) Individuals who violate the university's use of facilities regulations will be advised of the specific nature of the violation and, if they persist, will be requested to leave university property. Failure to comply with such a request will subject such individuals to arrest under provisions of RCW ((9.83.080 (~~Criminal trespass—Penalty—Defense~~)) 9A.52.080 (Criminal trespass in the second degree), city of Seattle 12A.08.040 (Criminal trespass), or other applicable laws.

**WSR 86-15-039**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
[Filed July 16, 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 musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services,

employees of amusement device companies, security officers, fire fighters and law enforcement officers, employment, WAC 314-16-075;

that the agency will at 9:30 a.m., Tuesday, August 26, 1986, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 66.08.030.

The specific statute these rules are intended to implement is RCW 66.44.316, 66.44.310 and 66.44.350.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 1986.

Dated: July 16, 1986  
By: Kazuo Watanabe  
Member of the Board

**STATEMENT OF PURPOSE**

Title: WAC 314-16-075 Musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, employees of amusement device companies, security officers, fire fighters and law enforcement officers, employment.

Description of Purpose: To implement the exceptions regarding employment of persons under 21 years of age on licensed premises, as permitted by the recent amendment to RCW 66.44.316.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: RCW 66.44.316, 66.44.310 and 66.44.350.

Summary of Rule: Removes the reporting requirements for licensees that employ professional minor musicians and would extend the exceptions regarding employees eighteen years of age or older permitted to enter and remain on premises licensed under chapter 66.24 RCW, to include janitorial services, disc jockeys, sound and lighting technicians, security personnel, employees of amusement device companies, fire fighters and law enforcement officers as permitted by statute.

Reasons Supporting Proposed Action: To implement the recent amendment to RCW 66.44.316.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Gary W. Gilbert, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact as a result of this rule change.

AMENDATORY SECTION (Amending Order 9, filed 2/17/70)

WAC 314-16-075 ((~~PROFESSIONAL MINOR MUSICIANS—EMPLOYMENT~~)) MUSICIANS, DISC JOCKEYS,

SOUND OR LIGHTING TECHNICIANS, PERSONS PERFORMING JANITORIAL SERVICES, EMPLOYEES OF AMUSEMENT DEVICE COMPANIES, SECURITY OFFICERS, FIRE FIGHTERS AND LAW ENFORCEMENT OFFICERS EMPLOYMENT. Pursuant to the provisions of chapter 250, Laws of 1969 ex. sess. (RCW ((~~66.44.315~~)) 66.44.316), professional musicians 18 years of age and older are permitted to enter and to remain in liquor licensed establishments during and in the course of their employment as musicians. The following definitions and requirements shall be applicable.

(1) Definitions:

(a) The term "professional minor musician" shall be construed as a person between 18 and 21 years of age who is employed to perform in his or her capacity as a musician at a retail liquor licensed establishment.

(b) The term "professional minor musician" shall include a person who plays a musical instrument and/or is a vocalist, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys.

(c) To assure that the professional minor musician employed is engaged for that purpose, he or she shall be compensated at a rate not less than the minimum wage provided for by state law.

(2) Areas in licensed establishments where professional minor musicians may perform:

(a) Professional minor musicians during their performance shall, except as provided in ((~~subdivision~~)) (b) and (c) of this subsection, remain on the stage or bandstand of the licensed premises.

(b) The style of a "strolling musician" or a group of "strolling musicians" may be utilized in licensed establishments.

(c) Disc jockeys and sound and lighting technicians may enter and remain on the licensed premises, in such locations as required, during and in the course of their employment.

(3) Areas where professional minor musicians may remain when not performing:

(a) Prior to commencing a performance; at breaks or intermissions during the performance; and after concluding a performance, professional minor musicians shall be permitted only: On the stage or bandstand; in a private room or separate area on the premises in which no liquor is served; or in areas where minors are permitted under the licensee's minor classification [for example, in the restaurant section of a Class H licensed premises].

(b) Professional minor musicians are permitted to enter and remain on the licensed premises not more than ((~~30 minutes~~)) one hour prior to the start of their performance, in order to set up their equipment and tune their musical instruments, and to remain not more than ((~~30 minutes~~)) one hour after concluding their performance in order to properly secure their equipment.

(4) Responsibilities of licensees:

(a) ((~~★~~)) Licensees having board authorization for live music and wishing to employ professional minor musicians ((shall notify his local inspection office in writing before his initial employment of said professional minor musicians:

(b) Licensees)) shall have available for inspection by the board, or any peace officer, at all reasonable times, a current list of professional minor musicians employed at the licensed premises. Such list shall be retained for a period of 30 days after termination of employment and shall designate the following information with respect to each minor:

- (i) True name and professional or stage name, if any.
- (ii) Permanent resident address and temporary address, if any.
- (iii) Date and place of birth.
- (iv) Mother's maiden name; father's name.
- (v) Social security number.
- (vi) Terms of the agreement of employment.

((~~☞~~)) (b) Licensees shall at all times provide adequate supervision in order to insure that there will be neither the sale of nor the supplying of any alcoholic beverages to professional minor musicians, and that professional minor musicians will not be permitted to consume alcoholic beverages at any place on the premises.

(5) Responsibilities of professional minor musician:

(a) Professional minor musicians shall at all times during the course of their employment on licensed retail premises have with them documents available for inspection which disclose their true age and date of birth.

(6) Practice sessions — "jam sessions":

(a) Practice sessions involving professional minor musicians shall not be permitted on licensed premises.

(b) "Jam sessions" involving professional minor musicians shall not be permitted on any licensed premises unless the participants are being paid for such "jam sessions" in accordance with subsection (1)(c) of this regulation.

(7) Persons eighteen years of age and older performing janitorial services may enter and remain on premises licensed under the provisions of Title 66 RCW during the hours when there is no sale, service, or consumption of liquor on the premises (or in the area being cleaned), but only during and in the course of their performance of janitorial services.

(8) Employees of amusement device companies or companies which are in the business of installing, maintaining, and repairing amusement devices, which employees are eighteen years of age or older, may enter and remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices.

(9) Security officers, fire fighters and law enforcement officers eighteen years and over are permitted to enter and remain on premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment or official duties and only if they are not the direct employees of the licensee. Provided, however, that security officers access to classified portions of liquor licensed premises is limited to only isolated incidents arising in the course of their duties.

WSR 86-15-040

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed July 16, 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 brand signs and point-of-sale displays on retail licensed premises, WAC 314-52-113;

that the agency will at 9:30 a.m., Tuesday, August 26, 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, 66.08.060 and 66.98.070.

The specific statute these rules are intended to implement is RCW 66.24.010 and 66.08.010.

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 86-12-010 filed with the code reviser's office on May 23, 1986.

Dated: July 16, 1986  
By: Kazuo Watanabe  
Board Member

**WSR 86-15-041**  
**ADOPTED RULES**  
**LIQUOR CONTROL BOARD**

[Order 191, Resolution No. 200—Filed July 16, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to:

Amd WAC 314-52-005 Purpose and application of rules.  
 Amd WAC 314-52-070 Outdoor advertising.

This action is taken pursuant to Notice No. WSR 86-12-010 filed with the code reviser on May 23, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.08.060.

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 July 16, 1986.

By Kazuo Watanabe  
 Board Member

**AMENDATORY SECTION** (Amending Order 108, Resolution No. 117, filed 8/11/82)

✓WAC 314-52-005 PURPOSE AND APPLICATION OF RULES. (1) PREAMBLE: The purpose of this title is to provide reasonable regulations as to the kind, character and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any media any advertisement of liquor, unless such advertisement is in conformance with these rules: PROVIDED, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication, nor to the operator of any radio or television station unless such publisher or operator is engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor, directly or indirectly, or through an affiliate.

(3) The board holds each producer, manufacturer, bottler, importer, wholesaler, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor control board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the advertising coordinator of the Washington state liquor control board, but advisory opinions will be restricted to advertising material submitted by said producers, manufacturers, bottlers, importers, wholesalers, or retailers of

liquor, or their agents. (~~((EXCEPTION TO FOREGOING: WAC 314-52-070(3) requires that all outdoor signs advertising sale of liquor by a retail licensee must be submitted by the licensee for board approval prior to installation.)))~~)

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in retail outlets of the Washington state liquor control board shall be presented to the advertising coordinator of the Washington state liquor control board for prior approval before placement (~~(, and shall be refused such placement if such advertising is found by the coordinator to exceed the definition of institutional or educational advertising as defined in WAC 314-52-015, or if the advertising is viewed as inappropriate for placement in a state-operated retail outlet))~~): PROVIDED, HOWEVER, That (~~(advertising on, or attached to, the product package in a manner))~~ all other forms of advertising approved by the board advertising coordinator and which are acceptable to the board merchandising committee under the provisions of WAC 314-52-040 shall not be prohibited under this rule.

**AMENDATORY SECTION** (Amending Order 108, Resolution No. 117, filed 8/11/82)

✓WAC 314-52-070 OUTDOOR ADVERTISING.

(1) "Outdoor advertising" (~~(as used in these regulations shall include any form of outdoor advertisement of liquor or the service of liquor which is visible to the general public. PROVIDED, HOWEVER, That advertisements visible through windows or affixed to exterior walls of a licensed premises, although visible to the general public, shall be governed as otherwise provided in these regulations))~~) by manufacturers, importers, wholesalers, and retail licensees for these purposes shall include all signs visible to the general public, whether permanent or temporary, advertising the sale and service of liquor (excluding point-of-sale brand signs, which are defined and governed as otherwise provided in WAC 314-52-113) as well as trade name and room name signs.

(2) (~~("Signs" as used in these regulations shall include all visual forms of advertising liquor or the service of liquor whether illuminated or nonilluminated, single-faced or multiple faced, stationary or revolving. PROVIDED, HOWEVER, That "point-of-sale" signs and material shall be defined and governed as otherwise provided in WAC 314-52-113.~~)

(3) Sketches, in triplicate, of all outdoor signs advertising the sale of liquor by a retail licensee, shall be submitted by the licensee, applicant, or their agent, to the board advertising coordinator prior to installation: PROVIDED, HOWEVER, That outdoor readerboard messages and/or interior signs visible through a window of a premises shall be in conformance with WAC 314-52-015 and need not be submitted to the board.

(4) Outdoor signs and other outdoor advertising matter shall be designed, installed and used in a manner not offensive to the public.

(5)) Outdoor signs shall be designed, installed, and used in a manner not offensive to the public, and shall

comply with all liquor advertising rules. These rules include, but are not limited to:

(a) WAC 314-52-015(1), which:

(i) Prohibits any statement or illustration that is false or misleading in any material particular;

(ii) Prohibits any statement, picture or illustration which promotes overconsumption;

(iii) Prohibits any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(b) WAC 314-52-110(1), which requires that every advertisement by a retail licensee shall carry the licensed trade name or the registered franchise name or the trademark name. The term "trade name" shall mean the "licensed trade name" as it appears on the issued license.

(3) Prior board approval is not required before installation and use of outdoor signs/advertising; however, outdoor signs/advertising (excluding outdoor readerboard messages and/or interior signs visible through a window of a premises) not in compliance with board rules will be required to be altered or removed at the licensee's expense. If prior approval is desired, the licensee, applicant or their agent may submit three copies to the board advertising coordinator for approval.

(4) No outdoor advertising of liquor shall be placed in proximity to schools, churches, or playfields used primarily by minors, where administrative body of said schools, churches, playfields, object to such placement, nor any place which the board in its discretion finds contrary to the public interest.

~~((6) Signs bearing the room name and/or the words "bar," "cocktails," "lounge," may be placed in the vicinity of the principal entrances to the premises. No such signs or advertisements shall be installed at or near doorways designed for exit purposes only.))~~

#### WSR 86-15-042

##### ADOPTED RULES

#### LIQUOR CONTROL BOARD

[Order 193, Resolution No. 202—Filed July 16, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Alterations and changes of premises and activities—Outside storage, WAC 314-16-180.

This action is taken pursuant to Notice No. WSR 86-12-009 filed with the code reviser on May 23, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State

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

APPROVED AND ADOPTED July 16, 1986.

By Kazuo Watanabe  
Board Member

AMENDATORY SECTION (Amending Rule 34, filed 6/13/83)

✓ WAC 314-16-180 ALTERATIONS AND CHANGES OF PREMISES AND ACTIVITIES—OUTSIDE STORAGE. (1) No business or activity shall be conducted upon any retail premises other than such as is being conducted thereon at the time the license is issued unless the written consent of the board is obtained. Except as authorized in writing by the board, any business or activity conducted upon the licensed premises shall be open to the general public. Licensed premises shall not be used as a means of ingress and/or egress to another business activity without the written consent of the board.

(2) No retail licensee holding an on-premises license shall make any alterations in the physical setup or arrangement of his premises without the written consent of the board.

(3) No retail licensee shall store liquor on any premises, other than the licensed premises, without the written consent of the board.

#### WSR 86-15-043

##### EMERGENCY RULES

#### DEPARTMENT OF LICENSING (Podiatry Board)

[Order PM 605—Filed July 17, 1986]

Be it resolved by the Washington State Podiatry Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to approved schools of podiatric medicine, amending WAC 308-31-030.

We, the Washington State Podiatry 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 WAC 308-31-030 refers to an out-of-date list of schools and candidates for the July 17, 1986, examination for licensure who otherwise qualify to take the examination cannot take the examination unless the list of approved schools is made current.

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 Board of Podiatry as authorized in RCW 18.22.015.

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 Louis P. Morris, D.P.M.  
Chairman

AMENDATORY SECTION (Amending Order 418, filed 1/14/83)

WAC 308-31-030 APPROVED SCHOOLS OF PODIATRIC MEDICINE. For the purpose of the laws relating to podiatric medicine, the board approves ~~((those))~~ the following list of schools of podiatric medicine ~~((listed as accredited schools of podiatric medicine set forth in the list of accredited colleges published as of August, 1980, by the Council on Podiatry Education of the American Podiatry Association.))~~: California College of Podiatric Medicine, San Francisco, California; College of Podiatric Medicine and Surgery, Des Moines, Iowa; New York College of Podiatric Medicine, New York, New York; Ohio College of Podiatric Medicine, Cleveland, Ohio; Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania; Dr. William M. Scholl College of Podiatric Medicine, Chicago, Illinois.

WSR 86-15-044

NOTICE OF PUBLIC MEETINGS

COMMUNITY COLLEGE DISTRICT TWELVE

[Memorandum—July 15, 1986]

BOARD OF TRUSTEES  
COMMUNITY COLLEGE DISTRICT TWELVE  
Regular Meeting Schedule  
1986-87

DATE	LOCATION AND TIME
July 10	South Puget Sound 7:00 p.m.
August 14	Centralia College 7:00 p.m.
September 11	South Puget Sound 7:00 p.m.
October 9	Morton 7:00 p.m.
November 13	South Puget Sound 7:00 p.m.
December 11	Centralia College 7:00 p.m.
January 15	South Puget Sound 7:00 p.m.
February 12	Centralia College 7:00 p.m.
March 12	South Puget Sound 7:00 p.m.
April 9	Centralia College 7:00 p.m.
May 14	South Puget Sound 7:00 p.m.
June 11	Centralia College 3:00 p.m.

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

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

WSR 86-15-045

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1897—Filed July 17, 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 certified seed potato certification, chapter 16-324 WAC.

This action is taken pursuant to Notice Nos. WSR 86-11-063 and 86-14-096 filed with the code reviser on May 21, 1986, and July 2, 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 15.14 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 16, 1986.

By C. Alan Pettibone  
Director

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-375 CERTIFIED SEED POTATO APPLICATION AND WITHDRAWAL. (1) Application shall be made on a form provided by the department. Applications for certification ~~((must))~~ shall reach the state department of agriculture, ~~((Olympia,))~~ seed branch, Yakima, Washington, on or before June 15 of each year, or fourteen days after planting, in order to assure eligibility. Applications ~~((must))~~ shall be accompanied by the appropriate fee, as well as tags, certificates or other evidence of eligibility. An application ~~((must))~~ shall be made for each variety.

(2) Withdrawal of a seed lot from the certification program shall be made on a form provided by the department which ~~((with))~~ shall become part of the permanent public record.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-390 REQUIREMENTS FOR PRODUCTION OF FOUNDATION AND/OR CERTIFIED SEED POTATO STOCK. (1) Land requirements.

(a) Potatoes ~~((with))~~ shall not be eligible for ~~((certification))~~ certified class if planted on land on which potatoes were grown in either of the previous two years

unless the prior crops were entered for and passed certification. Potatoes shall not be eligible for foundation class if planted on land on which potatoes were grown in any of the previous three years unless the prior crops are of the same variety that were entered for and passed certification.

(b) Any land known to be infested with parasitic potato nematode ((with)) shall not be accepted.

(c) Any land planted with potatoes found to have ring rot ((with)) shall not be eligible for planting for certified seed potato production for at least ((two)) three years. Volunteers in a field with ring rot history shall disqualify the field for certification, modification of land history may be approved by the department when a cultural practice has been proven to be successful. Cultural practices may include, but is not limited to, mechanical means (such as deep plowing) and/or chemical means (such as fumigants or other material) for seed bed preparation. Materials and methods shall be a matter of record with the department. Whichever method is used, it shall be approved by the department and shall be adequate to maintain variety and disease purity. Plants outside of the defined row shall be construed as volunteers.

(2) Isolation requirements.

(a) Potatoes intended for certification ((must)) shall be isolated by at least one hundred feet from other potatoes except potatoes entered for certification.

(b) A distinct separation of at least six feet ((must)) shall be left unplanted or planted to some other crop between different lots of ((seed potatoes)) foundation class seed potatoes or varieties of potatoes that have so similar tuber type, color, skin, or shape characteristics that varietal mixture is not readily identifiable during the storage, sorting, and grading process. No separation shall be required between lots of a red variety and another variety with obviously different skin color. When more than one lot of seed potatoes are planted in the same field, each lot shall be so marked that any inspector not previously having been at the location can identify each lot.

(c) When ring rot is found in a field planted with more than one lot of seed, the entire field shall be rejected unless at least six feet has been left unplanted or planted to some other crop between lots.

(3) Planting stock. Eligible planting stock ((must)) shall consist of foundation seed potatoes or seed stock approved by the department.

(a) Foundation seed is tubers that have met field standards and winter test standards for foundation seed.

(b) Desirable planting stock of known history and varietal purity may be accepted. This stock ((must)) shall have been produced the preceding year under the special observation of the department. Stock under observation by the department shall pay the usual certification fees.

(c) Planting stock from other states or countries is eligible for certification if the planting stock has met the requirements for foundation standards of their program.

(d) A seed stock or lot shall not be eligible for foundation classification if blending two different sources of seed.

(4) Field inspections. Each lot ((with)) shall be visually inspected on a sample basis. Lots ((with)) shall be

subjected to at least two inspections ((=)). The first ((about forty-five days after planting, or)) inspection shall be made before the rows have filled in or the vines touch in the row((; the second inspection about ninety-five days after planting. Additional inspections will be made when deemed necessary)). The lots ((with)) shall be traversed sufficiently to accurately evaluate the factors to be considered with a minimum sample of one hundred plants per acre. Lots ((with)) shall be considered ready for inspection at all times. Notification ((with)) shall be given to grower or grower representative when inspection is to be performed. A second inspection shall be performed and the time of the inspection shall be determined by the variety and growing season. Additional inspections shall be made when deemed necessary. The grower shall be responsible for notifying the department of unusual field conditions which reflect premature dying, from any cause, prior to the final reading of the field.

(5) Russet Burbank/Netted Gem potatoes to be eligible for certification ((must)) shall be within the field tolerances and the winter test tolerances set for certified seed potatoes. Shipments for export prior to January 15 may be certified based on field readings only.

(6) Miscellaneous requirements. Prospective growers entering the certification program for the first time ((must)) shall be interviewed by the department before applications ((with be)) are processed. This is in order that the applicant knows what is expected ((of him)) and what ((he)) may be ((expect)) expected from the certifying agency.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

✓ WAC 16-324-400 CERTIFIED SEED POTATO—FIELD INSPECTION STANDARDS. (1) The field certification of each lot ((with)) shall be based on the sample inspected.

(2) Specific requirements. (a) The diseases tolerated ((with)) shall be within the percentages listed in the table below based on visual symptoms showing in the sample inspected.

Field tolerances for: Inspection	Foundation		Certified	
	1	2-3	1	2-3
Leaf roll	0.2%	0.1%	0.4%	0.2%
Well defined Mosaic, and other virus and virus-like diseases	1.0%	0.5%	2.0%	1.0%
Black leg and wilts	2.0%	1.0%	4.0%	2.0%
Ring rot	0.0%	0.0%	0.0%	0.0%
Variety mixture	0.2%	0.0%	0.2%	0.1%

(b) Diseases which cannot be observed visually at time of inspection may be present.

(c) The 0.0% tolerance for ring rot is chosen for reasons of convenience and practicality and is not to be construed to mean that the lot inspected is free from the

disease. It does mean no ring rot was found during the inspection process.

(d) When ring rot is found in a lot of seed that lot ~~((with))~~ shall be rejected. All seed potatoes grown that year by that farming operation from that same seed source, even if grown in different fields shall not be eligible for foundation classification. The tubers from these lots ~~((must))~~ shall be inspected at time of digging.

(e) Lots not meeting field inspection standards at the time of inspection ~~((with))~~ shall be rejected.

(f) Any field condition, i.e., weeds, frost, insect, disease, premature dying from any cause, or any condition making inspection evaluation impossible will be cause for the following actions:

(i) Inability to read at time of first field reading for virus, etc.—lots may be held for winter virus test.

(ii) At the discretion of the department, the inability to ~~((read at ninety-day or))~~ make the final reading ~~((; except damage caused by frost or freezing, with))~~ for any reason may be cause for rejection from certification. ~~((The tubers from these lots must be inspected at time of digging.))~~ Lots entered for foundation classification may not be eligible for recertification. The tubers from these lots shall be inspected at time of digging. Samples for winter test shall be submitted.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-430 CERTIFIED SEED POTATO—DIGGING, STORAGE AND PREMARKETING. Specific requirements.

(1) Stored so as to maintain each lot's identity. Storage bin or room (an area with a controlled access and enclosed by solid barriers) to be so marked that any inspector not previously having been in the room or storage bin could identify the lot:

(a) Each storage or room containing more than one lot shall have a solid barrier between each lot that is not of the same seed source, variety or classification. The presence of ring rot or nematode in a lot that is stored with other lots shall be cause for rejection of all lots that are not isolated or separated by a solid barrier.

(b) Lots previously known or found to be infected with bacterial ring rot disease at time of storage or non-certified potatoes shall not be stored within the same storage with certified seed potatoes. Known infected seed lots stored with certified seed lots shall be cause for rejection of all lots in the same storage.

(2) Graded according to state of Washington standards for seed potatoes.

(3) Placed in new sacks when tagging is requested, identified with the official Washington seed potato tags which ~~((must))~~ shall show the grower's name, address and lot number unless such information is printed on the sacks together with the usual net weight.

(4) Tags may be issued to the grower who ~~((with))~~ shall:

(a) Tag the bags as the potatoes are sorted.

(b) Allow inspection of graded potatoes at any time.

(c) If the potatoes are out-of-grade, remove the tags under the supervision of the inspector.

(d) Return all unused tags to the inspector.

Failure to observe any of the above provisions is sufficient cause for the inspector to withhold the privilege of permitting the grower to tag at his convenience. The deliberate disregard for subsection (4)(b) and (c) ~~((is))~~ of this section shall be just cause to eject a grower from the certification program.

(5) Bulk lots, properly identified, may be moved under certification.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-445 CERTIFIED SEED POTATO—GRADING INSPECTION—DISEASES AND GRADES. Grading inspections shall be made ~~((on a sample))~~ by the department on a surveillance basis. Shipping point shall be made available upon request by the grower. The quality of the grading of potatoes is the full responsibility of the grower. United States standards for potatoes shall be the official guide for applying and interpreting all definitions and terms used in this chapter in the Washington certified seed grades ~~((below))~~.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-510 CERTIFIED SEED POTATO—TOLERANCES. Applies to all grades and is based on a sample inspection.

(1) In order to allow for variations other than size, and internal discoloration, incident to proper grading and handling, not more than a total of six percent of the potatoes in any lot ~~((may))~~ shall fail to meet the requirements of the grade but not more than one-sixth of this amount, or one percent, shall be allowed for potatoes affected by late blight, potatoes which are frozen, or affected by soft rot or wet breakdown. In addition, in blue, red and white tag stock, not more than ~~((five))~~ ten percent of the potatoes ~~((may))~~ shall be seriously damaged by ~~((internal discoloration))~~ hollow heart. No more than ~~((three))~~ five percent ~~((may))~~ shall be ~~((below the minimum sizes or more than six percent above maximum sizes specified in the grades))~~ damaged by other internal defects excluding necrosis caused by chemical vine kill. No more than three percent shall be below minimum size or more than six percent above maximum size specified in the grades.

(2) The tolerances specified shall be placed on a container basis. However, any lot of seed potatoes shall be considered as meeting the requirements of the grade, if upon inspection, no sample from a single container, in any lot, is found to exceed the tolerances specified by more than double the amount allowed: PROVIDED, That the entire lot shall average within the tolerances specified.

(3) All percentages shall be calculated on the basis of weight.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-520 CERTIFIED SEED POTATO—DEFINITION OF TERMS. Applies to Washington No. 1 (WAC 16-324-460). (1) "Fairly well

shaped" means potatoes are not materially pointed, dumb-bell shaped, or otherwise ill formed.

(2) "Internal defects" means defects which cannot be detected without cutting the potato.

**AMENDATORY SECTION** (Amending Order 1587, filed 11/21/78)

✓ **WAC 16-324-530 CERTIFIED SEED POTATO—DEFINITION—DAMAGE.** Applies to Washington No. 1 (WAC 16-324-460). "Damage" means any injury, disease, insect, or defect which materially affects the appearance or which materially injures the potato for seed purposes. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(1) Dirt or foreign matter which materially affects the general appearance of the lot, a potato having an appreciable amount of caked dirt shall also be considered as damaged.

(2) Second growth which has developed to such an extent as to materially affect the appearance of the potato.

(3) Growth cracks which are not shallow or not well healed.

(4) Sprouting, when the sprouts are over three-fourths inch long on ten percent of the tubers.

(5) Shriveling, when the tuber is more than slightly shriveled.

(6) Surface scab which covers more than ten percent of the surface of the potato in the aggregate, on ten percent of the tubers.

(7) Rhizoctonia which covers more than five percent of the surface of the potato in the aggregate, on twenty-five percent of the tubers.

(8) Dry rot which cannot be removed without a loss of more than five percent of the total weight of the potato, including the peel.

(9) Internal discoloration occurring entirely within the vascular ring; when more than the equivalent of three scattered light brown spots one-eighth inch in diameter in a potato two and one-half inches in diameter or six ounces in weight, or correspondingly lesser or greater number of spots in smaller or larger potatoes.

(10) Internal discoloration outside of or not entirely confined within the vascular ring; when removal causes a loss of more than five percent of the total weight of the potato.

**AMENDATORY SECTION** (Amending Order 1587, filed 11/21/78)

✓ **WAC 16-324-540 CERTIFIED SEED POTATO—DEFINITION—SERIOUS DAMAGE.** Applies to all grades. "Serious damage" means any injury, disease, insect, or defect which seriously injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which causes a loss of more than ten percent of the total weight of the potato for seed purposes. Any one of the following defects or any combination of defects, the seriousness of

which exceeds the maximum allowed for any one defect shall be considered as serious damage.

(1) Dirt of foreign matter when the general appearance of the potatoes is seriously affected by tubers badly caked with dirt or other foreign matter.

(2) Second growth when more than one well attached knob is over ten percent of the total weight of the tuber, or when the knob is broken.

(3) Growth cracks, cuts, and deep bruises which seriously affect the potato for seed purposes.

(4) Shriveling when the potato is excessively shriveled, spongy or flabby.

(5) Surface scab which covers an area of more than twenty percent of the surface of the potato in the aggregate, on more than twenty-five percent of the tubers.

(6) Dry rot which cannot be removed without a loss of more than ten percent of the total weight of potato, including the peel.

**WSR 86-15-046**

**NOTICE OF PUBLIC MEETINGS  
WHATCOM COMMUNITY COLLEGE**

[Memorandum—July 15, 1986]

The Whatcom Community College District 21, board of trustees will hold its September 1986, regular board meeting on the 2nd rather than the 9th. Time and place remain unchanged.

**WSR 86-15-047**

**PROPOSED RULES  
BOARD OF PILOTAGE COMMISSIONERS**

[Filed July 18, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning pilotage rates for the Puget Sound pilotage district, WAC 296-116-300;

that the agency will at 9:00 a.m., Thursday, September 11, 1986, in the Washington State Ferries Conference Room, Colman Dock, Seattle, Washington 98104, 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 88.16.035(4).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 5, 1986.

Dated: July 17, 1986  
By: Marjorie T. Smith  
Assistant Attorney General

**STATEMENT OF PURPOSE**

Rule: WAC 296-116-300.

Statutory Authority: RCW 88.16.035(4).

Reason for Amendment: RCW 88.16.035(4) requires that the Board of Pilotage Commissioners shall annually

fix the pilotage tariffs for pilotage services performed aboard vessels. The purpose of this amendment is to add a new tariff specially suited for small, high speed passenger vessels.

These rules have been drafted by Marjorie T. Smith, Assistant Attorney General, 5th Floor, Department of Licensing Building, Mailstop PB-52, Olympia, WA 98504, phone (206) 753-4916.

These rules will be implemented by the Washington State Board of Pilotage Commissioners, Colman Dock, Seattle, WA 98104, phone (206) 464-7818.

Proposer: Board of Pilotage Commissioners.

Agency Comments: None.

Federal Law/Court Decisions: None.

Small Business Economic Impact Statement: WAC 296-116-300 cost for small business per \$100 of sales estimated at 50 cents. Cost for larger business per \$100 of sales estimated at 45 cents.

**AMENDATORY SECTION** (Amending Order 86-1, Resolution No. 86-1, filed 12/30/85)

WAC 296-116-300 PILOTAGE RATES FOR THE PUGET SOUND PILOTAGE DISTRICT. These rates shall become effective on January 1, 1985.

CLASSIFICATION	RATE
Ship length overall (LOA) Charges:	per LOA rate schedule in this section
Boarding fee: Per each boarding/deboarding at the Port Angeles pilot station.	\$ 26.00
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Dead ship towing charge: LOA of tug + LOA of tow + beam of tow Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	Double LOA Zone
Waterway and bridge charges: Ships up to 90' beam: A charge of \$133.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$63.00 per bridge.	
Ships 90' beam and/or over: A charge of \$179.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$126.00 per bridge. (The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)	
In a case where two pilots are employed for a single vessel waterway or bridge transit, a second pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.	
Compass adjustment	\$178.00
Radio direction finder calibration	\$178.00
Launching vessels	\$267.00

CLASSIFICATION	RATE
Trial trips, 6 hours or less (Minimum \$435.00)	\$ 72.00 per hr.
Trial trips, over 6 hours (two pilots)	\$142.00 per hr.
Shilshole Bay - Salmon Bay	\$104.00
Salmon Bay - Lake Union	\$ 83.00
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$104.00
Cancellation charge	LOA Zone I
Cancellation charge - Port Angeles (when pilot is ordered and vessel proceeds without stopping for pilot.)	LOA Zone I
Docking delay after anchoring: Applicable harbor shift rate to apply, plus \$72.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$72.00 for every hour or fraction thereof.	\$ 72.00
Sailing delay No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$72.00 for every hour or fraction thereof.	\$ 72.00 per hour
Slow-down - \$72.00 per hour for all time in excess of time spent in that particular transit for that speed of advance normal for vessel that is slowed.	\$ 72.00 per hour
Super ships - Additional charge to LOA zone mileage of \$0.0444 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons. In excess of 50,000 gross tons, the charge shall be \$0.0531 per gross ton.	
Delayed arrival Port Angeles (When pilot is ordered and vessel does not arrive within two hours without notification of change of ETA.)	\$ 72.00 per hour
Transportation to vessels on Puget Sound:	
March Point or Anacortes	\$ 96.00
Bangor	56.00
Bellingham	106.00
Bremerton	29.00
Cherry Point	125.00
Dupont	56.00
Edmonds	20.00
Everett	36.00
Ferndale	115.00
Manchester	44.00
Mukilteo	35.00
Olympia	72.00
Point Wells	20.00
Port Gamble	51.00
Port Townsend (Indian Island)	73.00
Semiahmoo (Blaine)	131.00
Tacoma	37.00
Tacoma Smelter	42.00
Winslow	29.00
(a) Interport shifts: Transportation paid to and from both points.	
(b) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.	
(c) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.	
(d) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.40 per mile.	
Regular scheduled high speed small passenger service to British Columbia: Rate per round trip for high speed small passenger vessels, not exceeding one hundred fifty feet in length and less than five hundred gross tons, operated and manned by United States Coast Guard licensed personnel, operating regular service exclusively between Puget Sound and British Columbia ports. This tariff shall be inclusive of one refueling movement per day.	\$ 350.00
Delinquent payment charge: 1 1/2% per month after 45 days from first billing.	

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

**LOA rate schedule**

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
Up to 449	126	195	340	509	687	893
450 - 459	128	200	343	518	696	896
460 - 469	132	203	346	525	707	900
470 - 479	137	207	351	536	710	903
480 - 489	139	212	353	545	716	906
490 - 499	142	214	357	555	723	912
500 - 509	148	218	362	563	729	917
510 - 519	150	224	366	571	735	920
520 - 529	152	232	373	574	742	929
530 - 539	158	235	378	580	753	938
540 - 549	161	239	384	586	767	946
550 - 559	164	245	387	594	773	955
560 - 569	170	254	395	599	781	966
570 - 579	174	258	399	601	788	972
580 - 589	181	262	406	606	794	982
590 - 599	189	267	409	610	804	992
600 - 609	195	276	415	612	813	998
610 - 619	206	279	422	616	822	1008
620 - 629	215	283	428	621	831	1018
630 - 639	227	289	432	623	838	1028
640 - 649	237	295	437	626	848	1035
650 - 659	250	301	444	631	857	1045
660 - 669	258	304	449	634	866	1053
670 - 679	265	310	453	644	875	1061
680 - 689	271	316	459	651	883	1071
690 - 699	279	322	464	662	893	1091
700 - 719	292	332	474	670	909	1106
720 - 739	308	343	485	679	929	1124
740 - 759	322	357	496	687	946	1143
760 - 779	335	372	507	696	966	1160
780 - 799	351	385	518	707	982	1180
800 - 819	364	399	527	713	998	1196
820 - 839	378	412	538	723	1018	1212
840 - 859	394	429	549	731	1035	1232
860 - 879	407	444	560	750	1053	1249
880 - 899	422	458	571	768	1071	1268
900 - 919	435	472	581	786	1091	1286
920 - 939	450	485	594	804	1106	1304
940 - 959	464	499	602	822	1124	1320
960 - 979	477	514	614	838	1143	1339
980 - 999	494	527	624	857	1160	1357
1000 & over	507	544	636	875	1180	1374

**WSR 86-15-048**

**ADOPTED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 86-6—Filed July 18, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Special service program—Chapter 2 of the Education Consolidation and Improvement Act of 1981, financial assistance to local school districts, chapter 392-165 WAC.

This action is taken pursuant to Notice No. WSR 86-11-027 filed with the code reviser on May 14, 1986. These rules shall take effect thirty days after they are

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

This rule is promulgated pursuant to RCW 28A.02-.100 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 15, 1986.

By Frank B. Brouillet  
Superintendent of Public Instruction

**AMENDATORY SECTION (Amending Order 84-6, filed 2/29/84)**

**WAC 392-165-500 DISTRIBUTION OF CHAPTER 2 MONEYS TO LOCAL SCHOOL DISTRICTS.** (1) For the purpose of this section, the term:

(a) "Student enrollment" shall mean the head count for public and private schools and neglected and delinquent institutions submitted by the school districts to the office of the superintendent of public instruction on October 1 of each prior year.

(b) "Low income student enrollment" shall mean those students who reside in a school district whose family income meets the definition of low income reported in the statistical policy handbook/office of the federal policy and standards, 4/27/83.

(c) "Minority population enrollment" shall mean those minority students determined by sight identification or self-identification to be noncaucasian as reported in the P105 report.

(d) "Gifted enrollment" shall mean three percent of the district student enrollment submitted under (a) of this subsection.

(e) "Desegregation enrollment" shall mean all students enrolled in school plant facilities affected by plans to alleviate or prevent the racial imbalance of school plant facilities (see WAC 180-26-025 for the definition of racial imbalance). In order for the students enrolled in school plant facility to be counted for the purpose of this section, the school plant facility must meet each of the following conditions:

(i) The school plant facility must be included within a plan, adopted by the board of directors of the district, to alleviate or prevent racial imbalance within the district;

(ii) At least ten percent of the students enrolled in each school plant included within the plan meet one or combination thereof of the following:

(A) Have been reassigned from another school plan for the purpose of alleviating or preventing racial imbalance; and

(B) Must reside closer in distance to other school plants offering the same grade or program opportunity.

(iii) At least ten percent of the students enrolled in each school plant included must be minority students.

The board adopted plan, together with the number of students enrolled in each school plant facility affected, (i.e., desegregation enrollment), shall be transmitted to the superintendent of public instruction in accordance

with timelines announced annually by the superintendent of public instruction.

(f) "Limited English speaking enrollment" shall mean those students who qualify under chapter 392-160 WAC.

(2) Each year the superintendent of public instruction shall make available for allocations to the school districts eighty percent of Chapter 2 moneys received for allocation during the school year plus such amount as may be carried over from the previous school year's allocation based on a formula which recognizes enrollment and high cost factors as follows:

(a) Student enrollment. ((Fifty)) Forty percent of the amount available each year will be made available on the basis of public and private school student enrollment.

(b) Low income student enrollment. ((Fifteen)) Twenty-five percent of the funds will be made available on the basis of low income student enrollment.

(c) Minority population enrollment. Ten percent of the funds will be made available based on minority population enrollment.

(d) Gifted enrollment. Ten percent of the funds will be made available on the basis of gifted enrollment.

(e) Desegregation enrollment. Ten percent of the funds will be made available on the basis of desegregation enrollment.

(f) Limited English speaking enrollment. Five percent of the funds will be made available on the basis of limited English speaking enrollment.

(3) From enrollment information for each of the populations described in subsection (1) of this section submitted by school districts to the superintendent of public instruction, the superintendent of public instruction shall determine the amount to be allocated to each school district.

**WSR 86-15-049**

**ADOPTED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 86-7—Filed July 18, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to School personnel—Beginning teachers assistance program, chapter 392-196 WAC.

This action is taken pursuant to Notice No. WSR 86-11-029 filed with the code reviser on May 14, 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 399, Laws of 1985 (uncodified), 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 15, 1986.

By Frank B. Brouillet  
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 85-12, filed 10/15/85)

✓ WAC 392-196-005 AUTHORITY. The authority for this chapter is ((RCW 28A.....)) chapter 399, Laws of 1985 (uncodified) which authorizes the superintendent of public instruction to adopt rules to establish and operate a beginning teachers assistance program.

**WSR 86-15-050**

**ADOPTED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 86-8—Filed July 18, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Student—Health records, chapter 392-182 WAC.

This action is taken pursuant to Notice No. WSR 86-11-028 filed with the code reviser on May 14, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.31.117 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 15, 1986.

By Frank B. Brouillet  
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 85-10, filed 10/21/85)

✓ WAC 392-182-005 AUTHORITY. The authority for this chapter is RCW ((28A.....)) 28A.31.117 which requires the superintendent of public instruction to "provide procedures for schools to quickly verify the immunization of records of students transferring from one school to another before the immunization records are received."

AMENDATORY SECTION (Amending Order 85-10, filed 10/21/85)

✓ WAC 392-182-010 PURPOSE. The purpose of this chapter is to implement RCW ((28A.....)) 28A.31.117 and provide for quick verification of immunization records of students transferring from one school to another before the immunization records are received.

**WSR 86-15-051**  
**ADOPTED RULES**  
**SUPERINTENDENT OF PUBLIC INSTRUCTION**  
 [Order 86-9—Filed July 18, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Washington state honors award program, chapter 392-210 WAC.

This action is taken pursuant to Notice No. WSR 86-11-030 filed with the code reviser on May 14, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 28A.03.044 [28A.03.444] 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 15, 1986.

By Frank B. Brouillet  
 Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 85-13, filed 12/9/85)

WAC 392-210-005 **AUTHORITY**. The authority for this chapter is ((chapter 28A.03)) RCW 28A.03.444 which authorizes the superintendent of public instruction to develop rules and regulations for the establishment and administration of the Washington state honors award program.

AMENDATORY SECTION (Amending Order 85-13, filed 12/9/85)

WAC 392-210-025 **CREDITS EARNED IN ACADEMIC CORE SUBJECTS**. To be considered for a Washington state honors award, a student must have earned, during grades nine through eleven, at least seventy-five percent of the credits required for graduation from his or her high school including a minimum of ten credits in the academic core subjects ((as follows:)) of English, mathematics, science, social studies, and foreign language.

- ((English \_\_\_\_\_ 3 credits
- Mathematics \_\_\_\_\_ 2 credits
- Science \_\_\_\_\_ 2 credits
- Social Studies \_\_\_\_\_ 2 credits
- Foreign Language \_\_\_\_\_ 1 credit))

Each participating high school principal shall verify, on forms provided by the superintendent of public instruction, that each candidate has completed at least seventy-five percent of the school's total graduation credit requirements. The superintendent of public instruction shall require each student's high school transcript to be verified to assure that each student has earned the minimum credits in each of the academic core subjects. All participating high schools shall make

available the grades nine through eleven transcripts for all participating students on or before August 15 of each year.

**WSR 86-15-052**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF PUBLIC INSTRUCTION**  
 [Order 86-10—Filed July 18, 1986]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Emergency school closure, chapter 392-129 WAC.

I, Frank B. Brouillet, 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 current rules regarding emergency school closure do not provide for the destruction of an individual school facility due to an unforeseen emergency during the last few weeks of the school year. The Goldendale Middle School in the Goldendale School District was destroyed by fire on May 21, 1986. This rule is necessary at this time in order to advise the board of directors of the Goldendale School District of the process for the orderly completion of the 1985-86 school year.

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

This rule is promulgated pursuant to RCW 28A.41-.170 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 15, 1986.

By Frank B. Brouillet  
 Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 81-26, filed 10/8/81)

WAC 392-129-015 **SUPERINTENDENT'S DETERMINATION OF ELIGIBILITY**. (1) *Total district closures. If a reasonable effort has been made to make up all school days and program hour offerings, teacher contact hours, and course mix and percentages accruing therefrom lost by all the schools in an entire district by reason of one or more unforeseen conditions, but fewer than the minimum number of school days and program hour offerings, teacher contact hours, and course mix and percentages accruing therefrom required by law have been conducted, the school district will nevertheless be credited with full annual basic education allocation.*

(2) *Individual school closures. In the event that a district comprising more than one school is unable to operate a school for the minimum number of school days*



required by law to be conducted, the district may apply to the superintendent of public instruction or his designee for credit for its full annual basic education allocation. Such application shall be granted only upon a conclusive demonstration by the district to the satisfaction of the superintendent that one or more unforeseen conditions prevented the district from operating the school. If such conclusive demonstration is provided, the superintendent shall have the discretion to excuse such district from the obligation to make up such school days for that school and the program hours, teacher contact hours, and course mix and percentages accruing therefrom; however such excuse for that school shall not exceed two scheduled school days per incident nor three scheduled school days per school year unless the unforeseen condition occurs within fifteen school days of completion of the scheduled 180 day instructional year, in which case the district shall be excused from all but three of the remaining school days if the board of directors of the district adopts, in open public meeting, a resolution which includes the following resolves:

(a) Alternative facilities were not reasonably available for the conduct of classes within the scheduled balance of the regular instructional year;

(b) The district has taken and will complete action which assures an orderly conclusion of the regular school year for the students affected by the closure, including measures which assure the completion of the evaluation of the students, including grading, for the final semester or trimester, and

(c) The district has evaluated the negative impact of the loss of school days upon the affected students and has determined that the loss is educationally insignificant and/or, in the case of those students for whom the district the loss has judged to be potentially significant, the district has made provision for making up the loss to the affected students.

(3) Whenever a district satisfies the definition of a school day specified in WAC 392-129-010(2) it also shall be deemed to have accrued all hours, as originally scheduled for that day, toward meeting its program hour offerings, teacher contact hours, and course mix and percentages requirements.

### WSR 86-15-053

#### EMERGENCY RULES

#### DEPARTMENT OF NATURAL RESOURCES

[Order 481—Filed July 18, 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 hazardous areas protected by the Department of Natural Resources which are closed to entry from midnight July 13, 1986, to midnight October 11, 1986, and amending parts of Administrative Order No. 480.

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 the described forest areas contain an abnormal concentration of forest fuels and, because of the usual summer increase in drying conditions, are particularly exposed to fire danger.

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

This rule is promulgated pursuant to section 21, chapter 100, 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 July 18, 1986.

By Brian J. Boyle  
Commissioner of Public Lands

#### NEW SECTION

WAC 332-26-010 SOUTHWEST AREA CLOSURES. Cowlitz and Skamania Counties.

Cowlitz County: Township 8 North, Range 3 East: Section 4, E1/2, E1/2W1/2; Section 12, all; Section 14, S1/2; Section 15, SE1/4; Section 22, all; Section 23, N1/2, SW1/4; Section 26, NW1/4; Section 27, all; Section 28, SW1/4; Section 33, NE1/4; Section 34, NW1/4. Township 8 North, Range 4 East: Section 4, SW1/4; Section 5, all; Section 6, all; Section 7, all; Section 8, all; Section 9, all; Section 10, W1/2. Township 9 North, Range 3 East: Section 36, E1/2. Township 9 North, Range 4 East: Section 31, S1/2.

Skamania County: Township 2 North, Range 5 East: Section 11, S1/2; Section 12, S1/2; Section 13, all; Section 14, all; Section 23, E1/2; Section 24, all; Section 25, all; Section 26, E1/2. Township 2 North, Range 6 East: Section 7, all; Section 18, all; Section 19, W1/2.

When, in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

*Entry into this area is prohibited except as provided by law with reference to permanent resident and industrial operations.*

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, Sunday, July 13, 1986 to midnight, Saturday, October 11, 1986.

AMENDATORY SECTION (Amending Emergency Order 480, filed 7/14/86)

WAC 332-26-020 OLYMPIC AREA CLOSURES. Clallam, Grays Harbor and Jefferson Counties.

Clallam County: Township 30 North, Range 14 West: Section 24, S1/2NW1/4, NE1/4, N1/2SW1/4, N1/2SE1/4; Section 26, NE1/4, E1/2NW1/4; Section 28, SESE; Section 29, S1/2SW1/4, NWSW, SWNW, SE1/4; Section 32, W1/2NW1/4, SW1/4; Section 33, N1/2NW1/4, SW1/4. Township 30 North, Range 13 West: Section 13, N1/2SW1/4 east of 9000 Road, W1/2NW1/4 west of 9000 Road; Section 19, W1/2NW1/4; Section 22, W1/2NW1/4, W1/2SW1/4; Section 23, S1/2NE1/4, SE1/4, E1/2SW1/4; Section 24, W1/2 west of 9000 Road; Section 26, N1/2NE1/4, SENE, E1/2SW1/4 west of Lake Pleasant Road; Section 35, E1/2SE1/4 west of Conley Road; Section 36, SESW, W1/2SW1/4 east of Conley Road. Township 29 North, Range 15 West: Section 12, SW1/4, S1/2NW1/4; Section 23, E1/2SE1/4; Section 24, S1/2, SWNW; Section 25, N1/2NW1/4, SWNW. Township 29 North, Range 14 West: Section 12, SW1/4; Section 13, NENW, N1/2NE1/4 west of East Fork Dickey; Section 21, N1/2SE1/4, E1/2SW1/4. Township 28 North, Range 14 West: Section 19, SENE north of Kilmer Road; Section 20, W1/2NW1/4 north and west of Kilmer Road, E1/2SE1/4; Section 21, SWSW. ((Township 26 North, Range 12 West: Section 7, N1/2SE1/4 north of Highway 101; Section 24, NW1/4, SW1/4, W1/2NE1/4, W1/2SE1/4; Section 25, S1/2, NW1/4; Section 27, S1/2SW1/4 south of 1714 Road; Section 28, S1/2SE1/4, S1/2SW1/4 south of 1715 Road; Section 34, NE1/4, NENW.))

Grays Harbor County: Township 17 North, Range 10 West: Section 3, NE1/4NE1/4, NW1/4NE1/4, S1/2NE1/4, portions north of Little Hoquiam River, NW1/4, NE1/4, SW1/4 north of Little Hoquiam River, Lots 1 and 2; Section 4, NW1/4NE1/4, S1/2NE1/4, N1/2NW1/4, S1/2NW1/4, N1/2SW1/4, NE1/4SE1/4, NW1/4NE1/4, Lots 3 and 4; Section 5, N1/2NE1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4NW1/4, SE1/4NW1/4, N1/2SE1/4. Township 18 North, Range 10 West: Section 10, E1/2 except NE1/4NE1/4; Section 13, west of East Fork Hoquiam River; Section 14, all; Section 15, NE1/4 except NE1/4NE1/4, E1/2NE1/4, E1/2SW1/4, E1/2, W1/2SW1/4, SW1/4SE1/4; Section 23, all; Section 24, west of East Fork Hoquiam River; Section 25, west of East Fork Hoquiam River; Section 26, SW1/4, SW1/4SE1/4 at this junction then north all of Section 26; Section 27, SW1/4NW1/4, NE1/4SW1/4, NW1/4SW1/4, SW1/4SW1/4, SE1/4SW1/4; Section 28, SW1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, NW1/4SE1/4, SWSE1/4, SE1/4SE1/4; Section 32,

SE1/4SW1/4, NW1/4SE1/4, SW1/4SE1/4, SE1/4SE1/4; Section 33, NE1/4NE1/4, NW1/4NE1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, SE1/4SE1/4, NW1/4SE1/4, SW1/4SE1/4, E1/2SW1/4, E1/2NW1/4; Section 34, NW1/4NE1/4, SW1/4NE1/4, NW1/4, SW1/4, NW1/4SE1/4, SW1/4SE1/4.

Jefferson County: Township 27 North, Range 14 West: Section 2, west of Goodman Mainline; Section 3, all; Section 4, all; Section 5, E1/2NE1/4, E1/2SE1/4; Section 8, NE1/4, SE1/4, E1/2SW1/4, E1/2NW1/4; Section 9, all; Section 10, all; Section 11, all; Section 15, all; Section 16, NE1/4, SE1/4, N1/2SW1/4, NW1/4. Township 27 North, Range 13 West: Section 30, SE1/4SE1/4; Section 31, NE1/4NE1/4 east of Goodman Mainline; Section 32, east of Goodman Mainline; Section 33, all; Section 34, all; Section 35, all. Township 27 North, Range 12 West: Section 29, SW1/4, SE1/4; Section 32, NW1/4. Township 27 North, Range 11 West: Section 27, NW1/4, N1/2NE1/4, SW1/4NE1/4, NW1/4SE1/4; Section 34, S1/2NE1/4, NE1/4NE1/4. Township 26 North, Range 13 West: Section 4, N1/2N1/2; Section 3, north of Goodman Mainline. Township 26 North, Range 12 West: Section 7, N1/2SE1/4 north of Highway 101; Section 24, NW1/4, SW1/4, W1/2NE1/4, W1/2SE1/4; Section 25, S1/2, NW1/4; Section 27, S1/2SW1/4 south of 1714 Road; Section 28, S1/2SE1/4, S1/2SW1/4 south of 1715 Road; Section 34, NE1/4, NENW.

When, in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

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 Emergency Order 480, filed 7/14/86)

WAC 332-26-060 **SOUTH PUGET AREA CLOSURES.** King, ((Pierce)) Lewis and ((Mason)) Jefferson counties.

King County: Township 21 North, Range 7 East: All lands lying east of the Burlington Northern Railroad tracks within the following: Section 21, E1/2SE1/4, NW1/4SE1/4, SE1/4NE1/4; Section 22, all except W1/2NW1/4 and north 160 feet of NW1/4SW1/4; Section 27, all north of Coal Creek and west of Weyerhaeuser Mainline Road. Township 22 North, Range 9 East: Section 3, S1/2SE1/4; Section 4, all; Section 10, N1/2NE1/4; Section 13, N1/2NE1/4, NE1/4NW1/4. Township 22 North, Range 10 East: Section 19, all; Section 21, SE1/4, E1/2SW1/4. Township 23 North, Range 7 East: Section 14, SW1/4; Section 22, N1/2. Township 24 North, Range 7 East: Section 3, N1/2. Township 24 North, Range 8 East: Section 24, W1/2SE1/4. Township 24 North, Range 9 East: Section 19, all. Township 25 North, Range 7 East: Section 14, W1/2NW1/4; Section 15, NE1/4, N1/2SE1/4, NE1/4SW1/4; Section 34, SE1/4, SE1/4NW1/4. Township 26 North, Range 9 East: Section 6, W1/2NW1/4, N1/2S1/2; Section 14, all. Township 26 North, Range 7 East: Section 13, NE1/4, portions of W1/2SW1/4.

((Pierce)) Lewis County: Township 14 North, Range 6 East: Section 19, all; Section 30, all; Section 31, all; Section 32, all.

((Mason)) Jefferson County: Township 25 North, Range 2 West: Section 3, NW1/4, SW1/4, SW1/4SE1/4; Section 4, all; Section 5, N1/2NE1/4, SE1/4NE1/4, E1/2SE1/4; Section 9, all; Section 10, W1/2NE1/4, SE1/4NW1/4, S1/2SW1/4; Section 15, NW1/4NW1/4 above Highway 101. Township 26 North, Range 2 West: Section 28, S1/2SW1/4SW1/4; Section 29, SW1/4SW1/4, S1/2SE1/4SW1/4, S1/2S1/2SE1/4; Section 30, S1/2SW1/4NW1/4, W1/2SW1/4, W1/2NE1/4SW1/4, SE1/4SW1/4, S1/2S1/2SE1/4; Section 32, N1/2, SE1/4; Section 33, NW1/4, S1/2; Section 34, SW1/4SW1/4.

When in the opinion of the Area Manager, the fire hazard is sufficiently low on the lands herein described to permit public access thereto, he may suspend this notice by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area, specifying the date and time of the suspension, and by removing the posted notice of the hazardous area closure at the access points.

When, in the opinion of the Area Manager, the fire hazard is no longer sufficiently low to permit public access to the above-described lands, he will reinstate this hazardous area notice by giving the same notice to the public, specifying the date and time this notice again becomes effective, and replacing the posted notice of the hazardous area closure at the access points.

For protection of the above-described areas against fire, the following rule will be enforced:

Entry into this area is prohibited except as provided by law with reference to permanent residents and industrial operations.

Anyone violating any such rules and regulations or order closing any forest region shall be guilty of a misdemeanor.

Effective from midnight, July 13, 1986 to midnight, October 11, 1986.

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 86-15-054****EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Order 1898—Filed July 18, 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 Noxious weed control—Tansy ragwort in hay, chapter 16-752 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 several commercial hay fields in Western Washington counties which are known to be infested with tansy ragwort, a noxious weed which is poisonous to livestock are being harvested. It is a violation of RCW 17.10.235(1) for any person to knowingly sell hay containing viable tansy ragwort seed in sufficient amounts to create a hazard of the spread of tansy ragwort or sell hay containing tansy ragwort in sufficient amounts to be injurious to the health of animals that consume it. Two county weed control boards have used [asked] and RCW 17.10.235(2) requires the director to adopt rules establish [establishing] the amount of tansy ragwort or tansy ragwort seed which constitutes a violation of RCW 17.10.235(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 17.10.235 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 18, 1986.

By Michael V. Schwisow  
Deputy Director

Chapter 16-752 WAC  
NOXIOUS WEED CONTROL

WAC

- 16-752-001 DEFINITIONS
- 16-752-005 NOXIOUS WEED—TANSY RAGWORT IN HAY
- 16-752-010 TANSY RAGWORT IN HAY—PENALTIES

**Reviser's note:** The spelling error in the above material occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 16-752-001 **DEFINITIONS.** *The definitions set for 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) "Person" means any individual, partnership, corporation, firm, or any other entity.
- (4) "Hay" means the harvested herbage of forage plants, including but not limited to grasses, legumes, sedges and rushes.

NEW SECTION

WAC 16-752-005 **NOXIOUS WEED—TANSY RAGWORT IN HAY.** *The director finds that tansy ragwort, a noxious weed which is poisonous to livestock, is known to infest hay fields in Washington State. Under the authority of RCW 17.10.235, the following applies to the selling of hay in the state of Washington containing tansy ragwort plants and parts thereof (Senecio jacobaea):*

*No person shall knowingly sell hay containing:*

- (1) any viable tansy ragwort seed; or
- (2) greater than one-half of one percent of tansy ragwort by weight.

NEW SECTION

WAC 16-752-010 **TANSY RAGWORT IN HAY—PENALTIES.** *All violations of WAC 16-752-005 are punishable under RCW 17.10.230.*

**WSR 86-15-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 86-58—Filed July 18, 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 restrictions in Areas 4B, 5, 6, 6C provide protection for Puget Sound and Canadian chinook stocks while allowing a limited effort, limited impact immobile set net fishery. Restrictions in 6A, 7, 7A provide protection for Puget Sound and Canadian chinook stocks. Restrictions in 6B, 9, 10C, 10D, 10F, 10G and Cedar River provide protection for Lake Washington sockeye. Restrictions in Areas 13A and the Elwha, Dungeness, Nooksack, Skokomish, Quilcene, and White rivers and Minter Creek provide protection for Puget Sound spring chinook stocks. Restrictions in 8 and the Skagit River, below Baker River, provide protection for Baker River sockeye. Restrictions in the Skagit River above Baker River provide protection for spawning salmon stocks. Restrictions in Area 7C provide protection for chinook returning to the Samish Hatchery. Restrictions in Area 10A provide protection for Lake Washington sockeye and local summer/fall chinook. Restrictions in the Duwamish-Green, Hoko, Lyre, Pysht and the Sekiu rivers provides protection for summer/fall chinook. Restrictions in Area 6D and the Stillaguamish River provide protection for summer/fall chinook. Restrictions in Area 7E provide protection for summer/fall chinook. Restrictions in Area 10 protect Lake Washington sockeye and summer/fall chinook returning to Suquamish Hatchery. Restrictions in Samish River, provide protection for summer/fall chinook returning to Samish Hatchery.

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 18, 1986.

By Gene DiDonato  
for William R. Wilkerson  
Director

NEW SECTION

WAC 220-28-602 **PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS.** *Effective July 18, 1986, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:*

- Areas 4B, 5, 6, 6C, - Effective until further notice, drift gill net gear restricted to 6-inch maximum mesh when open.
- Areas 6A, 7, 7A - Effective until further notice, gill net gear restricted to 6-inch maximum mesh when open.

Areas 6B, 9 – Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

Area 6D – Effective through September 20, closed to all commercial fishing.

Area 7C – Effective until further notice, closed to all commercial fishing southeasterly of a line from the mouth of Oyster Creek 237 degrees true to a fishing boundary marker on Samish Island.

\*Area 7E – Effective through September 13, closed to all commercial fishing.

Area 8 and the Skagit River (downstream of the Baker River) – Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

\*Area 10 – Effective through August 2, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open. Effective until further notice, closed to all commercial fishing northwest of a line from the flashing buoy at the entrance to Agate Passage to the flashing light at the end of the Indianola Dock.

Area 10A – Effective through August 31, closed to all commercial fishing.

Area 10C – Effective until further notice, closed to all commercial fishing.

Areas 10D, 10F, 10G – Effective through August 2, closed to all commercial fishing.

Area 13A – Effective until further notice, closed to all commercial fishing.

Elwha River – Effective through July 19, closed to all commercial fishing.

Dungeness River – Effective through September 20, closed to all commercial fishing.

Skokomish River – Effective through July 26, closed to all commercial fishing.

Duwamish/Green Rivers – Effective July 13 until further notice, closed to all commercial fishing.

Hoko, Lyre, Pysht, and Sekiu River – Effective through September 27, closed to all commercial fishing.

\*Nooksack River – (1) upstream of Slater Bridge, effective through July 19, closed to all commercial fishing; (2) upstream of Lynden Bridge, effective through July 26, closed to all commercial fishing; (3) upstream of Nugents, effective through August 2, closed to all commercial fishing; and (4) upstream of confluence of forks, effective through September 27, closed to all commercial fishing.

\*Samish, Stillaguamish, Quilcene, and White rivers and Minter Creek – Closed to all commercial fishing until further notice.

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

Cedar River – Effective until further notice, closed to all commercial fishing.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective July 18, 1986.

WAC 220-28-601 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. ORDER NO. 86-57

#### WSR 86-15-056

#### EMERGENCY RULES

#### DEPARTMENT OF FISHERIES

[Order 86-59—Filed July 18, 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 adult salmon are available.

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

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

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

APPROVED AND ADOPTED July 18, 1986.

By Gene DiDonato  
for William R. Wilkerson  
Director

#### NEW SECTION

WAC 220-57-13000I **BOGACHIEL RIVER.** Notwithstanding the provisions of WAC 220-57-130, effective immediately through August 31, 1986: Bag Limit A – Downstream from the Highway 101 Bridge.

#### NEW SECTION

WAC 220-57-13500H **CALAWAH RIVER.** Notwithstanding the provisions of WAC 220-57-135, effective immediately through August 31, 1986: Bag Limit A – Downstream from the Highway 101 Bridge.

#### NEW SECTION

WAC 220-57-38500J **QUILLAYUTE RIVER.** Notwithstanding the provisions of WAC 220-57-385, effective immediately through August 31, 1986: Bag

*Limit A - Downstream from the confluence of the Soleduck and Bogachiel Rivers.*

APPROVED AND ADOPTED July 17, 1986.

By Monica Schmidt  
Secretary

**WSR 86-15-057**  
**NOTICE OF PUBLIC MEETINGS**  
**HIGHLINE COMMUNITY COLLEGE**

[Memorandum—July 15, 1986]

In compliance with RCW 42.30.075, the following are the dates for the regular monthly meetings during the 1986-87 academic year of the board of trustees of Highline Community College:

July 10, 1986  
August - no meeting scheduled  
September 11, 1986  
October 9, 1986  
November 13, 1986  
December 11, 1986  
January 8, 1987  
February 12, 1987  
March 12, 1987  
April 9, 1987  
May 14, 1987  
June 11, 1987

**WSR 86-15-058**  
**EMERGENCY RULES**  
**STATE BOARD OF EDUCATION**

[Order 9-86—Filed July 21, 1986]

Be it resolved by the State Board of Education, acting at Port Ludlow, Washington, that it does adopt the annexed rules relating to Emergency expulsion—Notice of hearing—Waiver of hearing right, WAC 180-40-300.

We, the State Board of Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is 1986-87 school year compliance with the immunization law's dual requirements of (1) exclusion as of the first day of attendance for noncompliance, and (2) prior notice of exclusion necessitate an allowance for personal service of notice per this amendment to WAC 180-40-300.

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

This rule is promulgated pursuant to RCW 28A.04-.132 and is intended to administratively implement that statute.

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

AMENDATORY SECTION (Amending Order 6-77, filed 6/2/77, effective 8/1/77)

WAC 180-40-300 EMERGENCY EXPULSION—NOTICE OF HEARING—WAIVER OF HEARING RIGHT. (1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion and documenting delivery by obtaining his or her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter(s) deposited in the United States mail, within ((24)) twenty-four hours of the expulsion: PROVIDED, That if the emergency expulsion is based upon a failure to comply with the state immunization law (see chapter 180-38 WAC), the notice must be received by the student's parent(s) or guardian(s) prior to the emergency expulsion of the student regardless of the method of delivery. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible,

(b) Specify the alleged reason(s) for the emergency expulsion,

(c) Set forth the corrective action or punishment taken and proposed,

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible, and

(e) Set forth the facts that:

(i) A written (or "oral" if provided for by school district policy) request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the tenth school business day after receipt of the notice of opportunity for a hearing, and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the emergency expulsion may be continued as deemed necessary by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within ten school business days after the date of receipt of the notice. A request for

a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule of the school district.

(3) If a request for a hearing is not received within the required ten school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the emergency expulsion may be continued as deemed necessary by the school district.

**WSR 86-15-059**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed July 21, 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 230-40-010;

that the agency will at 10:00 a.m., Friday, September 12, 1986, in the Westwater Inn, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 9.46 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 12, 1986.

Dated: July 21, 1986  
 By: Ronald O. Bailey  
 Deputy Director

**STATEMENT OF PURPOSE**

Title: Amendatory section WAC 230-40-010 Types of card games authorized.

Description of Purpose: Because of the skill factor involved, the card game bridge is removed as a social card game.

Statutory Authority: RCW 9.46.020 and 9.46.070 (11), (14) and (20).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-40-010 removes the game of bridge as an authorized social card game.

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 125, filed 11/15/82)

WAC 230-40-010 TYPES OF CARD GAMES AUTHORIZED. The commission hereby authorizes the following card games to be played in public card rooms and social card rooms licensed by the commission:

(1) Poker.

Any poker game described in Hoyle's Modern Encyclopedia of Card Games, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st Edition, pages 219 through 277 provided that only a maximum of five betting rounds per hand are permitted.

(2) Hearts.

(3) ~~((Bridge))~~

~~((4))~~ Pinochle.

~~((5))~~ (4) Cribbage.

~~((6))~~ (5) Rummy.

~~((7))~~ (6) Mah-jongg (tiles).

~~((8))~~ (7) Coon-Can.

~~((9))~~ (8) Pan.

~~((10))~~ (9) Pitch.

Card games not herein authorized are prohibited.

**WSR 86-15-060**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
 [Memorandum—July 16, 1986]

**Authority Meeting Locations**

This memorandum provides the addresses for the meetings for the rest of 1986.

August 20, 9:30 a.m. and August 21, 8:00 a.m.  
 San Juan Grange  
 First and Court Streets  
 Friday Harbor

September 17, 9:30 a.m.  
 Auditorium, Building 9  
 National Oceanic and Atmospheric Administration  
 7600 Sand Point Way N.E.  
 Seattle

October 15, 9:30 a.m.  
 Tribal Board Room  
 Tulalip Tribal Headquarters  
 6700 Totem Beach Road  
 Marysville

November 6, 9:30 a.m.  
 North and South Auditoriums  
 Jackson Federal Building  
 915 Second Avenue  
 Seattle

November 12, 9:30 a.m.  
 Port of Tacoma Conference Room  
 World Trade Center  
 3600 Port of Tacoma Road  
 Tacoma

December 17, 9:30 a.m.  
 Joint Use Auditorium  
 U.S. Army Corps of Engineers  
 4735 East Marginal Way  
 Seattle

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 27, 1986. Mailing address: Insurance Building, AQ-21, Olympia, WA 98504.

Dated: July 18, 1986  
 By: Robert E. Johnson  
 Deputy Commissioner

**WSR 86-15-061**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
**(Water Resources)**  
 [Filed July 21, 1986]

A proposed amendment to WAC 508-60-040, Administration of flood control zones was filed with your office on April 2, 1986, (Notice No. WSR 86-08-100) for adoption on June 5, 1986. This amendment would authorize the Department of Ecology to waive the prohibition of permanent dwellings in the floodway of flood control zone streams. An additional notice was filed with your office on June 3, 1986, (Notice No. WSR 86-12-061) for continuation of adoption to July 17, 1986.

Based on an evaluation of the response from two public hearings and the written responses, the amendment has been officially withdrawn and will not be adopted on July 17, 1986.

Phillip C. Johnson  
 Deputy Director, Programs  
 D. Rodney Mack  
 Program Manager  
 Shorelands and Coastal Zone  
 Management Program

**WSR 86-15-062**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**  
 [Filed July 21, 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 a joint underwriting association pursuant to chapter 141, Laws of 1986, to provide liability insurance for day care services, by adopting the sections of chapter 284-78 WAC as permanent rules, they having been previously adopted as emergency rules;

that the agency will at 10:00 a.m., Wednesday, August 27, 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 29, 1986, in the Insurance Commissioner's Office, Olympia, Washington, at 10:00 a.m.

The authority under which these rules are proposed is RCW 48.02.060 (3)(a).

The specific statute these rules are intended to implement is chapter 141, Laws of 1986.

**STATEMENT OF PURPOSE**

Title: Adopting chapter 284-78 WAC on a permanent basis, to establish a joint underwriting association pursuant to chapter 141, Laws of 1986.

Chapter 284-78 WAC was adopted June 30, 1986, as an emergency regulation. Its rules are being adopted as permanent rules pursuant to RCW 48.02.060 (3)(a), to effectuate the provisions of chapter 141, Laws of 1986. Specifically it complies with the legislative mandate set forth in section 3, chapter 141, Laws of 1986, that the commissioner shall approve a reasonable plan for the establishment of a nonprofit, joint underwriting association for day care insurance, subject to the conditions and limitations contained in the act.

The rules provide that every insurer with a certificate of authority to write property and casualty insurance within this state on a direct basis is a member of the association, and provide for the association's management through a governing board and a manager, subject to the supervision of the commissioner, and spells out the general powers and duties of the board. The association remains generally inactive unless activated by the commissioner's direction following a finding that a person or facility licensed to provide day care services pursuant to chapter 74.15 RCW is unable to obtain day care insurance with liability limits of at least \$100,000 per occurrence from the voluntary insurance market or through a market assistance plan organized pursuant to section 906, chapter 305, Laws of 1986.

WAC 284-78-070 permits the board to calculate, levy and collect assessments from the member insurers. A start-up assessment may be levied, which may not exceed \$1,000,000. Subsequent assessments may be levied to offset losses and/or expenses in excess of income received by the association. The first million dollars of an assessment is collected in equal amounts from each member insurer, regardless of size of the insurer and regardless of whether an insurer is actively writing business in this state. To the extent an assessment exceeds \$1,000,000, each member insurer is assessed a proportionate share relating to premium volume. WAC 284-78-090 defines the eligibility requirements for day care insurance through the association. WAC 284-78-100 through 284-78-120, cover the policy's coverage and rate requirements, its renewal requirements and its cancellation restrictions. WAC 284-78-130 provides for a right of appeal by an applicant or insured to the commissioner. WAC 284-78-140 requires agents and brokers to cooperate with the association. WAC 284-78-150 recognizes that producers will receive commissions for assisting day care licensees to procure the insurance, the amount thereof to be established by the governing board. When regular day care insurance is cancelled or nonrenewed, the company is required by WAC 284-78-



160 to include a notice to the licensee explaining eligibility for the association's insurance.

The need for the rules was determined by the legislature by its enactment of chapter 141, Laws of 1986. The rules were drafted primarily by Scott Jarvis, Deputy Commissioner, (206) 753-3110, and Don Cofer, Assistant Attorney General, (206) 753-6216. Implementation and enforcement of the rules will be under the supervision of David Rodgers, Chief Deputy, (206) 753-7302. The address for each is Insurance Building, Olympia, Washington 98504.

The rule is proposed by the insurance commissioner, a state public official.

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

**Small Business Economic Impact Statement:** As proposed, if an assessment is not more than \$1,000,000, it will be levied and collected in equal shares from each insurance company that possesses a certificate of authority to write property and casualty insurance within Washington state on a direct basis. Accordingly, an insurer with few employees would be charged the same as an insurer with many employees, and would thus pay more proportionately per employee. Assessments in excess of \$1,000,000 will be collected on a proportionate basis related to each company's premium volume. Premium volume is not necessarily indicative of the number of employees, but generally, the larger premium volume companies will have greater numbers of employees. It is not anticipated that there will be many, if any, assessments or that they will be sizeable. It is believed that the levying and collection of equal amounts from each company for assessments of \$1,000,000 or less is justified by ease of administration, and the relatively small amount any one company would be required to pay.

#### Chapter 284-78 WAC

### JOINT UNDERWRITING ASSOCIATION FOR DAY CARE INSURANCE

#### WAC

284-78-010	Purpose.
284-78-020	Definitions.
284-78-030	The association.
284-78-040	Activation of association.
284-78-050	Administration.
284-78-060	General powers and duties of the board.
284-78-070	Assessments.
284-78-080	Statistics, records, and reports.
284-78-090	Eligibility of licensees for coverage.
284-78-100	Standard policy coverage—Premiums.
284-78-110	Renewal of policies.
284-78-120	Cancellation of policies.
284-78-130	Right of appeal.
284-78-140	Cooperation of producers.
284-78-150	Commissions.
284-78-160	Additional notice required.
284-78-170	Termination of association.
284-78-180	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 thirty 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 one million dollars. 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 one million dollars, each member insurer shall be assessed a proportionate share relating to premium volume. The first one million dollars 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 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 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 86-15-063**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed July 22, 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 rapeseed.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 30, 1986.

The authority under which these rules are proposed is chapter 15.65 RCW.

This notice is connected to and continues the matter in Notice No. WSR 86-12-065 filed with the code reviser's office on June 4, 1986.

Dated: July 22, 1986

By: Arthur C. Scheunemann  
Assistant Director

### **WSR 86-15-064**

#### **ADOPTED RULES**

#### **DEPARTMENT OF REVENUE**

[Order ET 86-14—Filed July 22, 1986]

I, Matthew J. Coyle, acting director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to refuse collection business, new section WAC 458-20-250.

This action is taken pursuant to Notice No. WSR 86-12-076 filed with the code reviser on June 4, 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 July 22, 1986.

By Matthew J. Coyle

Acting Director

#### NEW SECTION

WAC 458-20-250 REFUSE COLLECTION BUSINESS. (1) INTRODUCTION. Chapter 282, Laws of 1986, effective June 11, 1986, establishes for tax purposes, and defines the specific business activity of the "refuse collection business." Under 1985 law (chapter 471, Laws of 1985) this activity had been included as a "public service business" and given a special tax rate under the public utility tax of chapter 82.16 RCW. The 1986 law removes refuse collection activities from the public utility tax on gross receipts and imposes a "refuse collection tax" similar in nature to retail sales tax. The burden of this tax is upon the ultimate consumer of the refuse collection service. The tax rate is three and six tenths percent (.036), and the tax measure is the total consideration charged to the consumer-customer for the services.

(2) The 1986 law does not expressly establish a specific business tax classification for the gross receipts of persons engaged in the refuse collection business. Thus, because of the provisions of RCW 82.04.290, such persons are subject to the service or other activities classification of business and occupation tax.

(3) For purposes of this section the following terms will apply.

(a) "Refuse collection business" means every person who receives waste for transfer, storage, or disposal including but not limited to all collection services, public or private dumps, transfer stations, and similar operations.

(b) "Person" shall have the meaning given in RCW 82.04.030 or any later, superseding section.

(c) "Waste" means garbage, trash, rubbish, or other material discarded as worthless or not economically viable for further use. The term does not include hazardous

or toxic waste nor does it include material collected primarily for recycling or salvage.

(d) "Taxpayer" means that person upon whom the refuse collection tax is imposed, that is, the private or commercial consumer-customer.

(e) "Department" means the department of revenue.

(f) "Consideration charged for the services" means the total amount billed to a taxpayer as compensation for refuse collection services, without any deduction for any costs of doing business or any other expense whatsoever, paid or accrued, PROVIDED, That the term does not include the refuse collection tax itself whether separately itemized or not, nor any similar utility taxes or consumer taxes, imposed by the state or any political subdivision thereof or any municipal corporation, directly upon the consumer-taxpayer and separately itemized on the taxpayer's billing. Also, the term does not include late charges or penalties which may be imposed for non-timely payment by taxpayers.

(4) The person who collects the charges for refuse collection services from the taxpayer is responsible for collecting the refuse collection tax and remitting it to the state.

(5) The law provides that if any person charged with collecting the tax fails to bill the taxpayer for it, or to notify the taxpayer in writing that the tax is due, then that person shall be personally liable for the tax. Thus, unlike the retail sales tax, the refuse collection tax may be included within the gross refuse fee or charge billed to taxpayers and need not be separately itemized on such billings, but only if such taxpayers are notified in writing that the tax has been imposed and is being collected. Nothing prevents any refuse collection business from separately itemizing the tax on customer billings, at its option.

(6) Furthermore, if any person collects that tax from the taxpayer and fails to pay it to the department in the manner provided in this section, for any reason whatever, that person shall be personally liable for the tax.

(7) The refuse collection tax is due from the taxpayer within twenty-five days from the date the taxpayer is billed for the refuse collection services.

(8) The tax is due to be remitted to the department by the person collecting it at the end of the tax reporting period in which the tax is received by that person.

(9) If a taxpayer makes only a partial payment of the amount billed for the services and tax, the amount paid must first be used to remit the refuse collection tax to the department. This tax has first priority over all other claims against the amount paid by the taxpayer.

(10) The federal government, its agencies and instrumentalities, and all refuse service contracts with such federal entities are not subject to the refuse collection tax. There are no other taxpayers expressly exempted from paying the refuse collection tax. Any other taxpayer claiming exemption of this tax for any reason whatsoever must provide the refuse collection business with proof of its entitlement to exemption. The department will verify such claims upon request.

(11) To prevent pyramiding or multiple taxation of single transactions, the refuse collection tax does not apply to any person other than the taxpayer. It is a tax

upon the ultimate consumer-customer of the refuse service.

(12) Persons who collect the refuse collection tax and who, themselves, utilize the further services of others for the transfer, storage, or disposal of the waste collected are not required to again pay the tax to such other service providers. However, in order to be exempt of such tax payment a refuse collection business must provide other refuse service providers with a refuse collector's exemption certificate in the following form:

(a) We hereby certify that we are engaged in the refuse collection business and are registered with the state department of revenue to collect and report the refuse collection tax imposed under chapter 282, Laws of 1986. We certify further that the refuse collection tax due with respect to the refuse collection business being performed under this certificate has been or will be collected and paid and that we are exempt of further payment of such tax on charges for any refuse collection services being procured by us.

Business Name \_\_\_\_\_ Authorized Signature \_\_\_\_\_

Business Address \_\_\_\_\_ Date \_\_\_\_\_

Revenue Registration No. \_\_\_\_\_

U.T.C. Certificate of Public Necessity No. \_\_\_\_\_

If not regulated by U.T.C., please check here

(b) Blanket certificates may be provided in advance by refuse collectors or other persons who collect the customer charges for refuse collection and who are liable for collecting and remitting the refuse collection tax.

(c) Refuse collection businesses which provide services for the transfer, storage, or disposal of waste, and who accept completed certifications in good faith are not required to collect and remit the refuse collection tax and will not be held personally liable for it.

(13) Persons engaged in the refuse collection business by operating facilities for the transfer, storage, or disposal of waste, including public and private dumps, and who provide such services directly to taxpayers for a charge, are liable for the collection of the refuse collection tax on such charges.

(14) Examples of taxable and tax exempt transactions are:

(a) A private person or commercial customer hauls its own waste to a dump site for disposal and pays a fee - the fee is subject to the 3.6 percent refuse collection tax.

(b) A refuse collection company picks up and hauls residential or commercial waste to a dump for disposal - this company bills the customer for the tax and need not pay the tax upon any further charge made by the dump site operator, by providing a refuse collector's certificate.

(c) A city provides refuse collection services to its residents through an independent hauler under a negotiated contract, and uses a county operated land fill. The city bills the residents on their utility bills. The 3.6 percent applies to the refuse portion of the utility bill. This tax does not apply to any charge paid by the city to the hauling company, nor to any charge made by the county to the city for dumping services. The city must provide the hauler and the county with a refuse collector's certificate.

(15) The refuse collection tax is imposed in much the same manner as retail sales tax; that is, it is payable by the refuse consumer to the refuse service provider who does the customer billing. Likewise, other refuse service providers up the chain of transactions from the billing provider are treated in the same manner as wholesalers and need not collect the tax if the appropriate certificate is taken.

(16) **BUSINESS AND OCCUPATION TAX.** There is no exemption from business and occupation tax measured by gross income of any person engaged in the refuse collection business. Such persons are subject to the service classification of business and occupation tax measured by their gross receipts. (See RCW 82.04.290.) Also, there is no general provision under the law for the nonpyramiding effect of the business and occupation tax. Thus, each refuse collection business is separately liable for this tax on its total gross receipts without any deduction for any costs of doing business or any amounts paid over to other refuse service providers. Also, all amounts designated as late charges or penalties are included within this business tax measure.

(17) The refuse collection business is an "enterprise activity," as defined in WAC 458-20-189, when it is funded over fifty percent by user fees. Thus, the amounts derived from this activity are not exempt of business and occupation tax even though they may be charged by governmental entities. (See RCW 82.04.419.)

(18) The exemption of refuse collection tax for the federal government, its agencies and instrumentalities, does not apply for business and occupation tax. Thus, refuse collection businesses who charge such federal entities for services, under contract or otherwise, must pay the business and occupation tax upon such gross receipts.

(19) Persons engaged in the refuse collection business may be entitled to certain express deductions or exemptions from business and occupation tax for specific reasons unrelated to the nature of their refuse business activity. (See RCW 82.04.419 and RCW 82.04.4291.)

(20) Refuse collection businesses which provide waste receptacles, containers, dumpsters, and the like to their customers for a charge, separate from any charge for collection of the waste, are engaged in the business of renting tangible personal property taxable separate and apart from the refuse collection business. Charges for such rentals, however designated, are subject to retailing business and occupation tax when they are billed separately or are line itemized on customer billings. Such businesses are engaged in more than one taxable kind of business activity and are separately taxable on each. (See RCW 82.04.440.)

(21) **RETAIL SALES TAX.** Persons who separately charge and bill customers for waste receptacles, as explained earlier, must collect and remit the retail sales tax on the itemized rental price, fee, or other consideration, however designated, charged for the receptacles.

(22) Refuse collection businesses are themselves the consumers of all tangible personal property purchased for their own use in conducting such business, other than items for resale or renting to customers, e.g., rented receptacles. Retail sales tax must be paid to materials

suppliers and providers of such tangible consumables. (See RCW 82.04.050.)

(23) **USE TAX.** The use tax is due upon all tangible personal property used as consumers by refuse collection businesses, upon which the retail sales tax has not been paid. (See RCW 82.12.020.)

## WSR 86-15-065

### PROPOSED RULES

### PUBLIC DISCLOSURE COMMISSION

[Filed July 22, 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:

Amd WAC 390-24-010 Forms for statement of financial affairs.  
Amd WAC 390-24-020 Forms for amending statement of financial affairs.  
Amd WAC 390-24-025 Time for filing financial affairs report;

that the agency will at 9:00, 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.

Dated: July 16, 1986  
By: Graham E. Johnson  
Executive Director

### STATEMENT OF PURPOSE

Title: WAC 390-24-010 Forms for statement of financial affairs.

Description of Purpose: Form for filing report of financial affairs.

Summary of Rule: Adopts form for reporting financial affairs.

Reasons Supporting Proposed Action: At the request of certain elected officials who must file the form, PDC is proposing changing the name of the form from conflict of interest statement to statement of financial affairs.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC staff and some officials who must file the form.

Title: WAC 390-24-020 Forms for amending statement of financial affairs.

Description of Purpose: Form for amending report of financial affairs.

Summary of Rule: Adopts form for amending the statement of financial affairs.

Reasons Supporting Proposed Action: At the request of certain elected officials who must file the form, PDC is proposing changing the name of the form from conflict of interest statement to statement of financial affairs.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC staff and some officials who must file the form.

Title: WAC 390-24-025 Time for filing statement of financial affairs.

Description of Purpose: Explains when to file form.

Summary of Rule: Explains when to file financial affairs form.

Reasons Supporting Proposed Action: To be consistent with other rules that are being updated because of a change in the title of the form.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC staff.

Statutory Authority: RCW 42.17.370(1).

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graham E. Johnson, Executive Director.

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: N/A.

AMENDATORY SECTION (Amending Order 86-02, filed 3/26/86)

WAC 390-24-010 FORMS FOR ((CONFLICT OF INTEREST)) STATEMENT OF FINANCIAL AFFAIRS. The official form for ((conflict of interest)) statements of financial affairs as required by RCW 42.17.240 is designated "F-1", revised ((12/85)) 12/86. ((The form adopted by WAC 390-24-020 may be used by those persons filing after their first filing of this form.)) Copies of this form are available at the commission of- fice, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments ((staff)) must be on 8-1/2" x 11" white paper.

PUBLIC DISCLOSURE COMMISSION  
**pdc**  
403 EVERGREEN PLAZA  
OLYMPIA, WASHINGTON  
98504 206-753-1111

POC FORM **F-1** 12-85  
**CONFLICT OF INTEREST STATEMENT**  
elected officials, candidates  
and state appointed officials

POC OFFICE USE

P  
M  
O  
A  
S  
R  
K

Instructions:

Include information for yourself, spouse and dependents in your household.

Report period: Elected and state appointed officials—preceding calendar year.  
Candidates and others—preceding 12 calendar months.

When due: Elected and state appointed officials—by April 15  
Candidates and others—within two weeks of becoming a candidate or being newly appointed to a vacancy.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION.

DOLLAR CODE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

R  
E  
C  
E  
I  
V  
E  
D

LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_ MIDDLE INITIAL \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ COUNTY \_\_\_\_\_ ZIP \_\_\_\_\_

CHECK YOUR FILING STATUS (mark only one box)

An elected or state appointed official filing annual report

Final report as an elected official. Term expired \_\_\_\_\_

Candidate running in the election: month \_\_\_\_\_ year \_\_\_\_\_

Newly appointed to an elective office

Newly appointed to a state appointive office

NAMES OF SPOUSE AND DEPENDENTS \_\_\_\_\_

POLITICAL PARTY if partisan office or pertinent to appointment \_\_\_\_\_

OFFICE YOU HOLD OR ARE A CANDIDATE FOR:

Office title \_\_\_\_\_

County, city or district of the office, name and number: \_\_\_\_\_

Position number \_\_\_\_\_

Term begins: \_\_\_\_\_ ends: \_\_\_\_\_

**1 INCOME:** List each source of income, compensation, or employment from which you or a family member received \$1,000 or more during the year.

NAME AND ADDRESS OF EMPLOYER OR SOURCE OF COMPENSATION	OCCUPATION OR HOW COMPENSATION WAS EARNED	AMOUNT USE CODE

CHECK HERE  IF CONTINUED ON ATTACHED SHEET

**2 REAL ESTATE:** List all Washington real estate assessed in value over \$5,000 in which you held a financial interest. (Show partnership, company, etc. real estate on F-1 supplement.)

PROPERTY OWNED OR IN WHICH YOU HELD A FINANCIAL INTEREST DURING THE PERIOD COVERED BY THIS REPORT:

PROPERTY PURCHASED OR IN WHICH YOU ACQUIRED AN INTEREST DURING REPORT PERIOD	NATURE OF FINANCIAL INTEREST (e.g., deed, R.E. contract, lease)	PAYMENT OR CONSIDERATION GIVEN (e.g., cash, mortgage, note, trade)	DOLLAR VALUE USE CODE
PROPERTY SOLD OR IN WHICH YOU DIVESTED AN INTEREST DURING REPORT PERIOD	NAME AND ADDRESS OF PURCHASER	PAYMENT OR CONSIDERATION RECEIVED	

CHECK HERE  IF CONTINUED ON ATTACHED SHEET

3

**3 ASSETS:** List bank and savings accounts, insurance policies, stocks, bonds and other intangible property.

A. Name and address of each bank or financial institution in which you had an account over \$10,000 any time during the report period.	TYPE OF ACCOUNT, DESCRIPTION OF ASSET	VALUE: USE CODE
B. Name and address of each insurance company where you had a policy with a cash or loan value over \$10,000 during the period.		
C. Name and address of each company, union, association, government agency, etc. in which you owned or had a financial interest worth over \$1,000. Include stocks, bonds, ownership, retirement plan, IRA, and other intangible property.		

Check here  if continued on attached sheet

**4 LIABILITIES:** List each creditor owed \$1,000 or more any time during the reporting period. Don't include retail charge accounts or credit cards.

CREDITOR'S NAME AND ADDRESS	TERMS OF PAYMENT	SECURITY GIVEN	AMOUNT USE CODE	ORIGINAL PRESENT

Check here  if continued on attached sheet

**5 Answer each question below. Your answer should cover all items during the reporting period. If you answer "yes" to any of these questions, you must also complete the supplement page to this report. The supplement is not required if all answers are "no."**

- A. Are you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity? \_\_\_\_\_ If yes, complete supplement, Parts A and B.
- B. Do you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business? \_\_\_\_\_ If yes, complete supplement, Parts A, B, and C.
- C. Do you, your spouse or dependents own your own business? \_\_\_\_\_ If yes, complete supplement, Parts A, B, and C.
- D. Have you, your spouse or dependents prepared, promoted or opposed state legislation, rules, rates or standards for current or deferred compensation? (Do Not include pay for your currently-held public office.) \_\_\_\_\_ If yes, complete supplement, Part D.

<table border="1"> <thead> <tr> <th>DOLLAR CODE</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>\$1 to \$1,999</td> </tr> <tr> <td>B</td> <td>\$2,000 to \$9,999</td> </tr> <tr> <td>C</td> <td>\$10,000 to \$19,999</td> </tr> <tr> <td>D</td> <td>\$20,000 to \$49,999</td> </tr> <tr> <td>E</td> <td>\$50,000 or more</td> </tr> </tbody> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$1,999	B	\$2,000 to \$9,999	C	\$10,000 to \$19,999	D	\$20,000 to \$49,999	E	\$50,000 or more	<p><b>HAVE YOU ? ? ? ?</b></p> <p>Answered each item?</p> <p>Put your name on each attached page?</p> <p>Kept a copy for your records?</p>	<p><b>Certification:</b> I hereby certify under penalty of perjury that the information contained in this report is true and correct.</p> <p>Signature _____</p> <p>Telephone _____ Date _____</p>
DOLLAR CODE	AMOUNT													
A	\$1 to \$1,999													
B	\$2,000 to \$9,999													
C	\$10,000 to \$19,999													
D	\$20,000 to \$49,999													
E	\$50,000 or more													

**REPORT NOT ACCEPTABLE WITHOUT YOUR SIGNATURE**



PUBLIC DISCLOSURE COMMISSION



POC FORM F-1 SUPPLEMENT (12/86) CONFLICT OF INTEREST STATEMENT SUPPLEMENT PAGE

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

LAST NAME FIRST NAME M.I. DATE

A OFFICES HELD, BUSINESS INTERESTS: For each corporation, association, union, partnership, joint venture, or other entity in which you are an officer, director, general partner, trustee, or 10 percent or more owner—provide the following information: Entity No., Report name of corporation, association, etc.; Position or ownership, Your office or title or percent of ownership; Family member who has interest; Customers, List each government body, corporation, partnership, joint venture, union, association, business, or other commercial entity which paid compensation of \$5,000 or more during the period in the past year; Purpose of payment, Describe the purpose of each payment or other consideration paid or received; the date received.

ENTITY NO. 1: POSITION OR OWNERSHIP % SHOW SELF (S) SPOUSE (SP) DEPENDENT (D)

CUSTOMERS: PURPOSE OF PAYMENT

Check here [ ] if continued on attached sheet

ENTITY NO. 2: POSITION OR OWNERSHIP % SHOW SELF (S) SPOUSE (SP) DEPENDENT (D)

CUSTOMERS: PURPOSE OF PAYMENT

Check here [ ] if continued on attached sheet

Report additional entities on plain 8 1/2 x 11 paper using above format. Attach pages to this supplement. Put your name on all attachments.

**B GOVERNMENT CUSTOMERS:** If the government body in which you hold or are running for office has paid compensation to any entity listed in part "A" complete this section.

NAME OF ORGANIZATION WHICH RECEIVED PAYMENT	GOVERNMENT AGENCY WHICH MADE PAYMENT	DOLLAR AMOUNT PAID AND PURPOSE OF PAYMENT
Check here <input type="checkbox"/> If continued on attached sheet		

**C BUSINESS REAL ESTATE:** List each parcel of Washington real estate with assessed value over \$10,000 in which a direct financial interest was held by any corporation, partnership, firm, enterprise or other entity in which you, your spouse or dependents own 10% or more.

DESCRIPTION OF PROPERTY (STREET ADDRESS, TAX DESCRIPTION OR LEGAL DESCRIPTION)
Check here <input type="checkbox"/> If continued on attached sheet

**D LOBBYING:** List persons for whom state legislation or state rules, rates or standards have been prepared or lobbied for current or deferred compensation. Do not list pay from government body in which you are an elected or appointed official or professional staff member.

PERSON TO WHOM SERVICES RENDERED	DESCRIPTION OF LEGISLATION, RULES, ETC.	COMPENSATION



PDC FORM **F-1** **STATEMENT OF FINANCIAL AFFAIRS**  
 elected officials, candidates  
 and state appointed officials

PDC OFFICE USE  
 P  
M  
O  
R  
T  
K

**Instructions:**

Include information for yourself, spouse and dependents in your household.

Report period: Elected and state appointed officials—preceding calendar year.  
 Candidates and others—preceding 12 calendar months.

When due: Elected and state appointed officials—by April 15  
 Candidates and others—within two weeks of becoming a candidate or being newly appointed to a vacancy.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION.

DOLLAR CODE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

R  
E  
C  
E  
I  
V  
E  
D

LAST NAME	FIRST NAME	MIDDLE INITIAL	NAMES OF SPOUSE AND DEPENDENTS	POLITICAL PARTY If partisan office or pertinent to appointment
ADDRESS				
CITY	COUNTY	ZIP		
CHECK YOUR FILING STATUS (mark only one box)			OFFICE YOU HOLD OR ARE A CANDIDATE FOR:	
<input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired _____ <input type="checkbox"/> Candidate running in the election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office			Office title _____ County, city district or agency of the office, name and number: _____ Position number _____ Term begins: _____ ends: _____	

**1** **INCOME:** List each source of income, compensation and employment from which you or a family member received \$1,000 or more during the year.

NAME AND ADDRESS OF EMPLOYER OR SOURCE OF COMPENSATION	OCCUPATION OR HOW COMPENSATION WAS EARNED	AMOUNT: USE CODE
CHECK HERE <input type="checkbox"/> IF CONTINUED ON ATTACHED SHEET		

**2** **REAL ESTATE:** List each parcel of Washington real estate assessed in value over \$5,000 in which you held a financial interest. (Show partnership, company, etc. real estate on F-1 supplement.)

PROPERTY OWNED OR IN WHICH YOU HELD A FINANCIAL INTEREST DURING THE PERIOD COVERED BY THIS REPORT.

PROPERTY PURCHASED OR IN WHICH YOU ACQUIRED AN INTEREST DURING REPORT PERIOD	NATURE OF FINANCIAL INTEREST (e.g., deed, R.E. contract, lease)	PAYMENT OR CONSIDERATION GIVEN (e.g., cash, mortgage, note, trade)	DOLLAR VALUE USE CODE
PROPERTY SOLD OR IN WHICH YOU DIVESTED AN INTEREST DURING REPORT PERIOD	NAME AND ADDRESS OF PURCHASER	PAYMENT OR CONSIDERATION RECEIVED	
CHECK HERE <input type="checkbox"/> IF CONTINUED ON ATTACHED SHEET			

**3 ASSETS:** List bank and savings accounts, insurance policies, stock, bonds and other intangible property.

A. Name and address of each bank or financial institution in which you had an account over \$10,000 any time during the report period.	TYPE OF ACCOUNT, DESCRIPTION OF ASSET	VALUE USE CODE
B. Name and address of each insurance company where you had a policy with a cash or loan value over \$10,000 during the period.		
C. Name and address of each company, union, association, government agency, etc. in which you owned or had a financial interest worth over \$1,000. Include stocks, bonds, ownership, retirement plan, IRA, and other intangible property.		

Check here  if continued on attached sheet

**4 LIABILITIES:** List each creditor owed \$1,000 or more any time during the period. Don't include retail charge accounts or credit cards.

CREDITOR'S NAME AND ADDRESS	TERMS OF PAYMENT	SECURITY GIVEN	AMOUNT USE CODE	
			ORIGINAL	PRESENT

Check here  if continued on attached sheet

**5 Answer each question below. Your answer should cover all times during the reporting period. If you answer yes to any of these questions you must also complete the supplement page to this report. The supplement is not required if all answers are no.**

- A. Are you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union association, joint venture or other entity? \_\_\_\_\_ If yes, complete supplement, Parts A and B.
- B. Do you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business? \_\_\_\_\_ If yes, complete supplement, Parts A, B, and C.
- C. Do you, your spouse or dependents own your own business? \_\_\_\_\_ If yes, complete supplement, Parts A, B, and C.
- D. Have you, your spouse or dependents prepared, promoted or opposed state legislation, rules, rates or standards for current or deferred compensation? (Do Not include pay for your currently-held public office.) \_\_\_\_\_ If yes, complete supplement, Part D.

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PDC FORM <b>F-1</b> SUPPLEMENT (12/86)	<b>STATEMENT OF FINANCIAL AFFAIRS</b> <b>SUPPLEMENT PAGE</b>
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PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

LAST NAME	FIRST NAME	M.I.	DATE
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**A OFFICES HELD, BUSINESS INTERESTS:** For each corporation, association, union, partnership, joint venture or other entity in which you are an officer, director, general partner, trustee, or 10 percent or more owner—provide the following information:

- Entity No: Report name of corporation, association, etc.
- Position or ownership: Your office or title or percent of ownership; family member who has interest.
- Customers: List each government body, corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity which paid compensation of \$5,000 or more during the period to the entity listed above.
- Purpose of payment: Briefly say what property, goods, services or other consideration was given or performed for the compensation.

ENTITY NO. 1: POSITION OR OWNERSHIP % SHOW SELF (S)   
SPOUSE (SP)  
DEPENDENT (D)

CUSTOMERS: PURPOSE OF PAYMENT

Check here  if continued on attached sheet

ENTITY NO. 2: POSITION OR OWNERSHIP % SHOW SELF (S)   
SPOUSE (SP)  
DEPENDENT (D)

CUSTOMERS: PURPOSE OF PAYMENT

Check here  if continued on attached sheet

Report additional entities on plain 8½ x 11 paper using above format. Attach pages to this supplement. Put your name on all attachments.

**B GOVERNMENT CUSTOMERS:** If the government body in which you hold or are running for office has paid compensation to any entity listed in part "A", complete this section.

NAME OF ORGANIZATION WHICH RECEIVED PAYMENT	GOVERNMENT AGENCY WHICH MADE PAYMENT	DOLLAR AMOUNT PAID AND PURPOSE OF PAYMENT

Check here  If continued on attached sheet

**C BUSINESS REAL ESTATE:** List each parcel of Washington real estate with assessed value over \$10,000 in which a direct financial interest was held by any corporation, partnership, firm, enterprise or other entity in which you, your spouse or dependents own 10% or more.

DESCRIPTION OF PROPERTY (STREET ADDRESS, TAX DESCRIPTION OR LEGAL DESCRIPTION)

Check here  If continued on attached sheet

**D LOBBYING:** List persons for whom state legislation or state rules, rates or standards have been prepared or lobbied for current or deferred compensation. Do not list pay from government body in which you are an elected or appointed official or professional staff member.

PERSON TO WHOM SERVICES RENDERED	DESCRIPTION OF LEGISLATION, RULES, ETC	COMPENSATION

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 86-02, filed 3/26/86)

WAC 390-24-020 FORMS FOR AMENDING ((CONFLICT OF INTEREST)) STATEMENT OF FINANCIAL AFFAIRS. (1) The official form for amending ((conflict of interest)) statements of financial affairs as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is designated Form "F-1A((-))," revised 12/86.

(2) No more than three F-1A forms may be filed to amend a previously submitted ((conflict of interest)) statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new ((conflict of interest)) statement of financial affairs (Form F-1) at any time ((if)) the amendments ((shown on an F-1A are of such length or detail so as to be)) are confusing or ((to)) create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of Form F-1A are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments ((shall)) must be on 8-1/2" x 11" white paper.

 PUBLIC DISCLOSURE COMMISSION 403 EVERGREEN PLAZA OLYMPIA, WASHINGTON 98504 206-753-1111	PDC FORM	<b>F-1A</b> <b>CONFLICT OF INTEREST STATEMENT</b> elected officials, candidates and state appointed officials	THIS SPACE FOR OFFICE USE
	INSTRUCTIONS Please refer to the instruction book when completing this report. <b>WHO MUST REPORT:</b> All elected officials, persons appointed to elective office, candidates, designated state appointed officials. (Federal officials precinct committeemen and candidates for those offices are exempt from reporting.) <b>WHEN TO REPORT:</b> By April 15, each year you hold office. Officials whose terms expire December 31, or in January are still obligated to report the following year. Candidates or persons appointed to office report within two weeks of becoming a candidate or being appointed. <b>SEND REPORT TO:</b> PUBLIC DISCLOSURE COMMISSION		

<b>WHO MUST REPORT:</b> All elected officials, persons appointed to elective office, candidates, designated state appointed officials. (Federal officials precinct committeemen and candidates for those offices are exempt from reporting.) <b>WHEN TO REPORT:</b> By April 15, each year you hold office. Officials whose terms expire December 31, or in January are still obligated to report the following year. Candidates or persons appointed to office report within two weeks of becoming a candidate or being appointed. <b>SEND REPORT TO:</b> PUBLIC DISCLOSURE COMMISSION		<b>DOLLAR CODE</b> <table border="1"> <tr><th>CODE</th><th>AMOUNT</th></tr> <tr><td>A</td><td>Less than \$1,000</td></tr> <tr><td>B</td><td>\$1,000 but less than \$5,000</td></tr> <tr><td>C</td><td>\$5,000 but less than \$10,000</td></tr> <tr><td>D</td><td>\$10,000 but less than \$25,000</td></tr> <tr><td>E</td><td>\$25,000 or more</td></tr> </table>	CODE	AMOUNT	A	Less than \$1,000	B	\$1,000 but less than \$5,000	C	\$5,000 but less than \$10,000	D	\$10,000 but less than \$25,000	E	\$25,000 or more
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D	\$10,000 but less than \$25,000													
E	\$25,000 or more													
Last name	First name	Middle initial	NAMES OF SPOUSE AND DEPENDENTS	POLITICAL PARTY if partisan office or pertinent to appointment										
Address														
City		County	Zip											
OFFICE HELD (for elected or appointed officials)		DISTRICT _____	OFFICE SOUGHT (for candidates)											
Current term—began: _____ ends: _____		POSITION NO. _____	DISTRICT _____											
			POSITION NO. _____											
			If elected, term will begin: _____ ends: _____											

Elected official report covers previous calendar year; candidate report preceding 12 months  
**PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD**

The F-1A report is designed primarily to simplify reporting by persons who have no changes or only minor changes to an F-1 report previously filed.

After filing a complete F-1 report, you may use the F-1A for no more than the next three reports. A complete F-1 must be filed at least every four years.

The Commission reserves the right to require that a complete F-1 report be filed if it believes amendments shown on one or more F-1A reports could cause confusion or misunderstanding to persons reviewing the reports.

Complete the Statements below, sign your report and send it to the Public Disclosure Commission.  
 Keep a copy for your own records.

**No change report.** I have reviewed my last complete F-1 report dated \_\_\_\_\_ and F-1A reports (if any) dated (1) \_\_\_\_\_, (2) \_\_\_\_\_. There have been no changes to that information during the preceding calendar year.

**Minor change report.** I have reviewed my last complete F-1 report dated \_\_\_\_\_  
 The changes listed below have occurred during the preceding calendar year.

F-1 Item No. \_\_\_\_\_ Add \_\_\_\_\_ Delete \_\_\_\_\_ Change \_\_\_\_\_ (Provide all information required by F-1 report.)

**PUBLIC OFFICE FUND:** If you have received contributions or used surplus campaign funds to defray non-reimbursed public office related expenses, you must file a report (PDC F-2) or include those expenses in campaign reports (PDC C-4.) Instructions and forms are available from PDC. F-2 is due Jan 31.

<b>CERTIFICATION:</b> I certify under penalty of perjury that the information contained in this report is true and correct.	SIGNATURE _____
	TELEPHONE _____ DATE _____



PDC FORM  
**F-1A**  
(12/86)

**STATEMENT OF FINANCIAL AFFAIRS**  
elected officials, candidates  
and state appointed officials

PDC OFFICE USE

P  
M  
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C  
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I  
V  
E  
D

**INSTRUCTIONS**

Please refer to the instruction book when completing this report.

**WHO MUST REPORT:** All elected officials, persons appointed to elective office, candidates, designated state appointed officials. (Federal officials precinct committeemen and candidates for those offices are exempt from reporting.)  
**WHEN TO REPORT:** By April 15, each year you hold office. Officials whose terms expire December 31, or in January are still obligated to report the following year. Candidates or persons appointed to office report within two weeks of becoming a candidate or being appointed.

SEND REPORT TO: PUBLIC DISCLOSURE COMMISSION

DOLLAR CODE	
DOLLAR CODE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

Last name			First name	Middle initial	NAMES OF SPOUSE AND DEPENDENTS	POLITICAL PARTY If partisan office or pertinent to appointment
Address			City	County		
CHECK YOUR FILING STATUS (mark only one box)					OFFICE YOU HOLD OR ARE A CANDIDATE FOR	
<input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired _____ <input type="checkbox"/> Candidate running in the election: month _____ year _____					Office title _____ County, city district or agency of the office, name and number: _____ Position number _____ Term begins: _____ ends: _____	

The F-1A report is designed primarily to simplify reporting by persons who have no changes or only minor changes to an F-1 report previously filed. After filing a complete F-1 report, you may use the F-1A for no more than the next three reports. A complete F-1 must be filed at least every four years. The Commission reserves the right to require that a complete F-1 report be filed if it believes amendments shown on one or more F-1A reports could cause confusion or misunderstanding to persons reviewing the reports. Complete the Statements below, sign your report and send it to the Public Disclosure Commission. Keep a copy for your own records.

**No change report.** I have reviewed my last complete F-1 report dated \_\_\_\_\_ and F-1A reports (if any) dated (1) \_\_\_\_\_, (2) \_\_\_\_\_. There have been no changes to that information during the preceding calendar year.

**Minor change report.** I have reviewed my last complete F-1 report dated \_\_\_\_\_. The changes listed below have occurred during the preceding calendar year.

F-1 Item No. \_\_\_\_\_ Add \_\_\_\_\_ Delete \_\_\_\_\_ Change \_\_\_\_\_ (Provide all information required by F-1 report.)

**PUBLIC OFFICE FUND:** If you have received contributions or used surplus campaign funds to defray non-reimbursed public office related expenses, you must file a report (PDC F-2) or include those expenses in campaign reports (PDC C-4.) Instructions and forms are available from PDC. F-2 is due Jan 31.

<p><b>CERTIFICATION:</b> I certify under penalty of perjury that the information contained in this report is true and correct.</p>	SIGNATURE	
	DAYTIME TELEPHONE	DATE



**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 86-02, filed 3/26/86)

WAC 390-24-025 ~~TIME FOR FILING ((CONFLICT OF INTEREST)) STATEMENT OF FINANCIAL AFFAIRS.~~ It shall be the policy of the public disclosure commission to construe the filing requirements of RCW 42.17.240 for elected officials in the following manner: It is the interpretation of the commission that:

(1) Any person holding elected public office, except as exempted by the terms of RCW 42.17.240, and any appointed official and professional staff member listed or referenced in RCW 42.17.240, and any appointed official required to comply with the reporting requirements of RCW 42.17.240 by any other statute is required to file the ~~((conflict of interest))~~ statement of financial affairs if such person holds such public office between January 1 and April 15 of any year. Such report shall be for the preceding calendar year.

(2) Any local elected official whose term of office expires immediately after December 31 shall file a ~~((conflict of interest))~~ statement of financial affairs for the calendar year which ended on that date.

(3) Any local elected official who resigns his public office prior to the completion of his current term of office shall file a ~~((conflict of interest))~~ statement of financial affairs covering that portion of the year that he was in office.

**WSR 86-15-066**

**ADOPTED RULES**

**LIQUOR CONTROL BOARD**

[Order 194, Resolution No. 203—Filed July 22, 1986]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Class H license issued to premises without a cocktail lounge, WAC 314-16-196.

This action is taken pursuant to Notice No. WSR 86-13-059 filed with the code reviser on June 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 under the general rule-making authority of the Washington State Liquor Control Board as authorized in RCW 66.98.070.

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

APPROVED AND ADOPTED July 22, 1986.

By L. H. Pedersen  
Chairman

**AMENDATORY SECTION** (Amending Order 125, Resolution No. 134, filed 6/15/83)

WAC 314-16-196 **CLASS H LICENSE ISSUED TO PREMISES WITHOUT A COCKTAIL LOUNGE.** (1) Before the board shall issue a Class H license to a bona fide restaurant, the applicant shall present, and receive the approval of the board for, a one-quarter inch equals one foot scale drawing of the proposed premises indicating that the premises will have

a cocktail lounge comprising not more than thirty-five percent of the total public floor space of the premises, as compared to dining space which as a minimum must be sixty-five percent of the public floor space of the premises or that the premises will have a service bar(s) in lieu of the cocktail lounge.

(2) Those premises not having cocktail lounges shall have their approved service bar(s) located in such a manner as to be removed from the sight of customers. Service of liquor from such service bar(s) will be by the licensee or licensee's employees only and may take place only during hours that the full restaurant menu is available and a chef or cook is on duty.

(3) A Class H licensed restaurant having a service bar(s) in lieu of a cocktail lounge shall ~~((not))~~ be eligible for the added ((activities such as dancing;)) activity of live music((, or entertainment)) with board approval.

(4) If the board issues a Class H license to a bona fide restaurant which has a service bar in lieu of an approved cocktail lounge and the licensee subsequently applies for approval to install a cocktail lounge in place of the previously approved service bar operation, the board will process such a change in the same manner as an application for a new Class H license (i.e. notice will be given by posting at the premises, local officials, churches and schools will be notified, etc.).

**WSR 86-15-067**

**ADOPTED RULES**

**DEPARTMENT OF COMMUNITY DEVELOPMENT**

[Order 86-05—Filed July 22, 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 Washington state development loan fund.

This action is taken pursuant to Notice No. WSR 86-12-078 filed with the code reviser on June 4, 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 Community Development as authorized in RCW 43.63A.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 July 22, 1986.

By Chuck Clarke  
Deputy Director

Chapter 365-150

Washington State Development Loan Fund

WAC

365-150-010 Authority.  
365-150-020 Purpose.  
365-150-030 Definitions.

- 365-150-040 Committee meetings.
- 365-150-050 Financing conditioned upon completed application.
- 365-150-060 Criteria by which the committee will evaluate loan fund applications.
- 365-150-070 Public records.
- 365-150-080 Requests for reconsideration of committee decisions.
- 365-150-090 Address for communications requests.

NEW SECTION

WAC 365-150-010 AUTHORITY. This chapter is promulgated pursuant to the authority granted in RCW 43.63A.060 and 43.168.060.

NEW SECTION

WAC 365-150-020 PURPOSE. The purpose of this chapter is to establish the Department of Community Development rules for the Washington State Development Loan Fund, hereinafter referred to as the "fund", and the Washington State Development Loan Fund Committee, hereinafter referred to as the "committee".

The purpose of the program is:

- (a) To encourage investment by businesses and financial institutions in economically distressed areas, and
- (b) To make revolving loan funds available through local governments for private sector enterprises which will create or retain jobs and promote economic development in areas of economic stagnation, unemployment and poverty.

NEW SECTION

WAC 365-150-030 DEFINITIONS. Whenever used in this chapter, unless the context clearly indicates otherwise, the definitions of terms in RCW 43.168.020 shall be considered the definition of terms used in this chapter.

NEW SECTION

WAC 365-150-040 COMMITTEE MEETINGS. (1) Notice of the time and location of regular committee meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the committee at the address set out in Section 365-150-090 herein.

(2) Special meetings of the committee may be called at any time by the chairperson of the committee or by a majority of the committee members. Notice of such special meetings will be as provided by law.

NEW SECTION

WAC 365-150-050 FINANCING CONDITIONED UPON COMPLETED APPLICATION. An application shall be deemed ready for a final decision by the committee only when the manager of the fund certifies that the following events have occurred:

- (a) A loan fund application has been submitted by an eligible local government sponsor, signed by all parties,

and all required supporting documentation has been provided.

(b) A memorandum has been prepared by department staff which specifies how the application meets criteria set out in the fund enabling legislation and the loan fund guidelines. Such memorandum must be prepared by department staff within a reasonable time from receipt of the completed application.

NEW SECTION

WAC 365-150-060 CRITERIA BY WHICH THE COMMITTEE WILL EVALUATE LOAN FUND APPLICATIONS. Applications shall be evaluated pursuant to the conditions and limitations established in RCW 43.168.050, and in guidelines for project funding promulgated by and available from the committee.

NEW SECTION

WAC 365-150-070 PUBLIC RECORDS. After an application for financial assistance has been received, certain information in the department's possession may be required to be made available for public inspection by applicable law. Certain other information shall be designated by the committee as confidential for protection of privacy interests and shall not be available to the public for inspection.

Criteria for determining what information shall be designated confidential as well as illustrative examples, are set out in the loan fund guidelines which are available upon request.

An applicant may request that specific information be kept confidential for protection of privacy interests. An applicant making such a request must provide the department with sufficient information to enable the department to independently determine the likelihood of invasion of privacy interests of a business or competitive detriment sufficient to justify confidentiality.

NEW SECTION

WAC 365-150-080 REQUESTS FOR RECONSIDERATION OF COMMITTEE DECISIONS. Any applicant whose completed proposal is denied financing by the committee shall have the opportunity to submit additional written materials to the committee for their reconsideration, upon terms and conditions established by the committee.

NEW SECTION

WAC 365-150-090 ADDRESS FOR COMMUNICATION AND APPLICATION PACKAGE REQUESTS. All communications with the committee and its staff, including but not limited to, acquisition of program guidelines and application materials, submission of materials regarding participation in the development loan fund program, or inquiries regarding the operation and/or administration of the committee, including the inspection of public records, or other matters, should be addressed as follows: Development Loan Fund, Department of Community Development, Ninth and Columbia

Building, Mail Stop GH-51, Olympia, Washington 98504-4151, 1-800-562-5677 or (206) 753-4900.

**WSR 86-15-068**

**ADOPTED RULES**

**DEPARTMENT OF COMMUNITY DEVELOPMENT  
(Department of Emergency Management)**

[Order 86-10—Filed July 22, 1986]

I, Chuck Clarke, deputy director of the Washington State Department of Community Development, do promulgate and adopt at Olympia, the annexed rules relating to local emergency management/services organization, plans and programs, chapter 118-30 WAC.

This action is taken pursuant to Notice No. WSR 86-06-037 filed with the code reviser on March 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 chapter 38.52 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 22, 1986.

By Chuck Clarke  
Deputy Director

**Chapter 118-30 WAC**

**LOCAL EMERGENCY MANAGEMENT/SERVICES ORGANIZATIONS, PLANS AND PROGRAMS**

**WAC**

- 118-30-010 Authority.
- 118-30-020 Purpose.
- 118-30-030 Definitions.
- 118-30-040 Responsibilities of political subdivisions.
- 118-30-050 Emergency management ordinance/resolution.
- 118-30-060 Emergency plan.
- 118-30-070 Program papers.
- 118-30-080 Review periods and procedures for organizations, plans and program papers.

**NEW SECTION**

WAC 118-30-010 **AUTHORITY.** This chapter is promulgated pursuant to the authority granted in RCW 38.52.070.

**NEW SECTION**

WAC 118-30-020 **PURPOSE.** The purpose of this chapter is to establish criteria for evaluating local emergency management/services organizations, plans and

programs to ensure consistency with the state comprehensive emergency management plan and program.

**NEW SECTION**

WAC 118-30-030 **DEFINITIONS.** As used in this chapter:

(1) Emergency management will hereinafter refer to both emergency management and emergency services organizations.

(2) Director means the director of the Washington state department of community development.

(3) Council means the Washington state emergency management council as established by RCW 38.52.040.

(4) Political subdivision means a county or incorporated city or town.

(5) Executive head(s) means:

(a) In the case of an incorporated city or town, the mayor.

(b) In the case of a county, either the county executive or the chair of the board of county commissioners.

(c) In the case of a joint organization, the chair of the joint emergency management council.

(6) Emergency management organizations means the local government organization established by either a political subdivision or two or more political subdivisions for the purpose of carrying out local emergency management functions as described in RCW 38.52.010.

(7) Ordinance means a law established by the legislative body of a city, town or county.

(8) Resolution means an expression of policy established by legislative body of a city, town or county.

(9) Comprehensive emergency management plan, hereinafter referred to as the plan, means a written basic plan with elements which address all natural and man-made emergencies and disasters to which a political subdivision is vulnerable. The comprehensive emergency management plan specifies the purpose, organization, responsibilities and facilities of agencies and officials of the political subdivision in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.

(10) Hazard analysis means a written assessment and listing of the natural and man-made emergencies and disasters to which a political subdivision is vulnerable.

(11) Program paper means a statement of emergency management program objectives for a period of twelve consecutive months beginning January 1 and ending December 31 of the calendar year. The program paper shall represent the local program for the purposes of RCW 38.52.070 and shall be used as a program management tool by both state and local government.

**NEW SECTION**

WAC 118-30-040 **RESPONSIBILITIES OF POLITICAL SUBDIVISIONS.** (1) Each political subdivision must establish an emergency management organization by ordinance or resolution passed by the legislative body of the political subdivision. Two or more political subdivisions may join in the establishment of an emergency management organization.

(2) Each political subdivision shall develop, promulgate and submit a comprehensive emergency management plan.

(3) Each political subdivision shall submit an emergency management program paper annually to the director not less than sixty days prior to the beginning of the calendar year.

(4) Political subdivisions that have joined together to form a joint emergency management organization may submit a single plan and program paper.

#### NEW SECTION

✓ WAC 118-30-050 EMERGENCY MANAGEMENT ORDINANCE/RESOLUTION. Each political subdivision must establish an emergency management organization by ordinance or resolution passed by the legislative body of the political subdivision. Two or more political subdivisions may join in the establishment of an emergency management organization.

(1) Each political subdivision must establish said organization by ordinance or resolution.

(2) Each political subdivision shall specify in the ordinance or resolution establishing the organization, how the costs of supporting the organization shall be shared between the constituent political subdivision.

(3) If two or more political subdivisions cannot agree on the sharing of costs to support the emergency management organization established by the constituent political subdivisions, the director shall refer the matter to the council. The council shall consider the matter at either a regular or special meeting. The council may request additional information from the constituent political subdivisions, the director, or other interested party(s). The council shall arbitrate the matter, and its decision shall be final.

(4) When two or more political subdivisions submit ordinances or resolutions establishing a single emergency management organization which meets the criteria set forth, the director shall inform the executive heads of the constituent political subdivisions that the emergency management organization is acceptable and authorized. Nothing in this code shall prevent one or more political subdivisions from contracting with another subdivision for emergency management activities under the provisions of chapter 39.34 RCW, the Interlocal Cooperation Act.

(5) Each political subdivision must specify in the ordinance or resolution establishing the emergency management organization, that the agency shall be headed by a director of emergency management who shall be appointed by and directly responsible to the executive head of the political subdivision.

(6) In the case of an emergency management organization established by two or more political subdivisions, such political subdivisions shall specify in the ordinance or resolution establishing the organization, that the local government agency shall be headed by a local director of emergency management who shall be appointed by the joint action of the executive heads of the constituent political subdivisions. The political subdivisions shall specify by ordinance or resolution that the emergency management director shall be directly responsible to the

executive authority of the constituent political subdivisions.

(7) Each political subdivision shall specify by ordinance or resolution that the local director of emergency management shall be directly responsible for the organization, administration, and operation of the emergency management organizations.

(8) Each political subdivision shall submit a copy of the ordinance or resolution establishing its emergency management organization to the director for evaluation and approval of the organizational plan or structure.

(9) Such ordinance or resolution shall constitute an approved organization for the purposes of RCW 38.52-.195 and 38.52.260(2). Use of emergency workers is governed by chapter 118-04 WAC.

#### NEW SECTION

✓ WAC 118-30-060 EMERGENCY PLAN. (1) Each political subdivision shall maintain a current plan of operations which shall be based on a hazard analysis and as a minimum, include a basic document with the following elements:

(a) Mission or purpose – Each plan shall contain a section which provides an explanation of why the plan is established, the citation of authorizing or enabling federal, state, and local statute, and an explanation of the situations and assumptions from which the plan is based.

(b) Organization and responsibilities – The plan shall contain a section which defines the emergency responsibilities for each agency involved in the plan and provide a brief explanation of the chain of command and organizational relationship among such agencies.

(c) Concept of operations – Each plan shall contain a section which provides a general explanation of how the plan is to be implemented and how the general functions are to be performed.

(d) Administration and logistics – Each plan shall contain a section which outlines the measures for the administration and the utilization of resources in response and recovery actions and which defines how such actions will be financed.

(e) Direction and control – Each plan shall contain a section which describes the location of emergency operating centers, and the mechanisms for maintaining continuity of civil government within the political subdivision.

(2) The plan shall also include a functional description of how each of the following operational components will be addressed. It is recommended these components be in annex form in the order listed herein:

- (a) Direction, control and coordination
- (b) Continuity of government
- (c) Emergency resource management
- (d) Warning
- (e) Emergency public information
- (f) Response and recovery operation reports
- (g) Movement (evacuation)
- (h) Shelter
- (i) Human resources (manpower)
- (j) Mass care and individual assistance
- (k) Medical, health and mortuary
- (l) Communication

- (m) Food
- (n) Transportation
- (o) Radiological and technological protection
- (p) Law enforcement
- (q) Fire protection
- (r) Emergency engineering services
- (s) Search and rescue
- (t) Military support
- (u) Religious and volunteer agency affairs
- (v) Emergency administrative procedures
- (w) Emergency fiscal procedures and records
- (x) Training and education
- (y) Energy and utilities
- (z) Special subjects (political subdivisions may develop special contingency procedures for specific hazards or events).

(3) It is recommended the annexes be written using the following format:

- (a) Purpose
- (b) Operational concepts
- (c) Responsibilities
  - (i) Local agencies
  - (ii) Volunteer or private agencies or organizations
- (d) Agency functions by time phase
  - (i) Mitigation and preparedness
  - (ii) Response
  - (iii) Recovery
- (e) Appendices
  - (i) Organization chart
  - (ii) Standard operation procedures as necessary
  - (iii) Attachments.

(4) The plan may vary from the annex format, such as using chapters or sections, provided that each of the operational components listed in subsection (2) of this section is addressed. In such case, the plan must include a cross-reference index which specifies exactly where the operational components are located in the plan.

(5) The plan shall address or include the following items:

(a) Local ordinances or resolutions establishing the emergency management organization, mutual aid agreements, memoranda of understanding, and other documents important to the adoption or implementation of the plan shall be referenced in the plan or included in the plan's appendices.

(b) The month and year of the most recent revision shall be identified on each page of the plan and its associated procedures and checklists.

(c) Each page shall be numbered.

(6) The plan shall be promulgated by letter signed by the current executive head.

(7) The plan shall be reviewed and updated at least once every two calendar years.

(8) No less than once each calendar year, the operational capabilities shall be tested by an emergency operations exercise or by an actual local emergency declaration.

(9) Revised or updated portions of the plan shall be submitted to the director within ninety calendar days of revision.

#### NEW SECTION

✓ WAC 118-30-070 PROGRAM PAPERS. (1) Each political subdivision shall be responsible for the preparation and submission of a program paper, not less than sixty days prior to the start of the calendar year, which defines the emergency management program objectives of the political subdivision. January 1 through December 31 or for a lesser period at the discretion of the director. Each program paper shall be submitted by November 1, unless specified by the director, and shall address the following activities.

- (a) Comprehensive emergency plan development or updating
- (b) Training and education
- (c) Communications, warning and notification systems development maintenance
- (d) Radiological and hazardous materials incident response capabilities or maintenance
- (e) Tests, drills and exercises to assist emergency plan, personnel training and system effectiveness
- (f) Public information
- (g) Hazard analysis and assessment
- (h) General program administration
- (i) Response to emergencies and disasters.

(2) Each program paper shall have objectives consistent with federal and state emergency management program requirements as published by the director on or before September 1 of each year. The program paper may include, in addition to the objectives listed under subsection (1) of this section, specific local program objectives relating to local program needs.

(3) The program paper shall be submitted in accordance with format and instructions specified and published by the director.

(4) The political subdivision(s) shall submit a statement of progress on each objective of the categories listed in subsection (1) of this section in two reports, a mid-year report to cover the time period of January 1 through June 30 to be submitted to the director by July 15 of each year, and a year-end report to cover the time period of July 1 through December 31 to be submitted by January 15 of the following year.

The director may, at his discretion, determine that an alternative activity may substitute for the mid-year report. In such case, the director will provide written notification to the political subdivision by May 15 of each year specifying the acceptable alternate activity.

#### NEW SECTION

✓ WAC 118-30-080 REVIEW PERIODS AND PROCEDURES FOR ORGANIZATIONS, PLANS AND PROGRAM PAPERS. (1) The director or his designee shall review and evaluate documents submitted by a local organization as follows:

- Ordinances/resolutions - thirty work days
- Program papers - thirty work days
- Program paper progress and final reports - thirty work days
- Plans and updates or changes - forty-five work days.

(2) The director or his designee(s) shall review and evaluate documents for consistency with criteria established in this chapter and per state and federal guidance for local plans, annexes, revisions; ordinances or resolutions creating organizations; and local program papers.

(3) If the director determines that any document is in nonconformance, he shall notify the local director of the organization submitting the document. The director shall state in writing the reasons for determining that the document does not conform.

(4) The local organization and the political subdivision(s) it represents shall have twenty work days following the date of issuance of the director's notice of nonconformance to:

(a) Change the document to meet state criteria and resubmit it to the state for reconsideration prior to the expiration of the twenty work-day period; or

(b) Schedule a meeting with the director to be held within the twenty work-day period to resolve differences between the organization and the director.

(5) If the director's determinations regarding the document are still adverse to the organization or the political subdivision(s) it represents, the director of the local organization may file a written appeal with the chairperson of the state emergency management council within fifteen work days following the expiration of the twenty work-day period following the issuance of the director's notice of nonconformance. Such an appeal shall state in writing the organization's reasons for appealing the director's determination and shall have appended to the appeal statement a copy of each of the following:

- The proposed document.
- The director's notice of nonconformance.
- Any other letters, documents, meetings minutes, etc., that may impinge upon the matter being appealed.

(6) The emergency management council shall have thirty work days from the receipt of the local director's appeal to schedule a hearing and issue notices to all parties.

(a) The council may sustain the director's determination, overturn the director's determination, or amend the director's determination. The council shall issue a written decision statement within ten work days following the adjournment of the hearing.

(b) In hearing the appeal, the council may consider any information supplied by the director, the organization or the political subdivisions it represents, or any other party it wishes to allow to make a presentation.

(7) The local agency shall not be held in nonconformance until the appeal process is complete.

**WSR 86-15-069**  
**EMERGENCY RULES**  
**DEPARTMENT OF LICENSING**  
 [Order TL/RG 27—Filed July 22, 1986]

I, Theresa Anna Aragon, director of the state of Washington Department of Licensing, do promulgate

and adopt at Olympia, Washington, the annexed rules relating to replacement plates and validation tabs, repealing WAC 308-96A-020.

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 beginning August 1, 1986, the Department of Licensing will no longer require plates or tabs to be surrendered at the time of application for replacements.

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 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 July 20, 1986.

By Theresa Anna Aragon  
 Director

**REPEALER**

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

**WAC 308-93-240 DUPLICATE FOR LOST, STOLEN, MUTILATED, ETC., CERTIFICATES.**

**WAC 308-93-310 LOSS, DEFAACEMENT, OR DESTRUCTION OF DECALS—REPLACEMENT FEE.**

**WAC 308-96A-020 REPLACEMENT PLATES AND VALIDATION TABS.**

**WSR 86-15-070**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed July 22, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning the repealing of WAC 308-96A-020, 308-93-240 and 308-93-310;

that the agency will at 9:00 a.m., Tuesday, August 26, 1986, in the Conference Room, 2nd Floor, Highways-Licenses Building, Twelfth and Franklin, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 46.01.110 and 88.02.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 1986.

Dated: July 21, 1986  
 By: Donna Stringer  
 Assistant Director

### STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: WAC 308-96A-020 is proposed to be repealed because the department no longer requires the surrender of plates or tabs; and WAC 308-93-240 and 308-93-310 are no longer necessary because their provisions have been codified at section 1, chapter 71, Laws of 1986.

Statutory Authority: RCW 46.01.110 and 88.02.100.

Summary of the Rules: The following sections of the Washington State Administrative Code are repealed: WAC 308-93-240 Duplicate for lost, stolen, mutilated, etc., certificates; 308-93-310 Loss, defacement or destruction of decals—Replacement fee; and 308-96A-020 Replacement plates and validation tabs.

Reason Proposed: Will enhance the Department of Licensing's ability to protect the public.

Responsible Departmental Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: Donna M. Stringer, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, Olympia, Washington 98504, phone (206) 753-6914 comm or 234-6914 scan; and Sandra Brooks, Administrator, Title and Registration Control, Second Floor, Highways-Licenses Building, Olympia, Washington 98504, phone (206) 753-6920 comm or 234-6920 scan.

Proponents: Washington State Department of Licensing.

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

Small Business Economic Impact Statement: Not required for this statement.

### REPEALER

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

WAC 308-93-240 DUPLICATE FOR LOST, STOLEN, MUTILATED, ETC., CERTIFICATES.

WAC 308-93-310 LOSS, DEFACEMENT, OR DESTRUCTION OF DECALS—REPLACEMENT FEE.

WAC 308-96A-020 REPLACEMENT PLATES AND VALIDATION TABS.

### WSR 86-15-071

### NOTICE OF PUBLIC MEETINGS DEPARTMENT OF COMMUNITY DEVELOPMENT (Fire Protection Policy Board) [Memorandum—July 17, 1986]

The Fire Protection Policy Board will hold public meetings at 9:30 a.m. on the following dates:

August 21, 1986  
 Sheraton Hotel  
 North 322 Spokane Falls Court  
 Spokane, Washington

November 20, 1986  
 Red Lion Inn  
 2525 North 20th  
 Pasco, Washington

February 19, 1987  
 Olympia Forum Building  
 605 East 11th  
 Olympia, Washington

May 21, 1987  
 King County Fire Protection District #2  
 15100 8th Avenue S.W.  
 Burien, Washington

For more information or meeting agendas, please call Susan Cohen at (206) 586-3443.

### WSR 86-15-072

### PROPOSED RULES CRIMINAL JUSTICE TRAINING COMMISSION [Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning the repeal of all chapters in Title 139 WAC; and the adoption of new chapters in Title 139 WAC;

that the agency will at 9:00 a.m., Thursday, September 4, 1986, in the Ellensburg Inn, 1700 Canyon Road, Ellensburg, 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 43.101.080(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 2, 1986.

Dated: July 17, 1986  
 By: James C. Scott  
 Executive Director

### STATEMENT OF PURPOSE

Rule: All of Title 139 WAC.

Action: Repeal all chapters in Title 139 WAC; and adopt new chapters in Title 139 WAC.

General Purpose of Action: All chapters in Title 139 WAC will be repealed and thereafter adopted as new chapters in order to implement a new numbering system for commission regulations. The new chapters will consist of commission regulations in either existing or

amended form. Any amendment to existing regulations is necessary to (1) effect deletion of any reference to the boards on training standards and education, which terminate on June 30, 1986, pursuant to this state's Sunset Law; and (2) reassign the responsibility for functions heretofore carried out by such boards.

Description, Summary, and Statutory Authority for Rule: The statutory authority for repeal and adoption of chapters in Title 139 WAC is provided by RCW 43.101.080(2). The repealer/adoption action will implement a new numbering system for chapters in Title 139 WAC which will allow grouping by discipline and/or operational category and thereby instill meaningfulness and logic within the process. Any amendatory action deletes reference to the boards on training standards and education and assigns certain functions heretofore carried out by such boards to the training commission, the commission's executive director, or key staff positions of the commission.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director; and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, phone (206) 459-6342, scan 858-6342.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 139-04-010 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION.
- WAC 139-04-020 PUBLIC RECORDS AVAILABLE.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 139-08-005 "COMMISSION" DEFINED.
- WAC 139-08-040 APPEARANCE AND PRACTICE BEFORE COMMISSION—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF.
- WAC 139-08-050 COMPUTATION OF TIME.
- WAC 139-08-070 SERVICE OF PROCESS—BY WHOM SERVED.
- WAC 139-08-080 SERVICE OF PROCESS—UPON WHOM SERVED.
- WAC 139-08-090 SERVICE OF PROCESS—SERVICE UPON PARTIES.
- WAC 139-08-100 SERVICE OF PROCESS—METHOD OF SERVICE.
- WAC 139-08-110 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.
- WAC 139-08-120 SERVICE OF PROCESS—FILING WITH AGENCY.
- WAC 139-08-130 SUBPOENAS—WHERE PROVIDED BY LAW—FORM.
- WAC 139-08-140 SUBPOENAS—ISSUANCE TO PARTIES.
- WAC 139-08-150 SUBPOENAS—SERVICE.
- WAC 139-08-160 SUBPOENAS—FEES.
- WAC 139-08-170 SUBPOENAS—PROOF OF SERVICE.
- WAC 139-08-180 SUBPOENAS—QUASHING.
- WAC 139-08-190 SUBPOENAS—ENFORCEMENT.
- WAC 139-08-200 SUBPOENAS—GEOGRAPHICAL SCOPE.
- WAC 139-08-210 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.

WAC 139-08-220 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.

WAC 139-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.

WAC 139-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.

WAC 139-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEponents.

WAC 139-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.

WAC 139-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.

WAC 139-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.

WAC 139-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.

WAC 139-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEponents.

WAC 139-08-310 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

WAC 139-08-320 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

WAC 139-08-330 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

WAC 139-08-340 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.

WAC 139-08-350 OFFICIAL NOTICE—MATTERS OF LAW.

WAC 139-08-360 OFFICIAL NOTICE—MATERIAL FACTS.

WAC 139-08-370 PRESUMPTIONS.

WAC 139-08-380 STIPULATIONS AND ADMISSIONS OF RECORD.

WAC 139-08-500 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.

WAC 139-08-520 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION.

WAC 139-08-530 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—REQUISITES.

WAC 139-08-540 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER.

WAC 139-08-550 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION.

WAC 139-08-560 DECLARATORY RULINGS.

WAC 139-08-570 FORMS.

WAC 139-08-600 APPEAL.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 139-14-010 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 139-16-010 BASIC LAW ENFORCEMENT CURRICULUM.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 139-18-010 PHYSICAL REQUIREMENTS FOR ADMISSION TO BASIC LAW ENFORCEMENT ACADEMIES.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:



WAC 139-20-020 BASIC LAW ENFORCEMENT EQUIVALENCY CERTIFICATION.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-22-010 REQUIREMENTS OF BASIC LAW ENFORCEMENT ACADEMY.

WAC 139-22-020 ADMISSION AND PARTICIPATION REQUIREMENTS FOR BASIC LAW ENFORCEMENT ACADEMY ATTENDEE.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-28-010 GOALS OF BOARD ON LAW ENFORCEMENT TRAINING STANDARDS AND EDUCATION.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-32-010 PROSECUTOR, PUBLIC DEFENDER, AND MUNICIPAL ATTORNEY TRAINING.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-36-020 REQUIREMENT OF BASIC CORRECTIONS TRAINING.

WAC 139-36-030 REQUIREMENTS OF BASIC CORRECTIONS ACADEMY.

WAC 139-36-031 BASIC CORRECTIONS OFFICERS ACADEMY CURRICULUM.

WAC 139-36-032 BASIC CORRECTIONAL SERVICES ACADEMY CURRICULUM.

WAC 139-36-033 JUVENILE SECURITY WORKERS ACADEMY CURRICULUM.

WAC 139-36-040 REQUIREMENT OF FIRST- AND SECOND-LEVEL CORRECTIONS SUPERVISORY TRAINING.

WAC 139-36-041 FIRST- AND SECOND-LEVEL SUPERVISION CURRICULUM—CORRECTIONS.

WAC 139-36-050 REQUIREMENT OF MIDDLE-MANAGEMENT CORRECTIONS TRAINING.

WAC 139-36-051 MIDDLE-MANAGEMENT CURRICULUM—CORRECTIONS.

WAC 139-36-060 REQUIREMENT OF EXECUTIVE MANAGEMENT CORRECTIONS TRAINING.

WAC 139-36-061 EXECUTIVE MANAGEMENT CURRICULUM—CORRECTIONS.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-40-010 OPERATING POLICY OF WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION AND BOARDS ON TRAINING STANDARDS AND EDUCATION.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 139-50-010 REQUIREMENT OF TRAINING FOR FIRE MARSHALS.

WAC 139-50-020 REQUIREMENTS OF TRAINING FOR POLICE DOG HANDLER.

WAC 139-50-030 REQUIREMENT OF TRAINING FOR AGRICULTURE OFFICERS.

Chapter 139-01 WAC  
GENERAL ADMINISTRATION

WAC

139-01-100  
139-01-110  
139-01-210

139-01-310  
139-01-320

139-01-330  
139-01-410

139-01-415  
139-01-420

139-01-425  
139-01-430

139-01-435  
139-01-440

139-01-445  
139-01-450

139-01-455  
139-01-460

139-01-465  
139-01-470

139-01-475  
139-01-510

139-01-515

139-01-520

139-01-525

139-01-530

139-01-535

139-01-540

139-01-545

139-01-550

139-01-555

139-01-560

139-01-565

139-01-570

139-01-575

139-01-610

139-01-615

139-01-620

139-01-625

139-01-630

139-01-710

139-01-715

139-01-720

139-01-725

139-01-730

139-01-735

139-01-810

139-01-820

Description of central and field organization.  
Public records available.  
Operating policy of Washington state criminal justice training commission.  
"Commission" defined.  
Appearance and practice before commission—Appearance by former employee of board or former member of attorney general's staff.  
Computation of time.  
Service of process—By whom served.  
Service of process—Upon whom served.  
Service of process—Service upon parties.  
Service of process—Method of service.  
Service of process—When service complete.  
Service of process—Filing with agency.  
Subpoenas—Where provided by law—Form.  
Subpoenas—Issuance to parties.  
Subpoenas—Service.  
Subpoenas—Fees.  
Subpoenas—Proof of service.  
Subpoenas—Quashing.  
Subpoenas—Enforcement.  
Subpoenas—Geographical scope.  
Depositions and interrogatories in contested cases—Right to take.  
Depositions and interrogatories in contested cases—Scope.  
Depositions and interrogatories in contested cases—Officer before whom taken.  
Depositions and interrogatories in contested cases—Authorization.  
Depositions and interrogatories in contested cases—Protection of parties and deponents.  
Depositions and interrogatories in contested cases—Oral examination and cross-examination.  
Depositions and interrogatories in contested cases—Recordation.  
Depositions and interrogatories in contested cases—Signing attestation and return.  
Depositions and interrogatories in contested cases—Use and effect.  
Depositions and interrogatories in contested cases—Fees of officers and deponents.  
Depositions upon interrogatories—Submission of interrogatories.  
Depositions upon interrogatories—Interrogation.  
Depositions upon interrogatories—Attestation and return.  
Depositions upon interrogatories—Provisions of deposition rule.  
Official notice—Matters of law.  
Official notice—Material facts.  
Presumptions.  
Stipulations and admissions of record.  
Rules of evidence—Admissibility criteria.  
Petitions for rule-making, amendment or repeal—Who may petition.  
Petitions for rule-making, amendment or repeal—Requisites.  
Petitions for rule-making, amendment or repeal—Agency must consider.  
Petitions for rule-making, amendment or repeal—Notice of disposition.  
Declaratory rulings.  
Forms.  
Review and appeal of action.  
Request for exemption or variance.

**NEW SECTION**

WAC 139-01-100 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION. The Washington state criminal justice training commission consists of the executive director, his/her staff, and twelve commissioners. Recommendations for training pursuant to

commission adopted goals and standards may be approved by the executive director of the commission. Other recommendations will be reviewed by the commissioners for approval or rejection. Approved recommendations and other matters of the commission necessitating implementation or staff involvement will be assigned by the executive director to appropriate personnel.

The central office of the commission is located on the campus of St. Martin's College, Olympia, Washington. It is maintained by the commission's executive director and staff from 8:00 a.m. to 5:00 p.m., Monday through Friday, and serves as a central repository for the commission's records of administration and operation.

The Criminal Justice Training Center, 2450 So. 142nd, Seattle, Washington, serves as the commission's primary training site. Other training is conducted locally, regionally, or at centralized locations state-wide, as determined by staff.

#### NEW SECTION

WAC 139-01-110 PUBLIC RECORDS AVAILABLE. The commission's records, made public and accessible by the provisions of RCW 42.17.250 through 42.17.340, shall be made available for inspection and copying at the commission's central office, upon request received by the executive director.

The commission is statutorily empowered to adopt necessary rules. A copy of rules concerning only the internal management of the adoptor and not affecting private rights or procedures available to the public shall be maintained at the commission's central office and shall be made public pursuant to the aforesaid procedures relating to commission records. Adopted substantive and procedural rules of general applicability, statements of general policy, interpretations of general applicability, and each amendment, revision or repeal thereof, shall be included in the Washington Administrative Code.

#### NEW SECTION

WAC 139-01-210 OPERATING POLICY OF WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION. (1) The Washington state criminal justice training commission shall approve annual training schedules and budgets and may adopt standards and/or goals for criminal justice personnel and disciplines within its purview.

(2) The executive director of the commission may approve training programs or activity not included within an approved annual training schedule if he/she determines that sufficient resources exist and such program or activity is consistent and identifiable with an adopted standard or goal of the commission.

#### NEW SECTION

WAC 139-01-310 "COMMISSION" DEFINED. As used in this chapter "commission" means the Washington state criminal justice training commission.

#### NEW SECTION

WAC 139-01-320 APPEARANCE AND PRACTICE BEFORE COMMISSION—APPEARANCE BY FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No member of the attorney general's staff assigned to represent the commission or a hearing committee of said commission may at any time after severing employment with the attorney general appear, except with the written permission of the commission, in a representative capacity on behalf of other parties in a formal proceeding wherein the staff member previously took an active part in the investigation as a representative of the commission or a hearing committee of said commission.

#### NEW SECTION

WAC 139-01-330 COMPUTATION OF TIME. In computing any period of time prescribed or allowed by the commission or a hearing committee of said commission rules, by order of the commission or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

#### NEW SECTION

WAC 139-01-410 SERVICE OF PROCESS—BY WHOM SERVED. The commission shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

#### NEW SECTION

WAC 139-01-415 SERVICE OF PROCESS—UPON WHOM SERVED. All papers served by the commission or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

#### NEW SECTION

WAC 139-01-420 SERVICE OF PROCESS—SERVICE UPON PARTIES. The final order, and any other paper required to be served by the commission upon a party, shall be served upon such party or upon the agent designated by the party or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

#### NEW SECTION

WAC 139-01-425 SERVICE OF PROCESS—METHOD OF SERVICE. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; or by telegraph.

#### NEW SECTION

WAC 139-01-430 SERVICE OF PROCESS—WHEN SERVICE COMPLETE. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

#### NEW SECTION

WAC 139-01-435 SERVICE OF PROCESS—FILING WITH AGENCY. Papers required to be filed with the involved agency shall be deemed filed upon actual receipt by said agency at the place specified in its rules accompanied by proof of service upon parties required to be served.

#### NEW SECTION

WAC 139-01-440 SUBPOENAS—WHERE PROVIDED BY LAW—FORM. Every subpoena shall state the name of the commission and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under such person's control at a specified time and place.

#### NEW SECTION

WAC 139-01-445 SUBPOENAS—ISSUANCE TO PARTIES. Upon application of counsel or other representative authorized to practice before the agency for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The executive director may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

#### NEW SECTION

WAC 139-01-450 SUBPOENAS—SERVICE. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering on demand the fees for one day's attendance and the mileage allowed by law.

#### NEW SECTION

WAC 139-01-455 SUBPOENAS—FEES. Witnesses summoned before the commission shall be paid by the party at whose instance

they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

#### NEW SECTION

**WAC 139-01-460 SUBPOENAS—PROOF OF SERVICE.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the department or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the department, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

#### NEW SECTION

**WAC 139-01-465 SUBPOENAS—QUASHING.** Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the commission or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

#### NEW SECTION

**WAC 139-01-470 SUBPOENAS—ENFORCEMENT.** Upon application and for good cause shown the commission will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

#### NEW SECTION

**WAC 139-01-475 SUBPOENAS—GEOGRAPHICAL SCOPE.** Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

#### NEW SECTION

**WAC 139-01-510 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.** Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a complaint, application, or petition. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

#### NEW SECTION

**WAC 139-01-515 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.** Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

#### NEW SECTION

**WAC 139-01-520 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.** Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, deposition shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the commission or agreed upon by the parties by stipulation in writing filed with the commission. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any consul of a party, or who is financially interested in the proceeding.

#### NEW SECTION

**WAC 139-01-525 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the commission and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

#### NEW SECTION

**WAC 139-01-530 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS.** After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the commission or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the commission, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents, or information enclosed in sealed envelopes to be opened as directed by the commission, or the commission may make any other order which justice requires to protect the party or witness from annoyance, embarrassment or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the commission or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the commission. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

#### NEW SECTION

**WAC 139-01-535 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.** Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded.

#### NEW SECTION

**WAC 139-01-540 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

NEW SECTION

WAC 139-01-545 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN. (1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the commission, or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

NEW SECTION

WAC 139-01-550 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT. Subject to ruling by the hearing officer upon objections, a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness the party's witness by taking the other party's deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by the party or any other party.

NEW SECTION

WAC 139-01-555 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEPONENTS. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken.

NEW SECTION

WAC 139-01-560 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

NEW SECTION

WAC 139-01-565 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 139-08-230 the officer taking the same, after duly swearing the deponent, shall read to the deponent seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the

succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

NEW SECTION

WAC 139-01-570 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN. The officer before whom interrogatories are verified or answered shall (1) certify under official signature and seal that the deponent was duly sworn, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither the officer nor the stenographer is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with attestation to the commission, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

NEW SECTION

WAC 139-01-575 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

NEW SECTION

WAC 139-01-610 OFFICIAL NOTICE—MATTERS OF LAW. The commission, upon request made before or during a hearing, will officially notice:

(1) Federal law. The United States Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) State law. The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Governmental organization. Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) Commission organization. The commission organization, administration, officers, personnel, official publications, and practitioners before its bar.

NEW SECTION

WAC 139-01-615 OFFICIAL NOTICE—MATERIAL FACTS. The commission may officially notice:

(1) Commission proceedings. The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the commission;

(2) Business customs. General customs and practices followed in the transaction of business;

(3) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) Technical knowledge. Matters within the technical knowledge of the commission as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) Request or suggestion. Any party may request, or the hearing officer or the commission may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) Statement. Where an initial or final decision of the commission rests in whole or in part upon official notice of a material fact, such

fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer or the commission may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) Evaluation of evidence. Nothing herein shall be construed to preclude the commission or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

#### NEW SECTION

WAC 139-01-620 PRESUMPTIONS. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the commission, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) Identity. That persons and objects of the same name and description are identical;

(3) Delivery. Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) Ordinary course. That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly a matter of self-interest so to do;

(6) Interference with remedy. That evidence, with respect to a material fact which in bad faith is destroyed, eligned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

#### NEW SECTION

WAC 139-01-625 STIPULATIONS AND ADMISSIONS OF RECORD. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the party or parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing committee or the commission that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

#### NEW SECTION

WAC 139-01-630 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

#### NEW SECTION

WAC 139-01-710 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION. Any interested person may petition the commission requesting the promulgation, amendment, or repeal of any rule.

#### NEW SECTION

WAC 139-01-715 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—REQUISITES. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

#### NEW SECTION

WAC 139-01-720 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER. All petitions shall be considered by the commission and the commission may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

#### NEW SECTION

WAC 139-01-725 PETITIONS FOR RULE-MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION. The commission shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

#### NEW SECTION

WAC 139-01-730 DECLARATORY RULINGS. As prescribed by RCW 34.04.080 any interested person may petition the commission for a declaratory ruling. The commission shall consider the petition and within a reasonable time the commission shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for an oral hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved.

If a hearing as provided in subsection (3) of this section is conducted, the agency shall within a reasonable time:

- (a) Issue a binding declaratory rule; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the person that no declaratory ruling is to be issued.

#### NEW SECTION

WAC 139-01-735 FORMS. Any interested person petitioning the commission for a declaratory ruling pursuant to RCW 34.04.080 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Washington state criminal justice training commission." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second

paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by commission rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by the petitioner's attorney. The original and two legible copies of the petition shall be filed with the commission. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

#### NEW SECTION

**WAC 139-01-810 REVIEW AND APPEAL OF ACTION.** (1) Any action which directly and adversely 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. This section shall not apply to a request for a variance or exemption pursuant to WAC 139-01-820.

(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 other relief sought;

(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; and

(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.

(3) Upon receipt of a request for review which satisfies the requirements of subsection (2) of this section, the executive director shall conduct the review within thirty days.

(4) In conducting the review, the executive director may consider any information or testimony determined 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. 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 shall be recorded electronically. Thereafter, such recording shall be transcribed in writing if requested by the appealing party or if directed by the commission or staff.

(5) After full consideration of the matter, the executive director shall affirm, rescind, or modify the action for which review is requested and shall give written notice of his 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 training 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 considered by the 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 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.

#### NEW SECTION

**WAC 139-01-820 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 director shall schedule the request for full consideration at the next commission meeting. If it is determined by the chairman that circumstances justify expedited review, the chairman 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.

#### Chapter 139-05 WAC LAW ENFORCEMENT

##### WAC

139-05-200	Requirement of basic law enforcement training.
139-05-210	Basic law enforcement equivalency certification.
139-05-220	Admission and participation requirements for basic law enforcement academy attendee.
139-05-230	Physical requirements for admission to basic law enforcement academies.
139-05-240	Backgrounding requirement for academy attendees.
139-05-250	Basic law enforcement curriculum.
139-05-910	Requirement of training for fire marshals.
139-05-915	Requirements of training for police dog handler.
139-05-920	Requirement of training for agriculture officers.

#### NEW SECTION

**WAC 139-05-200 REQUIREMENT OF BASIC LAW ENFORCEMENT TRAINING.** (1) All full time commissioned law enforcement employees of a city, county, or political subdivision of the state of Washington, except officers of the Washington state patrol, unless otherwise exempted by the Washington state criminal justice training commission, shall as a condition of continued employment successfully complete a four hundred forty-hour basic law enforcement academy sponsored or conducted by the commission, or obtain a certificate of equivalent basic training from the commission. This requirement of basic law enforcement training shall be met within the initial fifteen-month period of law enforcement employment, unless otherwise extended by the commission.

(2) Law enforcement personnel exempted from the requirement of subsection (1) of this section shall include:

(a) Individuals holding the office of sheriff of any county on September 1, 1979;

(b) Auxiliary and reserve personnel; and

(c) Commissioned personnel;

(i) Whose usual and regular function does not include and will not include the general line enforcement of traffic or criminal laws of the state of Washington or any political subdivision thereof: PROVIDED, That any exemption under this subsection may be granted to a sheriff or police chief only with the approval of the training commission and, in the instance of a police chief, based upon a written exemption request signed by the appointing authority, and provided further that no police chief or sheriff of any agency with ten or fewer full-time, commissioned personnel shall be granted an exemption solely upon the basis of this subsection; or

(ii) Whose initial date of continuing, full-time, regular and commissioned law enforcement employment within the state of Washington precedes January 1, 1978, and such employment is without break or interruption in excess of ninety days; or

(iii) Who have been certified in accordance with the requirement of subsection (1) of this section, and thereafter have engaged in regular and commissioned law enforcement employment without break or interruption in excess of twenty-four-month duration.

(3) Each law enforcement agency of the state of Washington, or any political subdivision thereof, except the Washington state patrol, shall immediately notify the commission by approved form of each instance wherein a commissioned officer begins continuing and regular employment with that agency on or after January 1, 1978. Such notification shall be maintained by the commission and shall be utilized by the commission for the subsequent scheduling, notification, and enrollment required for compliance with the basic law enforcement training requirement.

(4) Failure to comply with the above requirement of basic law enforcement training shall result in notification of noncompliance, by the commission, on approved form to:

- (a) The individual in noncompliance;
- (b) The head of his/her agency;
- (c) The civil service commission having jurisdiction of such agency;
- (d) The judges and clerks of the municipal, district, and superior courts in which said agency is located;
- (e) The state auditor's office; and
- (f) Any other agency or individual, as determined by the commission.

#### NEW SECTION

WAC 139-05-210 BASIC LAW ENFORCEMENT EQUIVALENCY CERTIFICATION. (1) A certificate of equivalent basic law enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington state criminal justice training commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic equivalency academy. A certificate of equivalent basic law enforcement training shall be recognized in the same manner as the certificate of completion of the basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time, commissioned enforcement officers who otherwise are eligible to attend the basic law enforcement academy, and who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or any federal training program not otherwise approved by a majority of the law enforcement representatives within the commission membership.

(3) Effective January 1, 1987, the participation of any eligible and approved applicant for a certificate of equivalent basic law enforcement training shall be effected within, and limited to, the first available session of the basic equivalency academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic equivalency academy which is conducted within the initial sixty days of the employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic equivalency academy not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic

equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notation upon the hiring notification submitted to the commission for such officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission the following documentation as a precondition of participation within such process:

- (a) A copy of applicant's current and valid Washington state driver's license;
- (b) A copy of applicant's current and valid basic first aid card;
- (c) A statement of applicant's health and physical condition by an examining physician;
- (d) A record of applicant's firearms qualification;
- (e) A liability release agreement by the applicant; and
- (f) A criminal records check regarding such applicant.

(7) If such training has not been completed previously, the applicant shall be required to complete the commission's twenty-four-hour emergency vehicle operation course, as scheduled by the commission.

(8) Upon completion of the equivalency process and review and evaluation of applicant's performances therein, the commission shall:

- (a) Issue a certificate of equivalent basic training;
- (b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require; or
- (c) Require completion of the basic law enforcement academy.

(9) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the commission if it determines that sufficient justification exists for such action.

Additionally, any action or determination by the commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be reviewed by the executive director of the training commission.

#### NEW SECTION

WAC 139-05-220 ADMISSION AND PARTICIPATION REQUIREMENTS FOR BASIC LAW ENFORCEMENT ACADEMY ATTENDEE. The Washington state criminal justice training commission is responsible for the conduct of the basic law enforcement academy and to therein certify, to and for the state of Washington, those officers who have demonstrated the ability and suitability requisite to law enforcement service and the public trust.

In accordance with that responsibility, and to ensure the continuing integrity and credibility of the basic academy program, no individual shall be granted academy admission or allowed continued participation if such individual, in adult status, has been convicted of a felony offense, or has been convicted of a gross misdemeanor or misdemeanor involving moral turpitude.

For this purpose, the term "convicted" shall include any disposition adverse to the subject, except a decision not to prosecute, a dismissal, or acquittal; provided, however, that a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

Additionally, and for this purpose, the term "felony offense" shall include any act or omission which is classified as a felony by the laws of the jurisdiction in which such act or omission occurred, or for which imprisonment in a federal or state penitentiary could have been imposed.

It shall be the responsibility of each sponsoring or applying agency to request a search of state and national criminal history records information regarding its applicant through the submission of applicant's fingerprints to an appropriate action agency or agencies.

Each application for academy attendance shall be accompanied by a written attestation by the applying agency that (1) the aforementioned records search has been effected regarding the individual for which academy application is being made, and (2) that such search indicated the absence of any felony conviction or other disqualifying conviction.

No exception to, or variance from, the above requirements or the prohibition which is provided, will be granted without the approval of the training commission.

#### NEW SECTION

**WAC 139-05-230 PHYSICAL REQUIREMENTS FOR ADMISSION TO BASIC LAW ENFORCEMENT ACADEMIES.** Each successful applicant for admission to a basic law enforcement academy sponsored or conducted by the Washington state criminal justice training commission shall possess good health and physical capability to actively and fully participate in the physical activities required for basic certification. In addition to defensive tactics, such activities shall include a physical training program geared to final attainment of the instructional objectives of physical performance: **PROVIDED**, That any applicant whose beginning date of continuous law enforcement employment precedes January 1, 1978, may be allowed to audit, in whole or in part, basic law enforcement training. In no such instance shall a basic certificate be issued.

#### NEW SECTION

**WAC 139-05-240 BACKGROUNDING REQUIREMENT FOR ACADEMY ATTENDEES.** (1) Each trainee in a basic law enforcement academy shall receive certification only upon full and successful completion of the academy process as prescribed by the commission. The performance of each trainee shall be evaluated as follows:

(a) Scholarship. A standardized examination process shall be utilized by all basic law enforcement academies sponsored or conducted by the Washington state criminal justice training commission, in evaluating the level of scholastic achievement of each trainee. Such process shall include the application of a designated minimum passing score to each subject area and the availability of a retesting procedure. Failure to achieve the required minimum passing score will result in termination of academy assignment: **PROVIDED**, That any unsuccessful trainee whose beginning date of continuous law enforcement employment precedes January 1, 1978, may be allowed to audit the remainder of the academy upon a determination by the coordinator of law enforcement training that such audit would be beneficial to the trainee and have no adverse effect upon the other attendees.

(b) Physical performance. A standardized evaluation process shall be utilized by all basic law enforcement academies sponsored or conducted by the commission in evaluating the level of physical performance of each trainee. Such process shall include the application of pass/fail grading to designated instructional objectives for physical performance and the availability of a retesting procedure. Failure to achieve a final grade of pass in physical training, including defensive tactics, shall preclude certification.

(c) Deportment and conduct. Failure to maintain an exemplary standard of deportment and conduct or to adhere to all rules, regulations and policies of a basic law enforcement academy sponsored or conducted by the commission may result in termination of academy assignment.

(2) In the instance of termination or suspension of a trainee's academy assignment due to illness, injury, personal hardship, or good cause otherwise shown, the commission may allow certification after such trainee has successfully completed a subsequent academy, in whole or part as determined by the commission. Such certification may be effected regardless of any time limit or period elsewhere prescribed or mandated for certification.

(3) In all other instances of termination of a trainee's academy assignment, the commission shall allow such trainee's admission to any subsequent academy only if:

(a) Such trainee has been terminated by the employing agency and subsequently is rehired by it; or

(b) Such trainee has been terminated by the employing agency and subsequently is hired by another employing agency.

(4) Upon the written request of a trainee, or the head of his/her employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.

#### NEW SECTION

**WAC 139-05-250 BASIC LAW ENFORCEMENT CURRICULUM.** The basic law enforcement curriculum of the Washington

state criminal justice training commission shall consist of 440 hours, including the following subject areas:

- (1) Introduction to law enforcement;
- (a) Introduction to law enforcement;
- (b) The criminal justice system;
- (c) Police power and execution of authority;
- (d) Civil rights and civil liability; and
- (e) Police ethics.
- (2) Criminal law;
- (a) Criminal law; and
- (b) Juvenile law.
- (3) Evidence law.
- (4) Criminal procedures;
- (a) Constitutional law;
- (b) Probable cause;
- (c) Laws of arrest;
- (d) Search and seizure;
- (e) Interrogation, statements and confessions; and
- (f) Field interrogations and "stop and frisk."
- (5) Patrol procedures;
- (a) Observation and perception;
- (b) Patrol procedures;
- (c) First aid;
- (d) Community relations;
- (e) Crime prevention;
- (f) Juvenile procedures;
- (g) Traffic stop—Mock scene;
- (h) Felony stop—Mock scene;
- (i) Field interview—Mock scene;
- (j) Building search—Mock scene; and
- (k) Silent alarm/felony arrest—Mock scene.
- (6) Communication skills;
- (a) Report writing and notetaking; and
- (b) Oral communication.
- (7) Emergency vehicle operation course.
- (8) Crisis intervention;
- (a) General theory;
- (b) Recognizing and handling of abnormal behavior;
- (c) Oral and physical communication;
- (d) Handling stress; and
- (e) Family disturbance—Mock scene.
- (9) Traffic law;
- (a) Traffic law enforcement;
- (b) Breathalyzer and impaired driving; and
- (c) Accident investigation.
- (10) Firearms.
- (11) Physical training and self-defensive tactics.
- (12) Criminal investigation;
- (a) Crime scene search and protection;
- (b) Collection and preservation of evidence;
- (c) Interviews and interrogation techniques;
- (d) Crime scene protection/search/investigation—Mock scene; and
- (e) Testifying in court—Mock scene.

#### NEW SECTION

**WAC 139-05-910 REQUIREMENT OF TRAINING FOR FIRE MARSHALS.** (1) As a precondition of any exercise of police powers to enforce the laws of this state, deputy state fire marshals and resident fire marshals shall:

(a) If hired on or after July 26, 1981, possess the Washington state criminal justice training commission's basic law enforcement certificate or basic equivalency certificate, or in the alternative, successfully complete a training program of at least two hundred forty-four hours and which shall include:

- (i) Introduction to law enforcement, fourteen hours;
- (ii) Criminal procedure, thirty hours;
- (iii) Evidence law, sixteen hours;
- (iv) Criminal law, thirty-two hours;
- (v) Communication skills, twenty-four hours;
- (vi) Criminal investigations, seventy-two hours;
- (vii) Self-defense, sixteen hours;
- (viii) At least forty hours of firearms training, involving both classroom and range activity in the development of firearms proficiency, and instruction in the legality and liabilities of the use of deadly force; or



(b) If hired prior to July 26, 1981, meet the training requirement described in (a) of this subsection, or have completed a previous training program or programs deemed the equivalent thereof by the state fire marshal; and

(c) Notwithstanding date of hire, successfully complete an eight-hour firearms requalification course at least annually, in addition to any other in-service training program otherwise required by the state fire marshal.

(2) It shall be the responsibility of the state fire marshal to effect and ensure personnel compliance herein, and to provide necessary records and information upon request of the training commission, to which said marshal shall be accountable for purposes of compliance.

**NEW SECTION**

**WAC 139-05-915 REQUIREMENTS OF TRAINING FOR POLICE DOG HANDLER.** (1) For purposes herein:

(a) "Dog handler" means any commissioned law enforcement officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police dog within a law enforcement patrol or investigative assignment; and

(b) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, for the purpose of developing the trainee's competency in the care, control, and utilization of a police dog.

(2) A dog handler shall, as a precondition of such assignment, successfully complete the basic law enforcement academy program, or otherwise comply with the basic training requirement prescribed by WAC 139-14-010 of the training commission.

(3) Prior to, or within the first six months of such assignment, a dog handler shall successfully complete training according to the nature and purpose of utilization of the police dog for which such handler is responsible. Categories of utilization and concomitant training standards are prescribed as follows:

(a) Generalist. A dog handler who is responsible for the routine and regular utilization of a police dog within general patrol or investigative activities, shall successfully complete at least three hundred ninety hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police K-9;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Tracking;
- (vii) Trailing;
- (viii) Area searching;
- (ix) Building searching;
- (x) Evidence searching;
- (xi) Pursuit/holding; and
- (xii) Master protection.

(b) General detection. A dog handler who is responsible for the primary and specialized utilization of a police dog in the search for and detection of specific substances, excluding explosives, shall successfully complete at least one hundred eighty hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police K-9;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area searching;
- (vii) Building searching;
- (viii) Evidence searching; and
- (ix) Detection of specific substances.

(c) Explosives detection. A dog handler who is responsible for the primary and specialized utilization of a police dog in the search for and detection of explosive substances and devices, shall successfully complete at least three hundred ninety hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police K-9;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;

- (vi) Area searching;
- (vii) Building searching;
- (viii) Evidence searching; and
- (iv) Detection of explosives.

(d) Master protection. A dog handler who is responsible for the routine and regular utilization of a police dog solely for self-protection and assistance in hostile or potentially hostile situations, shall successfully complete at least one hundred eighty hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police K-9;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Pursuit/holding; and
- (vii) Master protection.

(4) Any dog handler whose initial date of assigned responsibility for K-9 utilization precedes January 1, 1983, shall meet the applicable training standard as above prescribed. For this purpose, training completed by such handler prior to January 1, 1983, shall be recognized and considered as training completed pursuant to such standard. If such training is less than, or does not include, that prescribed, the additional training required shall be completed prior to July 1, 1983.

(5) It shall be the responsibility of the local agency to ensure both program and personnel compliance with the above standards, as applicable, and the maintenance of training records necessary for the substantiation of such compliance. Such compliance shall constitute compliance required by RCW 4.24.410 and 9A.76.200 and for purposes of the immunity and penal provisions therein.

**NEW SECTION**

**WAC 139-05-920 REQUIREMENT OF TRAINING FOR AGRICULTURE OFFICERS.** (1) For purposes of this regulation, the term "agriculture officer" means any individual appointed by the state director of agriculture to enforce those laws relating to commission merchants, livestock identification, and livestock brand registration and inspection.

(2) As a precondition of any exercise of authority generally vested in a peace officer, an agriculture officer shall successfully complete training which shall include, but is not limited to:

- (a) Criminal procedures, to include the legal system, search and seizure, laws of arrest, and constitutional law - eight hours;
- (b) Evidence law - two hours;
- (c) Criminal investigation - eight hours;
- (d) Effective interviewing and interrogation - four hours;
- (e) Communication skills - six hours;
- (f) Criminal law - four hours;
- (g) Officer safety and basic patrol procedures - four hours;
- (h) Use of deadly force - four hours.

(3) As a precondition of any authorization to carry a firearm during the performance of duties, an authorized agriculture officer shall have successfully qualified in the firearms course which is incorporated by the basic law enforcement academy program of the Washington state criminal justice training commission, or is otherwise approved by the training commission. Such qualification shall be effected annually, or within a period of twelve months preceding the aforementioned firearms authorization.

(4) It shall be the responsibility of the state director of agriculture to effect and ensure personnel compliance herein and to provide necessary records and information upon the request of the training commission, to which said director shall be accountable for purposes of such compliance. Additionally, any equivalency process or official recognition of equivalent training or experience in determining an agriculture officer's compliance herein shall be within the prerogative and authorities of such director.

**Chapter 139-10 WAC  
CORRECTIONS**

**WAC**

- 139-10-210 Requirement of basic corrections training.
- 139-10-220 Requirements of basic corrections academy.
- 139-10-230 Basic corrections officers academy curriculum.
- 139-10-235 Basic correctional services academy curriculum.
- 139-10-240 Juvenile security workers academy curriculum.

139-10-310	Requirement of first- and second-level corrections supervisory training.
139-10-320	First- and second-level supervision curriculum—Corrections.
139-10-410	Requirement of middle-management corrections training.
139-10-420	Middle-management curriculum—Corrections.
139-10-510	Requirement of executive management corrections training.
139-10-520	Executive management curriculum—Corrections.

#### NEW SECTION

**WAC 139-10-210 REQUIREMENT OF BASIC CORRECTIONS TRAINING.** As provided in RCW 43.101.220, all full-time corrections employees of the state of Washington or of any city, county, or political subdivision of the state of Washington, initially hired on or after January 1, 1982, shall, as a condition of continued employment, successfully complete a basic corrections academy as prescribed, sponsored or conducted by the Washington state criminal justice training commission for their class. This requirement to complete basic training shall be fulfilled within the initial six months of corrections employment unless otherwise extended or waived by the commission; provided, that those persons hired on or after January 1, 1982, and prior to July 1, 1982, shall complete the required basic training before January 1, 1983. Requests for extension or waiver of the basic training requirement shall be submitted to the commission in writing as designated by its policies.

(1) Corrections personnel shall attend basic academy training according to job function as described below:

(a) Corrections officers academy. All employees whose primary job function is to provide for the custody, safety and security of adult prisoners in jails, penal institutions and work release facilities. Representative job classifications include, but are not limited to, jailers and correctional officers.

(b) Correctional services academy. All employees whose primary job function is the case management of offenders, to include assessment, case planning, counseling, supervision, and monitoring. Representative job classes include, but are not limited to, juvenile probation and parole officers, community service officers, institution counselors, and psychiatric social workers.

(c) Juvenile security workers academy. All employees responsible for the care, custody, and safety of youth in county juvenile court detention centers, state institutions, camps and group homes. Representative job classes include, but are not limited to, juvenile detention workers, and group life counselors.

(2) It shall be the responsibility of the employing agency to determine the most appropriate basic academy for an employee to attend within the guidelines set by the commission.

(3) Failure to comply with the above requirements shall result in a notification of noncompliance from the commission directed to the individual employee, and, as appropriate, the employing agency director, chief or sheriff, the civil service commission, the board on corrections standards, and/or the state auditor's office, and the chief executive of the local unit of government.

(4) Each agency employing personnel covered by RCW 43.101.220 shall be responsible for full and complete compliance with the above training requirements. Additionally, each such agency shall provide the commission with employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees.

#### NEW SECTION

**WAC 139-10-220 REQUIREMENTS OF BASIC CORRECTIONS ACADEMY.** (1) Each trainee in a basic corrections academy shall receive certification only upon full and successful completion of the academy process as prescribed by the commission. The performance of each trainee shall be evaluated as follows:

(a) Scholarship. A standardized examination process shall be utilized by each corrections academy sponsored or conducted by the commission, in evaluating the level of scholastic achievement and skill proficiency of each trainee. Such process shall include the application of a designated minimum passing score and the availability of a retesting procedure.

(b) Participation. Each trainee shall be required to participate fully in all academy classes, practice exercises and physical training programs. No applicant for basic corrections training shall begin the basic

academy assignment if his or her health and physical condition precludes active and full participation in the physical activities required for certification. Provided, that any applicant whose beginning date of continuous corrections officer employment precedes January 1, 1982, may be allowed to audit, in whole or in part, basic corrections officer training. In no instance shall certification be granted until successful completion of physical training, including defensive tactics, has been achieved.

(c) Deportment and conduct. Failure to maintain a standard of deportment and conduct as defined in the rules, regulations and policies of the basic corrections academy may result in termination of academy assignment.

(2) In the instance of termination or suspension of a trainee's academy assignment due to illness, injury, personal hardship, or good cause otherwise shown, the commission may allow certification after such trainee has successfully completed a subsequent academy, in whole or part, as determined by the commission.

Such certification may be effected regardless of any time limit or period elsewhere prescribed or mandated for certification.

(3) In all other instances of termination of a trainee's academy assignment, the commission shall allow such trainee's admission to any subsequent academy only if:

(a) Such trainee has been terminated by the employing agency and subsequently rehired by it; or

(b) Such trainee has been terminated by the employing agency and subsequently is hired by another employing agency.

(4) Upon the written request of a trainee, or the head of his employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.

#### NEW SECTION

**WAC 139-10-230 BASIC CORRECTIONS OFFICERS ACADEMY CURRICULUM.** The basic corrections officers academy of the Washington state criminal justice training commission shall be eighty instructional hours in length and shall include the following subject matter:

(1) The system:

(a) Practical law for corrections officers; and

(b) Problem solving.

(2) Supervision and care of inmates:

(a) Supervising inmates;

(b) Health and mental health care;

(c) Discipline of inmates;

(d) Professionalism; and

(e) Dealing with aggressive behavior.

(3) Safety and security:

(a) Security management; and

(b) Proper use of force.

(4) Communication skills:

(a) Incident report writing;

(b) Listening; and

(c) Interpersonal skills.

(5) Personal development:

(a) Stress management; and

(b) Physical fitness.

#### NEW SECTION

**WAC 139-10-235 BASIC CORRECTIONAL SERVICES ACADEMY CURRICULUM.** The basic correctional services academy curriculum of the Washington state criminal justice training commission shall be eighty hours in length and shall include the following subject matter:

(1) Key treatment approaches:

(a) Research review;

(b) Program specificity;

(c) Offense prevention;

(d) Life goals; and

(e) Skills training.

(2) Core skills:

(a) Interpersonal skills;

(b) Interviewing;

(c) Managing information;

(d) Report writing;

(e) Rewards and sanctions; and

- (f) Legal issues.
- (3) Personal skills:
  - (a) Stress management;
  - (b) Physical fitness (alternate option - health class);
  - (c) Time management; and
  - (d) Personal development.
- (4) Case management skills:
  - (a) Assessment;
  - (b) Goal setting;
  - (c) Program planning; and
  - (d) Intervention and monitoring.

**NEW SECTION**

WAC 139-10-240 JUVENILE SECURITY WORKERS ACADEMY CURRICULUM. The juvenile security workers academy curriculum of the Washington state criminal justice training commission shall be eighty instructional hours in length and shall include the following subject matter:

- (1) The system:
  - (a) Overview of the juvenile justice system;
  - (b) Legal rights of incarcerated youth; and
  - (c) Reception and classification.
- (2) Supervision and care:
  - (a) Dealing with aggression;
  - (b) First aid/CPR;
  - (c) Disciplining youth;
  - (d) Health and mental health care; and
  - (e) Supervision of youth.
- (3) Program techniques:
  - (a) Listening skills;
  - (b) Interpersonal skills;
  - (c) Observation skills; and
  - (d) Group dynamics.
- (4) Security:
  - (a) Incident report writing;
  - (b) Proper use of physical force; and
  - (c) Safety and security.
- (5) Personal development:
  - (a) Physical fitness; and
  - (b) Stress management.

**NEW SECTION**

WAC 139-10-310 REQUIREMENT OF FIRST-LEVEL AND SECOND-LEVEL CORRECTIONS SUPERVISORY TRAINING.

(1) As provided in RCW 43.101.220, all corrections employees of the state of Washington, or any city, county or political subdivision of the state of Washington, promoted or appointed to a full-time first-level or second-level supervisory position on or after January 1, 1982, shall obtain the supervisory certification of the Washington state criminal justice training commission prior to or within six months after such promotion or appointment, unless otherwise extended or waived by the commission; provided that those persons promoted or appointed on or after January 1, 1982, and prior to July 1, 1982, shall obtain the supervisory certification before January 1, 1983. The requirements for supervisory certification are:

(a) Possession of a basic corrections academy certificate of the Washington state criminal justice training commission; and

(b) Successful completion of the commission's first-level and second-level supervision course, or other training deemed the equivalent by the corrections training manager of the commission.

(2) It shall be the responsibility of the employing agency to determine which of its job classifications should attend the first-level and second-level supervisors course, based on job duties and the prerequisites for the above required course. In general, first-level supervision positions are defined as positions above operational level for the direct supervision of non-supervisory personnel. Second-level supervisors are defined as those persons who supervise first-level supervisors. Representative job classes include sergeants, lieutenants, district supervisors, district administrators, classification and parole supervisors, cottage supervisors, unit supervisors, unit program directors.

(3) Each agency employing personnel covered by RCW 43.101.220 shall be responsible for full and complete compliance with the above training requirements. Additionally, each such agency shall provide to

the commission employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees.

(4) Upon the written request of a trainee, or the head of his employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.

**NEW SECTION**

WAC 139-10-320 FIRST-LEVEL AND SECOND-LEVEL SUPERVISION CURRICULUM—CORRECTIONS. The first-level and second-level supervision curriculum of the Washington state criminal justice training commission shall be forty instructional hours in length and shall include the following subject matter:

- (1) Role of the supervisor.
- (2) Advanced oral communication.
- (3) Team building.
- (4) Goal setting.
- (5) Work planning/time management.
- (6) Scheduling and delegating.
- (7) On-the-job training.
- (8) Performance monitoring.
- (9) Employee selection.
- (10) Employee performance appraisal.
- (11) Handling incompetent staff and preventing grievances.
- (12) Handling criticism from staff.
- (13) Preventing and handling staff burnout.
- (14) Leading meetings.

**NEW SECTION**

WAC 139-10-410 REQUIREMENT OF MIDDLE-MANAGEMENT CORRECTIONS TRAINING. (1) As provided in RCW 43.101.220, all corrections employees of the state of Washington, or any city, county or political subdivision of the state of Washington, promoted or appointed to a full-time middle-management position on or after January 1, 1982, shall obtain the middle-management certification of the Washington state criminal justice training commission prior to or within six months after such promotion or appointment, unless otherwise waived or extended by the commission: PROVIDED, That those persons promoted or appointed on or after January 1, 1982, and prior to July 1, 1982, shall obtain the middle-management certification before January 1, 1983. The requirements for middle-management certification are:

(a) Possession of the supervisory certificate of the Washington state criminal justice training commission: PROVIDED, That such certificate requirement may be waived for any person serving within a first-level or second-level supervisory position as defined in WAC 139-36-040 prior to January 1, 1982: AND FURTHER PROVIDED, That this waiver shall be extended to persons laterally entering a correctional department as a middle manager;

(b) Successful completion of the commission's corrections middle-management course and advanced problem solving and conflict management course or correctional services academy phase II, or other middle-management training deemed the equivalent thereof by the corrections training manager.

(2) It shall be the responsibility of the employing agency to determine which of its job classifications should attend the middle-management course, based on job duties and the prerequisites for the above required course. In general, middle managers shall be defined as those people in the organization who manage and develop programs and who are responsible for the smooth functioning of work groups supervised by first-level and second-level supervisors. Representative job classes include regional administrators, central office staff, captains, associate superintendents, and superintendents of small and medium sized jails and correctional facilities.

(3) Each agency employing personnel covered by RCW 43.101.220 shall be responsible for full and complete compliance with the above training requirements. Additionally, each such agency shall provide to the commission employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees.

(4) Upon the written request of a trainee, or the head of his employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.

**NEW SECTION**

**WAC 139-10-420 MIDDLE-MANAGEMENT CURRICULUM-CORRECTIONS.** The middle-management curriculum of the Washington state criminal justice training commission shall be forty instructional hours in length and shall include the following subject matter:

- (1) Teamwork.
- (2) Internal consulting.
- (3) Budgeting.
- (4) Program development.
- (5) Program evaluation.
- (6) Procedures development.
- (7) Motivation and bureaucracy.
- (8) Procedure writing.
- (9) Managing by systems.

**NEW SECTION**

**WAC 139-10-510 REQUIREMENT OF EXECUTIVE MANAGEMENT CORRECTIONS TRAINING.** (1) As provided in RCW 43.101.220, all corrections employees of the state of Washington, or any city, county, or political subdivision of the state of Washington, promoted or appointed to a full-time executive management position on or after January 1, 1982, shall obtain the executive management certification of the Washington state criminal justice training commission prior to or within six months after such promotion or appointment, unless otherwise waived or extended by the commission: **PROVIDED**, That those persons promoted or appointed on or after January 1, 1982, and prior to July 1, 1982, shall obtain the executive management certification before January 1, 1982. The requirements for executive management certification are:

- (a) Possession of middle-management certification of the Washington state criminal justice training commission: **PROVIDED**, That such certification requirements may be waived for any person serving in a middle-management position as defined by WAC 139-36-050 prior to January, 1982; and
  - (b) Successful completion of the commission's corrections executive management training program or other executive management training deemed the equivalent thereof by the corrections training manager of the commission.
- (2) It shall be the responsibility of the employing agency to determine which of its job classifications should attend the executive management course, based on job duties and the prerequisites for the above required course. In general, executive managers are defined as superintendents of large correctional institutions and jails, central office directors, deputy directors and assistant directors, and juvenile court directors in large jurisdictions.
- (3) Each agency employing personnel covered by RCW 43.101.220 shall be responsible for full and complete compliance with the above training requirements. Additionally, each such agency shall provide to the commission employment information necessary for the establishment and maintenance of complete and accurate training records on all affected employees.
- (4) Upon the written request of a trainee, or the head of his employing agency, any action affecting such trainee's status or eligibility for certification shall be reviewed pursuant to the procedural rules and regulations adopted by the commission.

**NEW SECTION**

**WAC 139-10-520 EXECUTIVE MANAGEMENT CURRICULUM-CORRECTIONS.** The executive management curriculum of the Washington state criminal justice training commission shall be sixty-four instructional hours in length and shall include the following subject matter:

- (1) Team building and organizational goal setting.
- (2) Long-range planning.
- (3) Your public image.
- (4) Creating momentum for organizational change.
- (5) Organizational communication.
- (6) Organizational leadership.
- (7) Policy development.
- (8) Executive self-care.
- (9) Managing with limited resources.
- (10) Executive career ladder and power base.

- (11) Program effectiveness research.
- (12) Quality control.
- (13) View of the executive.
- (14) Training systems.
- (15) Budgeting.
- (16) Futures planning.

Chapter 139-15 WAC  
**PUBLIC ATTORNEYS AND CORONERS**

**WAC**  
139-15-110 Prosecutor, public defender, and municipal attorney training.

**NEW SECTION**

**WAC 139-15-110 PROSECUTOR, PUBLIC DEFENDER, AND MUNICIPAL ATTORNEY TRAINING.** The Washington state criminal justice training commission shall, within the fiscal resources available, develop and annually conduct the following types of training:

- (1) Basic orientation training for attorneys whose responsibility is prosecuting of criminal, juvenile, and traffic offenses and for attorneys whose primary responsibility is defense of such offenses; and
  - (2) Advanced training for county prosecutors, municipal attorneys, attorneys engaged primarily in the defense of persons charged with offenses, and their attendant support staffs.
- Additionally, the commission may develop, publish, or distribute training materials and manuals for county prosecutors, municipal attorneys, and attorneys engaged primarily in the defense of persons charged with offenses.

For purposes herein, the term "attorneys who are engaged primarily in the defense of persons charged with offenses" shall be limited to attorneys who expend at least fifty percent of their employment in the provision of criminal defense services and who are:

- (a) Staff attorneys of any not-for-profit organization which has as its primary function the provision of criminal defense services;
- (b) Attorneys who provide such services pursuant to a contractual agreement with any public entity; or
- (c) Attorneys employed by any duly constituted public defender district.

**WSR 86-15-073**  
**PROPOSED RULES**  
**STATE TOXICOLOGIST**  
[Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Toxicologist intends to adopt, amend, or repeal rules relating to administration of breath tests with the breathalyzer breath test instrument, chapter 448-12 WAC; that the agency will at 1:30 p.m., Tuesday, September 30, 1986, in the Harborview Medical Center, Medical Examiner's Conference Room, 325 Ninth 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 46.61.506.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 30, 1986.

Dated: July 22, 1986  
By: Dr. Vidmantas A. Raisys  
State Toxicologist

## STATEMENT OF PURPOSE

Title: State Toxicologist—Breath alcohol testing.

Description of Purpose: To provide for implementation of a breath test program consistent with new legislation.

Statutory Authority: RCW 46.61.506.

Summary of Rule: The DWI statute (RCW 46.61-.502) has redefined the violation in terms of breath alcohol concentration. The breath test procedure and result is provided for in these WAC rules. A change in the WAC rules is necessary to provide for the application of the new law.

Reasons Supporting Proposed Action: To provide for the application of the new DWI law.

Agency Personnel Responsible for Drafting: Mr. John Vercimak, Washington State Patrol, General Administration Building, AX-12, Olympia, WA 98504, (206) 753-3482; Implementation: Dr. Vidmantas A. Raisys, State Toxicologist, Harborview Medical Center, 325 9th Avenue, Seattle, WA 98104, (206) 223-3311; and Enforcement: Sergeant Rod G. Gullberg, Washington State Patrol Crime Laboratory, Public Safety Building, Seattle, WA 98104, (206) 464-7074.

Person or Organization Proposing Rule: Dr. Vidmantas A. Raisys, Washington State Toxicologist, governmental organization.

AMENDATORY SECTION (Amending Order 80-01, filed 5/6/80)

WAC 448-12-020 ADMINISTRATION OF BREATHALYZER TEST. Pursuant to R.C.W. 46.61.506 the state toxicologist approves the following method for performing the breathalyzer test. Prior to the administration of a breathalyzer test it must be determined (a) that the subject has had nothing to eat or drink for at least fifteen minutes prior to the administration of the test, and (b) that the subject does not have any foreign substances, not to include dental work fixed or removable, in his mouth at the beginning of the fifteen minute observation period. Such determination shall be made by either an examination of the mouth or a denial by the subject that he has any foreign substances in his mouth.

In conducting a chemical test of breath for intoxication by the use of a breathalyzer the following steps must be taken:

- (1) Warm up machine until thermometer indicates 47° - 53°C.
- (2) See that null meter is centered.
- (3) See that comparison ampoule is in place in lefthand holder.
- (4) Gauge test ampoule and record test ampoule control number.
- (5) Insert and connect test ampoule.
- (6) Turn selector to "TAKE," flush out, and turn selector to "ANALYZE."

(7) When "EMPTY" light comes on, wait one and one-half minutes. Then center meter using the balance wheel or knob with light on and selector in "ANALYZE" position.

(8) Align scale pointer with start line.

(9) Turn selector to "TAKE," take sample, and turn selector to "ANALYZE." Record time sample was taken.

(10) When "EMPTY" light comes on, wait one and one-half minutes. Then center meter using the balance wheel or knob with light on and selector in "ANALYZE" position.

(11) Read answer on scale and record reading. This reading indicates the ~~((percent by weight of alcohol in the person's blood, which means the percent on a weight to volume basis.))~~ Grams of alcohol per two hundred ten (210) liters of breath.

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 86-15-074

## EMERGENCY RULES

## STATE TOXICOLOGIST

[Order 86-02—Filed July 23, 1986]

I, Dr. Vidmantas A. Raisys, Washington State Toxicologist, do promulgate and adopt at the Medical Examiners Conference Room, Harborview Medical Center, Seattle, the annexed rules relating to administration of breath tests with the breathalyzer breath test instrument, chapter 448-12 WAC.

I, Dr. Vidmantas A. Raisys, 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 new DWI per se law (RCW 46.61.502) took effect June 11, 1986, which redefines the violation in terms of breath alcohol concentration. This WAC rule change will provide for application of the new language.

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

This rule is promulgated pursuant to RCW [46.61-.506] 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 22, 1986.

By Dr. Vidmantas A. Raisys  
State Toxicologist

AMENDATORY SECTION (Amending Order 80-01, filed 5/6/80)

WAC 448-12-020 ADMINISTRATION OF BREATHALYZER TEST. Pursuant to R.C.W. 46.61-.506 the state toxicologist approves the following method for performing the breathalyzer test. Prior to the administration of a breathalyzer test it must be determined (a) that the subject has had nothing to eat or drink for at least fifteen minutes prior to the administration of the test, and (b) that the subject does not have any foreign substances, not to include dental work fixed or removable, in his mouth at the beginning of the fifteen minute observation period. Such determination shall be made by either an examination of the mouth or a denial by the subject that he has any foreign substances in his mouth.

In conducting a chemical test of breath for intoxication by the use of a breathalyzer the following steps must be taken:

(1) Warm up machine until thermometer indicates 47° - 53°C.

(2) See that null meter is centered.

(3) See that comparison ampoule is in place in lefthand holder.

(4) Gauge test ampoule and record test ampoule control number.

(5) Insert and connect test ampoule.

(6) Turn selector to "TAKE," flush out, and turn selector to "ANALYZE."

(7) When "EMPTY" light comes on, wait one and one-half minutes. Then center meter using the balance wheel or knob with light on and selector in "ANALYZE" position.

(8) Align scale pointer with start line.

(9) Turn selector to "TAKE," take sample, and turn selector to "ANALYZE." Record time sample was taken.

(10) When "EMPTY" light comes on, wait one and one-half minutes. Then center meter using the balance wheel or knob with light on and selector in "ANALYZE" position.

(11) Read answer on scale and record reading. This reading indicates the ~~((percent by weight of alcohol in the person's blood, which means the percent on a weight to volume basis.))~~ Grams of alcohol per two hundred ten (210) liters of breath.

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 86-15-075**

**ADOPTED RULES**

**COMMISSION FOR VOCATIONAL EDUCATION**

[Order 86-78-3, Resolution No. 86-78-3—Filed July 23, 1986]

Be it resolved by the Commission for Vocational Education, acting at the Phoenix D Room, Sea-Tac Hyatt House, 17001 Pacific Highway South, Seattle, that it does adopt the annexed rules relating to licensing certain private vocational schools as called for in the Private Vocational Schools Act, sections 1 through 23, chapter 299, Laws of 1986.

This action is taken pursuant to Notice No. WSR 86-12-063 filed with the code reviser on June 4, 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 28C.\_\_\_\_, sections 1 through 23, chapter 299, 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 Tuesday, July 15, 1986.

By Christenia Alden  
Chair

Chapter 490-800 WAC  
**PRIVATE VOCATIONAL SCHOOL REGULATIONS**

WAC  
490-800-010 Authority.

- 490-800-020 Previous rules and regulations repealed.
- 490-800-030 Exemptions.
- 490-800-040 Cancellation and refund policy.
- 490-800-050 Catalog, brochure, or other written material.
- 490-800-060 Enrollment contract or agreement.
- 490-800-070 Time of application.
- 490-800-080 Display of licenses—Loss or destruction—Change of name—Change of location.
- 490-800-090 Change of ownership—License nontransferable.
- 490-800-100 Application contents.
- 490-800-105 Application for license to operate as agent of an out-of-state private vocational school.
- 490-800-110 Notice of actions by governmental entities or accrediting commissions.
- 490-800-120 Fees.
- 490-800-130 Financial standards.
- 490-800-140 Program standards.
- 490-800-150 Staff qualifications.
- 490-800-160 Facilities.
- 490-800-170 Equipment and materials.
- 490-800-180 Surety bond or other security.
- 490-800-190 Prohibitions.
- 490-800-200 Complaints.
- 490-800-210 Record retention.
- 490-800-220 School closing/change of status.
- 490-800-230 Declaratory rulings (see RCW 34.04.080).
- 490-800-240 Declaratory rulings—Forms (see RCW 34.04.080 (annotated)).

NEW SECTION

✓WAC 490-800-010 AUTHORITY. These rules are promulgated pursuant to chapter 299, Laws of 1986 (chapter 28C.— RCW).

NEW SECTION

✓WAC 490-800-020 PREVIOUS RULES AND REGULATIONS REPEALED. All rules and regulations previously adopted pursuant to chapter 28B.05 RCW by this agency (chapter 490-600 WAC) are hereby repealed: PROVIDED, That private vocational schools registered under the Educational Services Registration Act (chapter 188, Laws of 1979 ex. sess., as amended; chapter 28B.05 RCW), as of June 30, 1986, shall be considered to be licensed under chapter 28C.— RCW (chapter 299, Laws of 1986, sections 1 through 23) until January 31, 1987. The new rules and regulations (chapter 490-800 WAC), when adopted, contain the same force and effect as the statute authorizing their promulgation chapter 299, Laws of 1986 (chapter 28C.— RCW).

NEW SECTION

✓WAC 490-800-030 EXEMPTIONS. The following is intended to clarify the statutory exemptions:

(1) "Avocational" or "recreational" means instruction which is primarily intended for leisure and not offered for the purpose of providing a student with employable skills or with competencies that upon completion of the program, course, or class would be customarily applied to gainful employment and is not utilized by the school as a prerequisite for vocational instruction.

(2) Entities not otherwise exempt offering only workshops or seminars lasting not more than three calendar days: PROVIDED, That training is completed within the three days; and a program of education is not being offered through a series of supplementary seminars.

#### NEW SECTION

✓ WAC 490-800-040 CANCELLATION AND REFUND POLICY. As a condition of licensing, each school must adhere to the following uniform state-wide minimum cancellation and refund policy:

(1) A full refund of all money paid if the applicant is not accepted by the school;

(2) A full refund of tuition and fees paid if the applicant withdraws not later than midnight on the third day (excluding Sundays and holidays) after signing the contract or making an initial payment, provided that the applicant has not commenced training;

(3) After three business days (excluding Sundays and holidays), the school may retain an established registration fee equal to ten percent of the total tuition cost, or one hundred dollars, whichever is less. "Registration fee" refers to any fee, however named, covering those expenses incurred by an institution in processing student applications and establishing a student records system;

(4) The official date of termination of a student shall be the last date of recorded attendance when withdrawal occurs in any of the following manners:

(a) When the school receives notice of the student's intention to discontinue the training program;

(b) When the student is terminated for a violation of a published school policy which provides for termination;

(c) When a student, without written notice to the institution, fails to attend classes for thirty calendar days.

(5) If training is terminated after entering classes, the student is financially obligated to the school according to the following formulas or maximum charges:

(a) Termination during first week or ten percent of instruction, whichever is less. School may retain ten percent tuition of cost plus established registration fee;

(b) Termination after first week or ten percent instruction, whichever is less, but prior to completion of twenty-five percent of contracted instructional time. School may retain twenty-five percent of tuition cost plus established registration fee;

(c) Termination after completion of first twenty-five percent but prior to completion of fifty percent of contracted instructional time. School may retain fifty percent of tuition cost plus established registration fee;

(d) Termination after completion of more than fifty percent of contracted instructional time. School may retain the full tuition cost plus established registration fee.

(6) If a school fails to fulfill its obligation to complete any program of instruction after training of students has

begun, the students enrolled are entitled to a refund of all tuition and fees paid.

#### NEW SECTION

✓ WAC 490-800-050 CATALOG, BROCHURE, OR OTHER WRITTEN MATERIAL. The catalog/bulletin shall be the school's principal printed means to explain its operations and requirements to prospective and enrolled students. For this reason, it shall be current, comprehensive, and accurate. Each school shall publish a catalog, brochure, or other written material which shall include the following:

(1) Date of publication;

(2) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and corporation, if a subsidiary;

(3) Names, addresses, and telephone numbers of the school's administrative offices and all teaching locations;

(4) Names of teaching faculty. Such lists shall be accurate as of the date of issue of the school's license. Current faculty shall be noted on a catalog errata sheet provided each student prior to entering classes;

(5) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(6) Admission procedure, policies, and regulations describing accurately and completely all prerequisites (e.g., GED, physical requirements, etc.) and requirements for:

(a) Completing successfully the programs of study in which they are interested; and

(b) Qualifying for the fields of employment for which their education is designed.

(7) A description of the exact nature and kind of placement assistance offered, if any. If no assistance is offered, the school shall make this fact known;

(8) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(9) An accurate description, whether through words, photos, or other means, of the school's facilities, equipment, and physical plant used for training with a description of the equipment available for student use and the maximum or usual class size;

(10) Total cost of training including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, student activities, insurance and all other charges and expenses necessary for completion of the program;

(11) Minimum terms for payments;

(12) A description of each course of instruction, including:

(a) Specific course objectives: The educational or vocational objective of each course or program including the name of occupations for which the course or program purports to train;

(b) The number of contact hours of instruction and types of instruction (e.g., correspondence, classroom, lab, computer assisted) in each course and the length of time in weeks or months normally required for completion;

(c) Number of lessons (correspondence/home study schools). "Correspondence and/or home study school" shall mean that the instructional format of the school

involves the sequential mailing or distribution of lessons to the student, who studies the material, completes a lesson examination, and returns the examination to the school. The school then grades the lesson/examination (and, in some instances, provides additional comments and instruction), and returns the graded lesson to the student along with the next set of instructional materials;

(d) The scope and sequence of courses or programs required to achieve the educational objective;

(e) Credit hours (if credit hours are utilized);

(f) A statement of certificates or other education credentials awarded upon graduation or completion.

(13) Policy and regulations relative to refund of unearned tuition, fees, and other charges, which must meet the minimum cancellation and refund policy set forth in these rules, including procedures a student shall follow to cancel enrollment before or after instruction has begun;

(14) The statement that: THIS SCHOOL IS LICENSED UNDER RCW 28C.—.—; INQUIRIES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION, BUILDING 17, AIRDUSTRIAL PARK, MS LS-10, OLYMPIA, WASHINGTON 98504 (206/753-5673);

(15) Availability of financial aid, grants and scholarships, if any;

(16) Supplements or errata sheets for the catalog/bulletin or other written materials shall be filed with the agency:

(a) If supplement pages or errata sheets are used as part of the catalogs/bulletins, they shall be fastened to or otherwise made an integral part of that publication;

(b) The catalog/bulletin supplement or errata sheets shall include the printing date;

(c) In the event that information on a supplement or errata sheet replaces any other information in the catalog/bulletin, it shall be clearly indicated that such information supersedes that which it contradicts and/or replaces elsewhere in the catalog/bulletin.

#### NEW SECTION

WAC 490-800-060 ENROLLMENT CONTRACT OR AGREEMENT. "Enrollment agreement" is any agreement, instrument or note, however named, which creates or evidences an obligation binding a student to purchase a course of instruction from a school. Each school shall use an enrollment contract or agreement that includes:

(1) The school's cancellation and refund policy, in accordance with these rules, displayed in a type size no smaller than that used to meet any other requirements of this section;

(2) The following statement: THIS SCHOOL IS LICENSED UNDER RCW 28C.—.—; INQUIRES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION; BUILDING 17, AIRDUSTRIAL PARK; MS: LS-10; OLYMPIA, WASHINGTON 98504; (206/753-5673);

(3) Information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

(a) The name and address of the school and the student;

(b) The title of the educational services, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(c) The cost incurred by the student or his/her sponsor in order to complete the training. Such costs shall be itemized and shall include tuition, fees, books, supplies (where appropriate), and all other charges made by the school necessary to complete the training. The student enrollment agreement shall outline the methods of payment or the payment schedule;

(d) A statement acknowledging receipt of a copy of the school's catalog and student enrollment agreement by the student;

(e) Language explaining that the agreement will be binding only when officially accepted and the agreement is fully completed, signed and dated by the student and chief administrative officer or authorized representative of the school prior to the time instruction begins.

(4) A statement that any changes in the agreement shall not be binding on either the student or the school unless such changes have been approved in writing by the chief administrative officer or an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor;

(5) "NOTICE TO THE BUYER" which includes the following statements in a position above the space reserved for the student's signature:

(a) "DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. THIS IS A LEGAL INSTRUMENT.

(b) BOTH SIDES OF THE CONTRACT ARE BINDING.

(c) READ BOTH SIDES BEFORE SIGNING.

(d) YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT, SCHOOL CATALOG AND ANY DISCLOSURE PAGES YOU SIGN.

(e) YOU MAY CANCEL THIS CONTRACT BY SENDING NOTICE OF SUCH CANCELLATION BY CERTIFIED MAIL RETURN RECEIPT REQUESTED TO THE SELLER AT HIS ADDRESS SHOWN ON THE CONTRACT WHICH NOTICE SHALL BE POSTED NOT LATER THAN MIDNIGHT OF THE THIRD DAY (EXCLUDING SUNDAYS AND HOLIDAYS) FOLLOWING YOUR SIGNING THIS CONTRACT. (See also Retail Installation Sales Act, chapter 63.14 RCW; RCW 63.14.040(2).)

(6) The following statement: "IT IS AN UNFAIR BUSINESS PRACTICE FOR THE SCHOOL TO SELL, DISCOUNT OR OTHERWISE TRANSFER THIS CONTRACT OR PROMISSORY NOTE WITHOUT THE SIGNED WRITTEN CONSENT OF THE STUDENT OR HIS/HER FINANCIAL SPONSORS AND A WRITTEN STATEMENT NOTIFYING ALL PARTIES THAT THE CANCELLATION AND REFUND POLICY CONTINUES TO APPLY."

(7) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution or by return mail when solicited by mail.

#### NEW SECTION

WAC 490-800-070 TIME OF APPLICATION.  
(1) Initial licensing. Any entity desiring to operate private vocational schools must initially be licensed by the



agency no later than one month prior to the date on which it first offers educational credentials, instruction, or services, whichever is sooner;

(2) **Renewal.** Each private vocational school must annually renew its license. No later than one month prior to the anniversary date of its license, the private vocational school must file a completed application for license renewal, including an income statement, attested to by the chief administrative officer, and amend any statements or materials on file which are no longer accurate.

(3) **Transition.** A private vocational school registered under the Educational Services Registration Act (chapter 188, Laws of 1979 ex. sess., as amended), as of June 30, 1986, shall be considered to be licensed under chapter 28C.—RCW (chapter 299, Laws of 1986, sections 1 through 23) until January 31, 1987. These private vocational schools must file their license application no later than January 1, 1987. Previously exempt private vocational schools may, upon written representation by the school's chief administrative officer that the school substantially complies with the act and these rules, apply to the agency for issuance of a temporary license. The agency has discretion to issue a temporary license.

NEW SECTION

**WAC 490-800-080 DISPLAY OF LICENSES—LOSS OR DESTRUCTION—CHANGE OF NAME—CHANGE OF LOCATION.** (1) Any license issued shall be issued in the school's name, address, and phone.

(2) **Display.** Each school shall prominently display its license to the public, prospective students, and other interested persons.

(3) **Loss or destruction.** Upon the loss or destruction of any license, application for a duplicate and payment of the appropriate license reissuance fee must be made to the agency. See WAC 490-800-120(4).

(4) **Change of name.** No licensee shall adopt or make a change in a trade or corporate name without written notification to the agency and payment of the appropriate license reissuance fee. See WAC 490-800-120(5).

(5) **Change of location.** No change of location of licensed premises shall be made without the agency's written consent and payment of the appropriate license reissuance fee. See WAC 490-800-120(6).

NEW SECTION

**WAC 490-800-090 CHANGE OF OWNERSHIP—LICENSE NONTRANSFERABLE.** A change in the sole proprietor of a school, a change in the majority interest of general partners of a partnership owning a school or a change in a majority stock ownership of a school shall be deemed a transfer of ownership. The new owner must make application for and receive a new license. This application shall be processed like an initial application except the agency may extend the current license for a maximum sixty days if the chief administrative officer furnishes a written statement asserting that

all conditions set forth in the act and these rules are being met or will be met before offering training or education

NEW SECTION

**WAC 490-800-100 APPLICATION CONTENTS.** Any entity desiring to operate a private vocational school shall apply for license to the agency on forms provided by the agency which shall include the following information attested to by the school's chief administrative officer:

(1) **Owners, shareholders, and members.** Each entity shall provide the agency with the following information concerning ownership:

(a) The complete legal name of the school, current telephone number, current mailing address, the school's physical address, and date of establishment;

(b) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, prior school affiliations and capacities, and any other appropriate information of all those with ten percent or more equity ownership;

(d) A school which is a corporation or a subsidiary of another corporation shall submit to the agency as part of the school's application current evidence that the corporation is registered with the Washington secretary of state's office and the name, address and telephone number of the corporation's registered agent;

(e) "Ownership" of a school means:

(i) In the case of a school owned by an individual, that individual;

(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more equity ownership;

(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(2) **Additional instruction site(s).** Application for a license to operate shall identify locations of all separate instructional facilities operated by the entity. All locations at which education is offered by entities licensed to operate shall be deemed a location within the scope of the private vocational school, provided that the private vocational school provides the course curriculum and guidelines for teaching at each location and that a single location is identified as the principle facility for record-keeping. All licenses shall specify the instructional location(s) for which the license is valid. Licenses shall be valid only for those locations listed in the initial application and renewal forms. A license may be denied, revoked, or suspended for just cause.

(3) **Agents of institutions.** Each agent's name, address, phone number, territory, date of birth, prior school affiliations and capacities, and any other appropriate information.

(4) **Surety bond or assignment of account.** Each school shall have on file with the agency an approved

surety bond or other security in lieu of a bond as specified by these rules.

(5) Income statement. Each school must annually disclose to the agency information reflecting the financial condition of the school at the close of its most recent fiscal or calendar year to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Entities operating a private vocational school must submit:

(a) The fiscal year dates utilized for the school's operations;

(b) A financial statement showing gross tuition fee and income (excluding refunds, books, tools, and supplies) for the last completed fiscal year, certified by the school's chief administrative officer. This may be accomplished by submitting one of the following:

(i) A copy of the entity's most recently filed federal tax return;

(ii) A copy of an external audit prepared by a certified public accountant or a state audit agency; or

(iii) A financial statement in the format provided by the agency.

(6) Financial references. The name of a bank or other financial institution that may be consulted as a financial reference for the entity and school.

(7) Catalog.

(8) Enrollment agreement/contract.

(9) Administrators/instructors educational and occupational records. Names, addresses, phone numbers, positions, education, experience, prior school affiliations, birthdates, and any other appropriate information.

NEW SECTION

WAC 490-800-105 APPLICATION FOR LICENSE TO OPERATE AS AGENT OF AN OUT-OF-STATE PRIVATE VOCATIONAL SCHOOL. (1) The application shall be in writing, upon forms prepared and supplied by the agency and shall contain:

(a) The full name and current address of the agent applying for license;

(b) The name and address of the vocational school proposed to be represented;

(c) The past employment record of the applicant.

(2) The application shall be accompanied by statutory license fee of one hundred dollars.

NEW SECTION

WAC 490-800-110 NOTICE OF ACTIONS BY GOVERNMENTAL ENTITIES OR ACCREDITING COMMISSIONS. At the time of original and renewal applications, the entity shall present the agency with details of any consent orders with the Federal Trade Commission and notification of any actions which have been taken by any federal or state agency or accrediting commission. The entity shall inform the agency in writing on actions being taken to correct deficiencies cited.

NEW SECTION

WAC 490-800-120 FEES. (1) Annual fee: The annual fee is based on gross annual tuition income received from or on behalf of Washington state residents. Schools

not having been in operation prior to the date of their initial licensing shall base their annual fee upon estimated gross annual tuition income.

Gross Annual Tuition Income	Fee
Up to \$25,000 .....	\$ 250
Up to \$50,000 .....	\$ 500
\$50,000 to \$100,000 .....	\$ 600
\$100,000 to \$250,000 .....	\$ 750
\$250,000 to \$500,000 .....	\$1,000
\$500,000 to \$1,000,000 .....	\$1,500
1,000,000 to \$2,500,000 .....	\$2,000
\$ Over \$2,500,000.....	\$2,500

(2) Agents representing out-of-state schools: \$100.

(3) Fee for late filing of renewal application: \$10 per day for the month prior to the expiration on the current school license;

(4) Loss or destruction of licenses. License Reissuance Fee: \$10.

(5) Change of name. License Reissuance Fee: \$10.

(6) Change of location. License Reissuance Fee: \$10.

NEW SECTION

WAC 490-800-130 FINANCIAL STANDARDS. The school must demonstrate that it has sufficient financial resources to:

(1) Fulfill its commitments to students;

(2) Follow a uniform state-wide cancellation and refund policy as specified in these rules;

(3) Meet the school's financial obligations;

(4) Furnish and maintain surety bonds as required in these rules.

NEW SECTION

WAC 490-800-140 PROGRAM STANDARDS. The school shall provide educational services such as will adequately achieve the stated objectives for which the educational services are offered.

NEW SECTION

WAC 490-800-150 STAFF QUALIFICATIONS. The education and experience qualifications of administrators, instructional staff, and other personnel shall adequately insure that the students will receive educational services consistent with the stated objectives for which the educational services that are offered.

NEW SECTION

WAC 490-800-160 FACILITIES. The school must have an exact physical location or locations. The physical plant and equipment of the school shall be commensurate in size, accommodations, and condition to meet the purposes of the school and the program objectives and must provide enough classroom, laboratory, and shop space for the number of students to be trained.

NEW SECTION

**WAC 490-800-170 EQUIPMENT AND MATERIALS.** Equipment, furniture, instructional devices and aids, machinery and other physical features of the classroom, laboratory, or shop shall be adequate to achieve the educational objectives of the course, and shall be comparable in number and quality with those used by comparable schools with similar programs and educational objectives. The equipment must reflect the current equipage of the appropriate trade, business or profession, and be sufficient in quantity for the number of enrolled students.

NEW SECTION

**WAC 490-800-180 SURETY BOND OR OTHER SECURITY.** (1) Computation. The amount of the security shall be calculated in the manner prescribed by the agency and subsequently adopted under this section: **PROVIDED**, That the bond or other security shall be in an amount not less than five thousand dollars but no more than two hundred thousand dollars.

(2) Cash deposit or other negotiable security. The following types of deposits are acceptable:

(a) Escrow account which provides the state of Washington with a recourse against the assets in the account as it would have against an insurance company on a bond.

(b) Certificate of deposit or government securities with a power of attorney which authorizes the state of Washington to have a full recourse to the assets of the instrument as it would to an insurance company on a bond. The bank will assume the responsibility of keeping the instrument safe and would not release same to the owner or school unless the commission advises for a release.

(c) Irrevocable letter of credit from a bank, made payable to the commission and deposited with the agency as would a bond.

(d) Any other negotiable security acceptable to the executive director.

(3) Upon expiration of the bond or other security, the license shall be automatically revoked.

NEW SECTION

**WAC 490-800-190 PROHIBITIONS.** In addition to the act, it is deemed an unfair business practice for a private vocational school or agent to:

(1) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated as follows: **THIS SCHOOL IS LICENSED UNDER RCW 28C.-----; INQUIRIES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION, BUILDING 17, AIRDUSTRIAL PARK, MS LS-10, OLYMPIA, WASHINGTON 98504 (206/753-5673);**

(2) Advertise, offer, sell, or award any educational credential without requiring the consumer to enroll in and successfully complete a prescribed program of study, as outlined in the school's catalog or brochure;

(3) Sell, discount, or transfer contracts or promissory notes for tuition to third parties without the signed consent of the student or his/her financial sponsors, and a statement notifying all parties that the cancellation and refund policy continues to apply.

NEW SECTION

**WAC 490-800-200 COMPLAINTS.** Complaints shall be made in writing to the agency and contain the following information:

(1) The complaining party's name, address, and phone number;

(2) School name, address, and phone number;

(3) Nature of complaint, such as, failure to refund tuition, misrepresentation, or other unfair business practice as specified in the act and these rules;

(4) Facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, financial loss, if any, and any other pertinent statements;

(5) An explanation of what efforts have been taken to resolve the problem with the school, if any;

(6) Copies of pertinent documents, such as, the enrollment agreement, catalog, advertisements, etc.

NEW SECTION

**WAC 490-800-210 RECORD RETENTION.** (1) "Educational records" include, but are not limited to, transcripts, indicating:

(a) The name, address, and telephone number of the school;

(b) Full name, address, and telephone number of the student;

(c) Dates of attendance;

(d) Course of instruction or subjects;

(e) Amount of credit, if any, for each subject;

(f) Grade for each subject;

(g) Date of completion, graduation, or termination;

(h) If termination, the reason(s) therefor;

(i) Signature and title of the certifying officer; and

(j) Date of issue.

(2) "Financial records" include, but are not limited to, the following:

(a) Signed and completed enrollment agreements and other contracts;

(b) The student's payment record;

(c) Financial aid records.

(3) Each school shall maintain for a minimum of six years from enrollment, student educational and financial records as defined by these rules, as well as, past and current catalogs, catalog supplements, and errata sheets;

(4) Each school shall provide, upon request, a transcript to the student who has satisfied all financial obligations currently due and payable to the school.

NEW SECTION

**WAC 490-800-220 SCHOOL CLOSING/CHANGE OF STATUS.** (1) The school shall make plans and take measures to protect the contractual rights of present and former students if it goes out of business. It shall return its license to the agency

immediately by mail upon cessation of instruction or termination of approved status.

(2) A school which is closing, either voluntarily or involuntarily, shall:

(a) Inform the agency of this action immediately by certified mail;

(b) Give the name, address, and telephone number of the person who will be responsible for closing arrangements;

(c) Provide the agency with the name, address, and telephone number, and the name of the course of instruction for each student who has not completed the course;

(d) Provide information on the amount of class time left for each student to complete the course with the amount of refund, if any, for which each student is eligible;

(e) Furnish the agency with copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or continue their education;

(f) File with the agency procedures for disbursement of refunds to students and set a date no longer than thirty days from the last day of instruction to issue refund checks in the full amount for which students are entitled.

(3) If students are receiving instruction prior to the school's going out of business, the school shall file with the agency its plans for insuring that all students will continue to receive training of the same quality and content as that for which they contracted:

(a) Arrangements for teaching out students made with a public or other licensed private school shall be filed with the agency;

(b) The agency shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted;

(c) Unless the student agrees in writing to comparable training, a closed school shall make refunds to the student or his/her parent, guardian or sponsor in accordance with the refund policy established by these rules. See WAC 490-800-040.

**NEW SECTION**

~~WAC 490-800-230~~ **DECLARATORY RULINGS** (SEE RCW 34.04.080). As prescribed by RCW 34.04-.080, any interested person may petition the agency's executive director or his/her designee for a declaratory ruling. The agency shall consider the petition and within a reasonable time shall:

(1) Issue a nonbinding declaratory ruling;

(2) Notify the person that no declaratory ruling is to be issued;

(3) Set a reasonable time and place for a hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved; or

(4) If a hearing is held or evidence is submitted as provided in subsection (3) of this section, the agency thereof shall within a reasonable time:

(a) Issue a binding declaratory rule; or

(b) Issue a nonbinding declaratory ruling; or

(c) Notify the person that no declaratory ruling is to be issued.

**NEW SECTION**

~~WAC 490-800-240~~ **DECLARATORY RULINGS—FORMS** (SEE RCW 34.04.080 (ANNOTATED)). The form for petitioning the agency for a declaratory judgment shall be substantially similar to that found in RCW 34.04.080 (annotated).

**WSR 86-15-076**

**ADOPTED RULES**

**COMMISSION FOR VOCATIONAL EDUCATION**

[Order 86-78-4, Resolution No. 86-78-4—Filed July 23, 1986]

Be it resolved by the Commission for Vocational Education, acting at the Phoenix D Room, Sea-Tac Hyatt House, 17001 Pacific Highway South, Seattle, that it does repeal the annexed rules relating to registration of private vocational schools under the Educational Services Registration Act, chapter 188, Laws of 1979, as amended, chapter 28B.05 RCW and chapter 490-600 WAC.

This action is taken pursuant to Notice No. WSR 86-12-064 filed with the code reviser on June 4, 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 28C.\_\_\_\_, sections 1 through 23, chapter 299, 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 Tuesday, July 15, 1986.

By Christenia Alden  
Chair

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- ~~WAC 490-600-010~~ AUTHORITY.
- ~~WAC 490-600-020~~ PURPOSE.
- ~~WAC 490-600-030~~ DEFINITIONS.
- ~~WAC 490-600-045~~ EXEMPTIONS.
- ~~WAC 490-600-046~~ RECOGNITION OF ACCREDITING AGENCIES AND ASSOCIATIONS.
- ~~WAC 490-600-050~~ APPLICATION, ANNUAL RENEWAL AND AMENDMENTS.
- ~~WAC 490-600-060~~ EDUCATION STANDARDS.
- ~~WAC 490-600-061~~ EDUCATIONAL STANDARDS—CORRESPONDENCE SCHOOLS.
- ~~WAC 490-600-070~~ BUSINESS PRACTICES.

- ~~WAC 490-600-071~~ MINIMUM CANCELLATION AND REFUND POLICY.
- ~~WAC 490-600-072~~ ENROLLMENT AGREEMENT (CONTRACT) CHECKLIST.
- ~~WAC 490-600-073~~ BONDING.
- ~~WAC 490-600-075~~ COMPLAINTS AND VIOLATIONS.
- ~~WAC 490-600-076~~ APPEALS.
- ~~WAC 490-600-077~~ HEARINGS.
- ~~WAC 490-600-080~~ DUTIES OF THE COMMISSION.

- 490-800-040 Cancellation and refund policy.
- 490-800-050 Catalog, brochure, or other written material.
- 490-800-060 Enrollment contract or agreement.
- 490-800-070 Time of application.
- 490-800-080 Display of licenses—Loss or destruction—Change of name—Change of location.
- 490-800-090 Change of ownership—License nontransferable.
- 490-800-100 Application contents.
- 490-800-105 Application for license to operate as agent of an out-of-state private vocational school.
- 490-800-110 Notice of actions by governmental entities or accrediting commissions.
- 490-800-120 Fees.
- 490-800-130 Financial standards.
- 490-800-140 Program standards.
- 490-800-150 Staff qualifications.
- 490-800-160 Facilities.
- 490-800-170 Equipment and materials.
- 490-800-180 Surety bond or other security.
- 490-800-190 Prohibitions.
- 490-800-200 Complaints.
- 490-800-210 Record retention.
- 490-800-220 School closing/change of status.
- 490-800-230 Declaratory rulings (see RCW 34.04.080).
- 490-800-240 Declaratory rulings—Forms (see RCW 34.04.080 (annotated)).

**WSR 86-15-077**

**EMERGENCY RULES**

**COMMISSION FOR VOCATIONAL EDUCATION**

[Order 86-78-1, Resolution No. 86-78-1—Filed July 23, 1986]

Be it resolved by the Commission for Vocational Education, acting at the Phoenix D Room, Sea-Tac Hyatt House, 17001 Pacific Highway South, Seattle, that it does adopt the annexed rules relating to licensing certain private vocational schools as called for in the Private Vocational Schools Act, sections 1 through 23, chapter 299, Laws of 1986.

We, the Commission for Vocational Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these emergency rules are necessary to provide continuing protection to consumers after repeal of the Educational Services Registration Act (chapter 28B.05 RCW and chapter 490-600 WAC).

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

This rule is promulgated pursuant to RCW 28C.\_\_\_\_\_, sections 1 through 23, chapter 299, 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 Tuesday, July 15, 1986.

By Christenia Alden  
Chair

*Chapter 490-800 WAC*

**PRIVATE VOCATIONAL SCHOOL REGULATIONS**

- WAC 490-800-010 Authority.
- 490-800-020 Previous rules and regulations repealed.
- 490-800-030 Exemptions.

NEW SECTION

WAC 490-800-010 AUTHORITY. These rules are promulgated pursuant to chapter 299, Laws of 1986 (chapter 28C.— RCW).

NEW SECTION

WAC 490-800-020 PREVIOUS RULES AND REGULATIONS REPEALED. All rules and regulations previously adopted pursuant to chapter 28B.05 RCW by this agency (chapter 490-600 WAC) are hereby repealed: PROVIDED, That private vocational schools registered under the Educational Services Registration Act (chapter 188, Laws of 1979 ex. sess., as amended; chapter 28B.05 RCW), as of June 30, 1986, shall be considered to be licensed under chapter 28C.— RCW (chapter 299, Laws of 1986, sections 1 through 23) until January 31, 1987. The new rules and regulations (chapter 490-800 WAC), when adopted, contain the same force and effect as the statute authorizing their promulgation chapter 299, Laws of 1986 (chapter 28C.— RCW).

NEW SECTION

WAC 490-800-030 EXEMPTIONS. The following is intended to clarify the statutory exemptions:

(1) "Avocational" or "recreational" means instruction which is primarily intended for leisure and not offered for the purpose of providing a student with employable skills or with competencies that upon completion of the

program, course, or class would be customarily applied to gainful employment and is not utilized by the school as a prerequisite for vocational instruction.

(2) Entities not otherwise exempt offering only workshops or seminars lasting not more than three calendar days: *PROVIDED*, That training is completed within the three days; and a program of education is not being offered through a series of supplementary seminars.

#### NEW SECTION

**WAC 490-800-040 CANCELLATION AND REFUND POLICY.** As a condition of licensing, each school must adhere to the following uniform state-wide minimum cancellation and refund policy:

(1) A full refund of all money paid if the applicant is not accepted by the school;

(2) A full refund of tuition and fees paid if the applicant withdraws not later than midnight on the third day (excluding Sundays and holidays) after signing the contract or making an initial payment, provided that the applicant has not commenced training;

(3) After three business days (excluding Sundays and holidays), the school may retain an established registration fee equal to ten percent of the total tuition cost, or one hundred dollars, whichever is less. "Registration fee" refers to any fee, however named, covering those expenses incurred by an institution in processing student applications and establishing a student records system;

(4) The official date of termination of a student shall be the last date of recorded attendance when withdrawal occurs in any of the following manners:

(a) When the school receives notice of the student's intention to discontinue the training program;

(b) When the student is terminated for a violation of a published school policy which provides for termination;

(c) When a student, without written notice to the institution, fails to attend classes for thirty calendar days.

(5) If training is terminated after entering classes, the student is financially obligated to the school according to the following formulas or maximum charges:

(a) Termination during first week or ten percent of instruction, whichever is less. School may retain ten percent tuition of cost plus established registration fee;

(b) Termination after first week or ten percent instruction, whichever is less, but prior to completion of twenty-five percent of contracted instructional time. School may retain twenty-five percent of tuition cost plus established registration fee;

(c) Termination after completion of first twenty-five percent but prior to completion of fifty percent of contracted instructional time. School may retain fifty percent of tuition cost plus established registration fee;

(d) Termination after completion of more than fifty percent of contracted instructional time. School may retain the full tuition cost plus established registration fee.

(6) If a school fails to fulfill its obligation to complete any program of instruction after training of students has begun, the students enrolled are entitled to a refund of all tuition and fees paid.

#### NEW SECTION

**WAC 490-800-050 CATALOG, BROCHURE, OR OTHER WRITTEN MATERIAL.** The catalog/bulletin shall be the school's principal printed means to explain its operations and requirements to prospective and enrolled students. For this reason, it shall be current, comprehensive, and accurate. Each school shall publish a catalog, brochure, or other written material which shall include the following:

(1) Date of publication;

(2) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and corporation, if a subsidiary;

(3) Names, addresses, and telephone numbers of the school's administrative offices and all teaching locations;

(4) Names of teaching faculty. Such lists shall be accurate as of the date of issue of the school's license. Current faculty shall be noted on a catalog errata sheet provided each student prior to entering classes;

(5) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(6) Admission procedure, policies, and regulations describing accurately and completely all prerequisites (e.g., GED, physical requirements, etc.) and requirements for:

(a) Completing successfully the programs of study in which they are interested; and

(b) Qualifying for the fields of employment for which their education is designed.

(7) A description of the exact nature and kind of placement assistance offered, if any. If no assistance is offered, the school shall make this fact known;

(8) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(9) An accurate description, whether through words, photos, or other means, of the school's facilities, equipment, and physical plant used for training with a description of the equipment available for student use and the maximum or usual class size;

(10) Total cost of training including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, student activities, insurance and all other charges and expenses necessary for completion of the program;

(11) Minimum terms for payments;

(12) A description of each course of instruction, including:

(a) Specific course objectives: The educational or vocational objective of each course or program including the name of occupations for which the course or program purports to train;

(b) The number of contact hours of instruction and types of instruction (e.g., correspondence, classroom, lab, computer assisted) in each course and the length of time in weeks or months normally required for completion;

(c) Number of lessons (correspondence/home study schools). "Correspondence and/or home study school" shall mean that the instructional format of the school involves the sequential mailing or distribution of lessons to the student, who studies the material, completes a

lesson examination, and returns the examination to the school. The school then grades the lesson/examination (and, in some instances, provides additional comments and instruction), and returns the graded lesson to the student along with the next set of instructional materials;

(d) The scope and sequence of courses or programs required to achieve the educational objective;

(e) Credit hours (if credit hours are utilized);

(f) A statement of certificates or other education credentials awarded upon graduation or completion.

(13) Policy and regulations relative to refund of unearned tuition, fees, and other charges, which must meet the minimum cancellation and refund policy set forth in these rules, including procedures a student shall follow to cancel enrollment before or after instruction has begun;

(14) The statement that: *THIS SCHOOL IS LICENSED UNDER RCW 28C.—; INQUIRIES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION, BUILDING 17, AIRINDUSTRIAL PARK, MS LS-10, OLYMPIA, WASHINGTON 98504 (206/753-5673);*

(15) Availability of financial aid, grants and scholarships, if any;

(16) Supplements or errata sheets for the catalog/bulletin or other written materials shall be filed with the agency:

(a) If supplement pages or errata sheets are used as part of the catalogs/bulletins, they shall be fastened to or otherwise made an integral part of that publication;

(b) The catalog/bulletin supplement or errata sheets shall include the printing date;

(c) In the event that information on a supplement or errata sheet replaces any other information in the catalog/bulletin, it shall be clearly indicated that such information supersedes that which it contradicts and/or replaces elsewhere in the catalog/bulletin.

### NEW SECTION

**WAC 490-800-060 ENROLLMENT CONTRACT OR AGREEMENT.** "Enrollment agreement" is any agreement, instrument or note, however named, which creates or evidences an obligation binding a student to purchase a course of instruction from a school. Each school shall use an enrollment contract or agreement that includes:

(1) The school's cancellation and refund policy, in accordance with these rules, displayed in a type size no smaller than that used to meet any other requirements of this section;

(2) The following statement: *THIS SCHOOL IS LICENSED UNDER RCW 28C.—; INQUIRES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION; BUILDING 17, AIRINDUSTRIAL PARK; MS: LS-10; OLYMPIA, WASHINGTON 98504; (206/753-5673);*

(3) Information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

(a) The name and address of the school and the student;

(b) The title of the educational services, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(c) The cost incurred by the student or his/her sponsor in order to complete the training. Such costs shall be itemized and shall include tuition, fees, books, supplies (where appropriate), and all other charges made by the school necessary to complete the training. The student enrollment agreement shall outline the methods of payment or the payment schedule;

(d) A statement acknowledging receipt of a copy of the school's catalog and student enrollment agreement by the student;

(e) Language explaining that the agreement will be binding only when officially accepted and the agreement is fully completed, signed and dated by the student and chief administrative officer or authorized representative of the school prior to the time instruction begins.

(4) A statement that any changes in the agreement shall not be binding on either the student or the school unless such changes have been approved in writing by the chief administrative officer or an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor;

(5) "NOTICE TO THE BUYER" which includes the following statements in a position above the space reserved for the student's signature:

(a) "DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. THIS IS A LEGAL INSTRUMENT.

(b) BOTH SIDES OF THE CONTRACT ARE BINDING.

(c) READ BOTH SIDES BEFORE SIGNING.

(d) YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT, SCHOOL CATALOG AND ANY DISCLOSURE PAGES YOU SIGN.

(e) YOU MAY CANCEL THIS CONTRACT BY SENDING NOTICE OF SUCH CANCELLATION BY CERTIFIED MAIL RETURN RECEIPT REQUESTED TO THE SELLER AT HIS ADDRESS SHOWN ON THE CONTRACT WHICH NOTICE SHALL BE POSTED NOT LATER THAN MIDNIGHT OF THE THIRD DAY (EXCLUDING SUNDAYS AND HOLIDAYS) FOLLOWING YOUR SIGNING THIS CONTRACT. (See also Retail Installment Sales Act, chapter 63.14 RCW; RCW 63.14.040(2).)

(6) The following statement: "IT IS AN UNFAIR BUSINESS PRACTICE FOR THE SCHOOL TO SELL, DISCOUNT OR OTHERWISE TRANSFER THIS CONTRACT OR PROMISSORY NOTE WITHOUT THE SIGNED WRITTEN CONSENT OF THE STUDENT OR HIS/HER FINANCIAL SPONSORS AND A WRITTEN STATEMENT NOTIFYING ALL PARTIES THAT THE CANCELLATION AND REFUND POLICY CONTINUES TO APPLY."

(7) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution or by return mail when solicited by mail.

### NEW SECTION

**WAC 490-800-070 TIME OF APPLICATION.** (1) Initial licensing. Any entity desiring to operate private vocational schools must initially be licensed by the agency no later than one month prior to the date on

which it first offers educational credentials, instruction, or services, whichever is sooner.

(2) *Renewal.* Each private vocational school must annually renew its license. No later than one month prior to the anniversary date of its license, the private vocational school must file a completed application for license renewal, including an income statement, attested to by the chief administrative officer, and amend any statements or materials on file which are no longer accurate.

(3) *Transition.* A private vocational school registered under the Educational Services Registration Act (chapter 188, Laws of 1979 ex. sess., as amended), as of June 30, 1986, shall be considered to be licensed under chapter 28C.—RCW (chapter 299, Laws of 1986, sections 1 through 23) until January 31, 1987. These private vocational schools must file their license application no later than January 1, 1987. Previously exempt private vocational schools may, upon written representation by the school's chief administrative officer that the school substantially complies with the act and these rules, apply to the agency for issuance of a temporary license. The agency has discretion to issue a temporary license.

#### NEW SECTION

**WAC 490-800-080 DISPLAY OF LICENSES—LOSS OR DESTRUCTION—CHANGE OF NAME—CHANGE OF LOCATION.** (1) Any license issued shall be issued in the school's name, address, and phone.

(2) *Display.* Each school shall prominently display its license to the public, prospective students, and other interested persons.

(3) *Loss or destruction.* Upon the loss or destruction of any license, application for a duplicate and payment of the appropriate license reissuance fee must be made to the agency. See WAC 490-800-120(4).

(4) *Change of name.* No licensee shall adopt or make a change in a trade or corporate name without written notification to the agency and payment of the appropriate license reissuance fee. See WAC 490-800-120(5).

(5) *Change of location.* No change of location of licensed premises shall be made without the agency's written consent and payment of the appropriate license reissuance fee. See WAC 490-800-120(6).

#### NEW SECTION

**WAC 490-800-090 CHANGE OF OWNERSHIP—LICENSE NONTRANSFERABLE.** A change in the sole proprietor of a school, a change in the majority interest of general partners of a partnership owning a school or a change in a majority stock ownership of a school shall be deemed a transfer of ownership. The new owner must make application for and receive a new license. This application shall be processed like an initial application except the agency may extend the current license for a maximum sixty days if the chief administrative officer furnishes a written statement asserting that all conditions set forth in the act and these rules are being met or will be met before offering training or education.

#### NEW SECTION

**WAC 490-800-100 APPLICATION CONTENTS.** Any entity desiring to operate a private vocational school shall apply for license to the agency on forms provided by the agency which shall include the following information attested to by the school's chief administrative officer:

(1) Owners, shareholders, and members. Each entity shall provide the agency with the following information concerning ownership:

(a) The complete legal name of the school, current telephone number, current mailing address, the school's physical address, and date of establishment;

(b) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, prior school affiliations and capacities, and any other appropriate information of all those with ten percent or more equity ownership;

(d) A school which is a corporation or a subsidiary of another corporation shall submit to the agency as part of the school's application current evidence that the corporation is registered with the Washington secretary of state's office and the name, address and telephone number of the corporation's registered agent;

(e) "Ownership" of a school means:

(i) In the case of a school owned by an individual, that individual;

(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more equity ownership;

(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(2) *Additional instruction site(s).* Application for a license to operate shall identify locations of all separate instructional facilities operated by the entity. All locations at which education is offered by entities licensed to operate shall be deemed a location within the scope of the private vocational school, provided that the private vocational school provides the course curriculum and guidelines for teaching at each location and that a single location is identified as the principle facility for record-keeping. All licenses shall specify the instructional location(s) for which the license is valid. Licenses shall be valid only for those locations listed in the initial application and renewal forms. A license may be denied, revoked, or suspended for just cause.

(3) *Agents of institutions.* Each agent's name, address, phone number, territory, date of birth, prior school affiliations and capacities, and any other appropriate information.

(4) *Surety bond or assignment of account.* Each school shall have on file with the agency an approved surety bond or other security in lieu of a bond as specified by these rules.

(5) *Income statement.* Each school must annually disclose to the agency information reflecting the financial



condition of the school at the close of its most recent fiscal or calendar year to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Entities operating a private vocational school must submit:

- (a) The fiscal year dates utilized for the school's operations;
- (b) A financial statement showing gross tuition fee and income (excluding refunds, books, tools, and supplies) for the last completed fiscal year, certified by the school's chief administrative officer. This may be accomplished by submitting one of the following:
  - (i) A copy of the entity's most recently filed federal tax return;
  - (ii) A copy of an external audit prepared by a certified public accountant or a state audit agency; or
  - (iii) A financial statement in the format provided by the agency.
- (6) Financial references. The name of a bank or other financial institution that may be consulted as a financial reference for the entity and school.
- (7) Catalog.
- (8) Enrollment agreement/contract.
- (9) Administrators/instructors educational and occupational records. Names, addresses, phone numbers, positions, education, experience, prior school affiliations, birthdates, and any other appropriate information.

**NEW SECTION**

**WAC 490-800-105 APPLICATION FOR LICENSE TO OPERATE AS AGENT OF AN OUT-OF-STATE PRIVATE VOCATIONAL SCHOOL.** (1) The application shall be in writing, upon forms prepared and supplied by the agency and shall contain:

- (a) The full name and current address of the agent applying for license;
  - (b) The name and address of the vocational school proposed to be represented;
  - (c) The past employment record of the applicant.
- (2) The application shall be accompanied by statutory license fee of one hundred dollars.

**NEW SECTION**

**WAC 490-800-110 NOTICE OF ACTIONS BY GOVERNMENTAL ENTITIES OR ACCREDITING COMMISSIONS.** At the time of original and renewal applications, the entity shall present the agency with details of any consent orders with the Federal Trade Commission and notification of any actions which have been taken by any federal or state agency or accrediting commission. The entity shall inform the agency in writing on actions being taken to correct deficiencies cited.

**NEW SECTION**

**WAC 490-800-120 FEES.** (1) Annual fee: The annual fee is based on gross annual tuition income received from or on behalf of Washington state residents. Schools not having been in operation prior to the date of their initial licensing shall base their annual fee upon estimated gross annual tuition income.

Gross Annual Tuition Income	Fee
Up to \$25,000 .....	\$ 250
Up to \$50,000 .....	\$ 500
\$50,000 to \$100,000 .....	\$ 600
\$100,000 to \$250,000 .....	\$ 750
\$250,000 to \$500,000 .....	\$1,000
\$500,000 to \$1,000,000 .....	\$1,500
1,000,000 to \$2,500,000 .....	\$2,000
\$ Over \$2,500,000.....	\$2,500

- (2) Agents representing out-of-state schools: \$100.
- (3) Fee for late filing of renewal application: \$10 per day for the month prior to the expiration on the current school license;
- (4) Loss or destruction of licenses. License Reissuance Fee: \$10.
- (5) Change of name. License Reissuance Fee: \$10.
- (6) Change of location. License Reissuance Fee: \$10.

**NEW SECTION**

**WAC 490-800-130 FINANCIAL STANDARDS.** The school must demonstrate that it has sufficient financial resources to:

- (1) Fulfill its commitments to students;
- (2) Follow a uniform state-wide cancellation and refund policy as specified in these rules;
- (3) Meet the school's financial obligations;
- (4) Furnish and maintain surety bonds as required in these rules.

**NEW SECTION**

**WAC 490-800-140 PROGRAM STANDARDS.** The school shall provide educational services such as will adequately achieve the stated objectives for which the educational services are offered.

**NEW SECTION**

**WAC 490-800-150 STAFF QUALIFICATIONS.** The education and experience qualifications of administrators, instructional staff, and other personnel shall adequately insure that the students will receive educational services consistent with the stated objectives for which the educational services that are offered.

**NEW SECTION**

**WAC 490-800-160 FACILITIES.** The school must have an exact physical location or locations. The physical plant and equipment of the school shall be commensurate in size, accommodations, and condition to meet the purposes of the school and the program objectives and must provide enough classroom, laboratory, and shop space for the number of students to be trained.

**NEW SECTION**

**WAC 490-800-170 EQUIPMENT AND MATERIALS.** Equipment, furniture, instructional devices and aids, machinery and other physical features of the classroom, laboratory, or shop shall be adequate to achieve

the educational objectives of the course, and shall be comparable in number and quality with those used by comparable schools with similar programs and educational objectives. The equipment must reflect the current equipage of the appropriate trade, business or profession, and be sufficient in quantity for the number of enrolled students.

#### NEW SECTION

**WAC 490-800-180 SURETY BOND OR OTHER SECURITY.** (1) *Computation.* The amount of the security shall be calculated in the manner prescribed by the agency and subsequently adopted under this section: **PROVIDED**, That the bond or other security shall be in an amount not less than five thousand dollars but no more than two hundred thousand dollars.

(2) *Cash deposit or other negotiable security.* The following types of deposits are acceptable:

(a) *Escrow account which provides the state of Washington with a recourse against the assets in the account as it would have against an insurance company on a bond.*

(b) *Certificate of deposit or government securities with a power of attorney which authorizes the state of Washington to have a full recourse to the assets of the instrument as it would to an insurance company on a bond. The bank will assume the responsibility of keeping the instrument safe and would not release same to the owner or school unless the commission advises for a release.*

(c) *Irrevocable letter of credit from a bank, made payable to the commission and deposited with the agency as would a bond.*

(d) *Any other negotiable security acceptable to the executive director.*

(3) *Upon expiration of the bond or other security, the license shall be automatically revoked.*

#### NEW SECTION

**WAC 490-800-190 PROHIBITIONS.** In addition to the act, it is deemed an unfair business practice for a private vocational school or agent to:

(1) *Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated as follows: THIS SCHOOL IS LICENSED UNDER RCW 28C.—; INQUIRIES REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE COMMISSION FOR VOCATIONAL EDUCATION, BUILDING 17, AIRDUSTRIAL PARK, MS LS-10, OLYMPIA, WASHINGTON 98504 (206/753-5673);*

(2) *Advertise, offer, sell, or award any educational credential without requiring the consumer to enroll in and successfully complete a prescribed program of study, as outlined in the school's catalog or brochure;*

(3) *Sell, discount, or transfer contracts or promissory notes for tuition to third parties without the signed consent of the student or his/her financial sponsors, and a statement notifying all parties that the cancellation and refund policy continues to apply.*

#### NEW SECTION

**WAC 490-800-200 COMPLAINTS.** Complaints shall be made in writing to the agency and contain the following information:

(1) *The complaining party's name, address, and phone number;*

(2) *School name, address, and phone number;*

(3) *Nature of complaint, such as, failure to refund tuition, misrepresentation, or other unfair business practice as specified in the act and these rules;*

(4) *Facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, financial loss, if any, and any other pertinent statements;*

(5) *An explanation of what efforts have been taken to resolve the problem with the school, if any;*

(6) *Copies of pertinent documents, such as, the enrollment agreement, catalog, advertisements, etc.*

#### NEW SECTION

**WAC 490-800-210 RECORD RETENTION.** (1) *"Educational records" include, but are not limited to, transcripts, indicating:*

(a) *The name, address, and telephone number of the school;*

(b) *Full name, address, and telephone number of the student;*

(c) *Dates of attendance;*

(d) *Course of instruction or subjects;*

(e) *Amount of credit, if any, for each subject;*

(f) *Grade for each subject;*

(g) *Date of completion, graduation, or termination;*

(h) *If termination, the reason(s) therefor;*

(i) *Signature and title of the certifying officer; and*

(j) *Date of issue.*

(2) *"Financial records" include, but are not limited to, the following:*

(a) *Signed and completed enrollment agreements and other contracts;*

(b) *The student's payment record;*

(c) *Financial aid records.*

(3) *Each school shall maintain for a minimum of six years from enrollment, student educational and financial records as defined by these rules, as well as, past and current catalogs, catalog supplements, and errata sheets;*

(4) *Each school shall provide, upon request, a transcript to the student who has satisfied all financial obligations currently due and payable to the school.*

#### NEW SECTION

**WAC 490-800-220 SCHOOL CLOSING/CHANGE OF STATUS.** (1) *The school shall make plans and take measures to protect the contractual rights of present and former students if it goes out of business. It shall return its license to the agency immediately by mail upon cessation of instruction or termination of approved status.*

(2) *A school which is closing, either voluntarily or involuntarily, shall:*

(a) *Inform the agency of this action immediately by certified mail;*

(b) Give the name, address, and telephone number of the person who will be responsible for closing arrangements;

(c) Provide the agency with the name, address, and telephone number, and the name of the course of instruction for each student who has not completed the course;

(d) Provide information on the amount of class time left for each student to complete the course with the amount of refund, if any, for which each student is eligible;

(e) Furnish the agency with copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or continue their education;

(f) File with the agency procedures for disbursement of refunds to students and set a date no longer than thirty days from the last day of instruction to issue refund checks in the full amount for which students are entitled.

(3) If students are receiving instruction prior to the school's going out of business, the school shall file with the agency its plans for insuring that all students will continue to receive training of the same quality and content as that for which they contracted:

(a) Arrangements for teaching out students made with a public or other licensed private school shall be filed with the agency;

(b) The agency shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted;

(c) Unless the student agrees in writing to comparable training, a closed school shall make refunds to the student or his/her parent, guardian or sponsor in accordance with the refund policy established by these rules. See WAC 490-800-040.

#### NEW SECTION

WAC 490-800-230 **DECLARATORY RULINGS** (SEE RCW 34.04.080). As prescribed by RCW 34.04.080, any interested person may petition the agency's executive director or his/her designee for a declaratory ruling. The agency shall consider the petition and within a reasonable time shall:

(1) Issue a nonbinding declaratory ruling;

(2) Notify the person that no declaratory ruling is to be issued;

(3) Set a reasonable time and place for a hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved; or

(4) If a hearing is held or evidence is submitted as provided in subsection (3) of this section, the agency thereof shall within a reasonable time:

(a) Issue a binding declaratory rule; or

(b) Issue a nonbinding declaratory ruling; or

(c) Notify the person that no declaratory ruling is to be issued.

#### NEW SECTION

WAC 490-800-240 **DECLARATORY RULINGS—FORMS** (SEE RCW 34.04.080 (ANNOTATED)). The form for petitioning the agency for a declaratory judgment shall be substantially similar to that found in RCW 34.04.080 (annotated).

#### WSR 86-15-078

##### EMERGENCY RULES

#### COMMISSION FOR VOCATIONAL EDUCATION

[Order 86-78-2, Resolution No. 86-78-2—Filed July 23, 1986]

Be it resolved by the Commission for Vocational Education, acting at the Phoenix D Room, Sea-Tac Hyatt House, 17001 Pacific Highway South, Seattle, that it does repeal the annexed rules relating to registration of private vocational schools under the Educational Services Registration Act, chapter 188, Laws of 1979, as amended, chapter 28B.05 RCW and chapter 490-600 WAC.

We, the Commission for Vocational Education, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the authorizing statute was repealed effective July 1, 1986, and replaced by the Private Vocational Schools Act, chapter 299, 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 28C.\_\_\_\_, sections 1 through 23, chapter 299, 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 Tuesday, July 15, 1986.

By Christenia Alden  
Chair

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 490-600-010 **AUTHORITY.**

WAC 490-600-020 **PURPOSE.**

WAC 490-600-030 **DEFINITIONS.**

WAC 490-600-045 **EXEMPTIONS.**

WAC 490-600-046 **RECOGNITION OF ACCREDITING AGENCIES AND ASSOCIATIONS.**

WAC 490-600-050 **APPLICATION, ANNUAL RENEWAL AND AMENDMENTS.**

WAC 490-600-060 **EDUCATION STANDARDS.**

WAC 490-600-061 EDUCATIONAL STANDARDS—CORRESPONDENCE SCHOOLS.  
 WAC 490-600-070 BUSINESS PRACTICES.  
 WAC 490-600-071 MINIMUM CANCELLATION AND REFUND POLICY.  
 WAC 490-600-072 ENROLLMENT AGREEMENT (CONTRACT) CHECKLIST.  
 WAC 490-600-073 BONDING.  
 WAC 490-600-075 COMPLAINTS AND VIOLATIONS.  
 WAC 490-600-076 APPEALS.  
 WAC 490-600-077 HEARINGS.  
 WAC 490-600-080 DUTIES OF THE COMMISSION.

**WSR 86-15-079**  
 NOTICE OF PUBLIC MEETINGS  
**BOARD FOR VOLUNTEER FIREMEN**  
 [Memorandum—July 22, 1986]

The Board for Volunteer Firemen will next meet in the Red Lion Inn at the Quay, Vancouver, Washington, at 5:00 p.m. on August 13, 1986.

**WSR 86-15-080**  
 PROPOSED RULES  
**DEPARTMENT OF REVENUE**  
 [Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Revenue intends to adopt, amend, or repeal rules concerning coin operated vending machines, amusement devices and service machines, amending WAC 458-20-187.

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 82.32.300.

The specific statute these rules are intended to implement is RCW 82.08.050, as amended by chapter 36, Laws of 1986.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 1986.

Dated: July 23, 1986  
 By: Matthew J. Coyle  
 Acting Director

**STATEMENT OF PURPOSE**

Title: WAC 458-20-187 Coin operated vending machines, amusement devices and service machines.

Description of Purpose: To amend this administrative rule in direct compliance with chapter 36, Laws of 1986 (SHB 1480), which amends RCW 82.08.050 to allow sales of tangible personal property through vending machines without the retail sales tax being separately stated on such machines and separately collected from buyers.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.08.050, as amended by chapter 36, Laws of 1986.

Reasons Supporting Proposed Action: Requires amendment simply to incorporate new, procedural, statutory provisions. The rule does not attempt to interpret statutory language, but merely incorporates it into the body of the rule. Also, the provisions of the rule are reformatted under a new numbering and lettering identification method, for consistency and uniformity. Thus, no public hearing is appropriate, requested, or scheduled.

Agency Personnel Responsible for Drafting: Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; Implementation: Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and Enforcement: Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

AMENDATORY SECTION (Amending Order ET 78-4, filed 6/27/78)

WAC 458-20-187 COIN OPERATED VENDING MACHINES, AMUSEMENT DEVICES AND SERVICE MACHINES.

~~((COIN OPERATED VENDING MACHINES, AMUSEMENT DEVICES AND SERVICE MACHINES))~~

(1) DEFINITIONS. As used herein((:)) the term "vending machines" means machines which, through the insertion of a coin will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes and confections as well as machines which provide laundry and cleaning services.

(2) The term "amusement devices" means those devices and machines which, through the insertion of a coin, will permit the patron to play a game. It includes slot and pinball machines and those machines or devices which permit the patron to see, hear or read something of interest.

(3) The term "service machines" means any coin operated machines other than those defined as "vending machines" or "amusement devices." It includes, for example, scales and luggage lockers, but does not include coin operated machines used in the conduct of a public utility business, such as telephones and gas meters; also excluded are shuffleboards and pool games.

~~((VENDING MACHINES:))~~ (4) BUSINESS AND OCCUPATION TAX. Persons operating vending machines are engaged in a retailing business and must report and pay tax under the retailing classification with respect to the gross proceeds of sales.

~~((AMUSEMENT DEVICES:))~~ (5) Persons operating amusement devices, except shuffleboard, pool, and billiard games, are taxable under the service and other business activities classification on the gross receipts therefrom.

(6) Persons engaged in operating shuffleboards or games of pool or billiards are taxable under the retailing classification on the gross receipts therefrom and are responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts therefrom.

~~((SERVICE MACHINES:))~~ (7) Persons operating service machines are taxable under the service and other business activities classification upon the gross income received from the operation of such machines.

(8) When coin operated machines are placed at a location owned or operated by a person other than the owner of the machines, under any arrangement for compensation to the operator of the location, the person operating the location has granted a license to use real property and will be responsible for reporting and paying tax upon his gross compensation therefor under the service classification.

(9) Where the owner of amusement devices which are placed at the location of another has failed to pay the gross receipts tax and/or retail sales tax due, the department may proceed directly against the operator of the location for full payment of all tax due.

(10) RETAIL SALES TAX. The retail sales tax applies to the sale of merchandise ~~((except see WAC 458-20-244 for sales of food products))~~ through vending machines and persons owning and operating such machines are liable for the payment of such tax. (However, see WAC 458-20-244 for vending machine sales of food). For practical purposes such persons are authorized to absorb the amount of the tax on the individual sales and to pay directly to the department the retail sales tax on the total amount received from such machines.

(11) Effective June 11, 1986, on all retail sales through vending machines the tax need not be stated separately from the selling price or collected separately from the buyer. (See RCW 82.08.050.) The seller may deduct the tax from the total amount received in the machines to arrive at the net amount which becomes the measure of the tax.

(12) Where a vending machine is designed or adjusted so that single sales are made exclusively in amounts less than the minimum sale on which a 1¢ tax may be collected from the purchaser, and the kind of merchandise sold through such machines is not sold by the operator over the counter or other than through vending machines at that location, the selling price for purposes of the retail sales tax shall be 60% of the gross receipts of the vending machine through which such sales are made. This 60% basis of reporting is available only to persons selling tangible personal property through vending machines.

(13) In order to qualify for the foregoing reduction in the measure of the retail sales tax, the books and records of the operator must show for each vending machine for which such reduction is claimed: ((+)) (a) The location of the machine, ((+)) (b) the selling price of sales made through the machine, ((+)) (c) the type and brands of merchandise vended through the machine and ((+)) (d) the gross receipts from that machine. The foregoing records may be maintained for each location, rather than for each machine, in cases where several machines are maintained by the same operator at the same location, provided that all of such machines make sales exclusively in amounts less than the minimum sale on which a 1¢ tax may be collected. The reduction will be disallowed in any instance where sales made through vending machines in such amounts are not clearly and accurately segregated from other sales by the operator and the burden is on the operator to make sales under such conditions and to maintain such records as to demonstrate absolute compliance with this requirement.

(14) Every operator or owner of a vending machine, before taking a deduction from gross sales through certain vending machines, shall file with the department annually an addendum to his application for registration with the department, on a form provided by the department, which form shall contain the following information:

((+)) (a) Number of vending machines in his ownership making sales under the above minimum.

((+)) (b) Value of such sales in the most recent calendar year.

((+)) (c) A statement that no sales are made by the owner or operator at any machine location of articles or products sold through such machines, except by vending machines and no provision is made either through the machine or otherwise, for multiple sales under circumstances where the tax may legally be collected from the buyer.

(15) The department will require a bond sufficient to assure recovery of any disallowed discount of tax due in any instance of registration where the department has reason to feel such recovery could be in jeopardy.

(16) Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail and the retail sales tax is applicable to all such sales.

(17) USE TAX. The use tax applies to all tangible personal property used by persons making sales through vending machines, upon which the retail sales tax has not been paid, except inventory items resold through such machines.

Revised April 28, 1978.

Effective July 1, 1978.

**WSR 86-15-081**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed July 23, 1986]

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

Amd	WAC 458-20-179	Public utility tax.
Amd	WAC 458-20-189	Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.
Amd	WAC 458-20-224	Service and other business activities.
New	WAC 458-20-251	Sewerage collection business;

that the agency will at 9:00 a.m., Wednesday, August 27, 1986, in the 1st Floor Conference Room, General Administration Building, Capitol Grounds, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 3, 1986.

The authority under which these rules are proposed is RCW 82.32.300.

The specific statute these rules are intended to implement is RCW 82.16.020, chapter 282, Laws of 1986, as yet uncodified, RCW 82.04.290, chapter 226, Laws of 1986, as yet uncodified, RCW 82.04.419, 82.04.4291, 82.04.050, 82.12.020 and 82.32.170.

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

Dated: July 23, 1986

By: Matthew J. Coyle  
 Acting Director

**STATEMENT OF PURPOSE**

Title: WAC 458-20-179 Public utility tax.

Description of Purpose: To comport with chapter 471, Laws of 1985 (RCW 82.16.020), and chapter 282, Laws of 1986, with regard to refuse collection service businesses and sewerage collection service businesses. This rule formerly provided for the taxability of such services under the public utility tax. It is being amended, retroactively to July 1, 1979, to delete specific references to these businesses, except for cross-references to other, new revenue rules which now independently treat these matters. Refuse collection is now covered by WAC 458-20-250. Sewerage collection is now covered by WAC 458-20-251; to comport with chapter 226, Laws of 1986, which removes "warehouses" from the ambit of public utility tax; and to change its format to a new, uniform paragraph and subparagraph numbering and lettering system.

Statutory Authority: RCW 82.32.300.

Specific Statute(s) Rule is Intended to Implement: RCW 82.16.020, chapter 282, Laws of 1986, as yet uncodified, and RCW 82.04.290.

Reasons Supporting Proposed Action: The Department of Revenue has concurred with the findings and recommendations of the Joint Administrative Rules Review Committee of the state legislature that WAC 458-20-179, as last amended effective November 1, 1985,

did not properly implement the intent of chapter 471, Laws of 1985. In order to rectify this administrative error, WAC 458-20-179 must be retroactively changed to delete specific provisions governing refuse and sewerage collection businesses. At the same time, WAC 458-20-179 requires amendment to delete "warehouses" from the list of express business activities classified as "public service businesses" under the public utility tax, in order to implement chapter 226, Laws of 1985. Other amendments to this rule are required for nonsubstantive editorial and housekeeping reasons.

**Title:** WAC 458-20-189 Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.

**Description of Purpose:** To delete refuse collection services from inclusion under the "utility activities" heading in the rule and to expressly include only the "collection" portion of sewerage services under that same heading.

**Statutory Authority:** RCW 82.32.300.

**Specific Statute(s) Rule is Intended to Implement:** RCW 82.16.020, chapter 282, Laws of 1986, as yet uncodified, and RCW 82.04.290.

**Reasons Supporting Proposed Action:** To comport with the Statement of Purpose covering WAC 458-20-179, filed concurrently; and to make housekeeping changes in the numbering/lettering format of the rule for consistency and uniformity.

**Title:** WAC 458-20-224 Service and other business activities.

**Description of Purpose:** To reflect that refuse services, and sewer services other than mere sewage collection, are properly tax classified under the service classification of business and occupation tax. This comports with chapter 471, Laws of 1985 (RCW 82.16.020), and chapter 282, Laws of 1986; and to clarify this rule to explain that the service business tax applies to warehouse operators only if they are of a kind which are not otherwise, expressly tax classified by statutory law. This comports with chapter 226, Laws of 1986. Other, non-substantive housekeeping changes are being made.

**Statutory Authority:** RCW 82.32.300.

**Specific Statute(s) Rule is Intended to Implement:** RCW 82.16.020 and 82.04.290 and chapters 226 and 282, Laws of 1986, as yet uncodified.

**Reasons Supporting Proposed Action:** To comport with the Statement of Purpose covering WAC 458-20-179, filed concurrently; and to properly explain the appropriate tax classifications for refuse services, sewerage services, and warehouse operations under prevailing law. Further, nonsubstantive amendments are needed to reformat the rule for numbering and lettering consistency.

**Title:** WAC 458-20-251 Sewerage collection business.

**Description of Purpose:** To adopt a new Revenue Department WAC rule, expressly governing the business of providing sewer services and to properly tax classify the gross receipts of such businesses from July 1, 1985, forward. This comports with the provisions of chapter 471, Laws of 1985, and it supersedes the provisions of WAC

458-20-179 relating to sewer services retroactively to July 1, 1985. This rule provides the needed definitions of terms for common understanding. The rule provides the tax classification for amounts derived from sewage "collection" under the public utility tax, and distinguishes that amounts derived from all other sewer services are classified under the service business and occupation tax. The rule further explains the allocation formula to be applied to distinguish "collection" charges from charges for other sewer services where separate accounting methods are not utilized. This rule also explains the nonpyramiding nature of the taxes involved and identifies tax deductions and exemptions which may apply. Finally, this rule explains its retroactivity impact to July 1, 1985, and outlines tax refund or credit procedures.

**Statutory Authority:** RCW 82.32.300.

**Specific Statute(s) Rule is Intended to Implement:** RCW 82.16.020, 82.04.290, 82.04.419, 82.04.4291, 82.04.050, 82.12.020 and 82.32.170.

**Reasons Supporting Proposed Action:** The Department of Revenue has concurred with the findings and recommendations of the Joint Administrative Rules Review Committee of the state legislature that the result of chapter 471, Laws of 1985 (RCW 82.16.020), was to tax only amounts derived from sewer "collection" under the higher rated public utility tax. Other sewer services income was to remain taxable under the lower rated service classification of business and occupation tax. The most efficient and comprehensive method to accomplish this outcome, retroactively to July 1, 1985 (effective date of the law), is to rescind the provisions of WAC 458-20-179 relating to sewerage services and deal with this subject matter under this new and separate rule, WAC 458-20-251, for both retroactive and prospective application. This statement and action comports with the amendment to WAC 458-20-179 (public utility tax) filed concurrently.

**Agency Personnel Responsible for Drafting:** Edward L. Faker, 415 General Administration Building, Olympia, WA 98504, phone 753-5579; **Implementation:** Garry G. Fujita, 415 General Administration Building, Olympia, WA 98504, phone 753-5544; and **Enforcement:** Department of Revenue, 415 General Administration Building, Olympia, WA 98504, phone 753-5540.

#### AMENDATORY SECTION (Amending Order 85-6, filed 11/1/85)

WAC 458-20-179 PUBLIC UTILITY TAX. (1) Introduction. Persons engaged in certain public service businesses are taxable under the public utility tax, and are exempt from tax under the business and occupation tax with respect to such businesses. However, many persons taxable under the public utility tax are also engaged in some other business which is taxable under the business and occupation tax. For example, a light and power company engaged in operating a plant or system for distribution of electrical energy for sale, may also be engaged in selling at retail various electrical appliances. Such a company would be taxable under the public utility tax with respect to its last distribution of electric energy, and also taxable under the business and occupation tax with respect to its sale of electrical appliances.

(2) Persons who are taxable under the public utility tax, which is applied to gross income, are those engaged in the following businesses:

Railroad, express, railroad car, water distribution, sewerage collection, refuse collection, light and power, telegraph, gas distribution, urban transportation and common carrier vessels under 65 feet in length, motor transportation, tugboat businesses, and all public service businesses other than those heretofore mentioned.

(3) The rates of tax for each business activity are imposed under RCW 82.16.020 and set forth on appropriate lines of the combined excise tax return forms.

~~(The terms "sewerage collection" and "refuse collection" business include all activities engaged in relating to the collection, transfer, treatment, and ultimate disposition of sewage and refuse, including all operations incidental thereto. These terms are broadly construed to include the operations of all persons who render direct and/or indirect services in the process of gathering and disposing of sewage and/or refuse, whether such persons are acting as prime contractors, subcontractors, or independent service providers.~~

~~The term "sewerage" means waste material deposited into and carried off by sewers and sewer drains. The term "sewerage collection" does not include the activity of pumping or cleaning septic tanks or renting, removing, and/or cleaning portable toilets.~~

~~The term "refuse" means garbage, trash, rubbish, or other materials discarded as worthless. The term "refuse collection" does not include the activity of collecting recyclable materials or salvaging other materials which contain valuable, recoverable ingredients, e.g., battery cores, used clothing, etc. Nor does this term include the removal, disposal, or treatment of hazardous or toxic waste, e.g., cleaning up oil or chemical spills, nuclear waste management, etc.)~~

(4) The term "public service businesses" includes any of the businesses defined in RCW 82.16.010 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (12) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business declared by the legislature to be of a public service nature, irrespective of whether eminent domain powers are had or state control is exercised. It includes, among others, without limiting the scope thereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, ((warehouse;)) toll bridge, toll logging road, water transportation and wharf businesses.

(5) The term "subject to control by the state" means control by the utilities and transportation commission or any other state department required by law to exercise control of business of a public service nature as to rates charged or services rendered. However, businesses may be taxed under the public utility tax as public service businesses whether or not they are or have been regulated by the state.

(6) The term "gross income" means "the value proceeding or accruing from the performance of the particular public service or transportation businesses involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." The term "gross income" of a light and power business means those amounts or value accruing to a taxpayer from the "last distribution" of electrical energy which is a taxable event within this state. RCW 82.16.010(13).

(7) LIGHT AND POWER BUSINESS - SPECIAL PROVISIONS. RCW 82.16.010(5) defines "light and power business" to mean the business of operating a plant or system for the generation, production, or distribution of electrical energy for hire or sale. It is the intent of the law that, except as provided below, all electrical energy generated, or produced, or distributed within this state shall be subject to the uniform tax rate for light and power business, but only at the time of its "last distribution" within this state.

(8) The term "last distribution" means the final transmission or transfer of electrical energy before it is consumed in this state or before it is transmitted or transferred for sale to any point outside of this state. Thus, the taxable last distribution of electrical energy consumed within this state is the transmission or transfer of such energy to the consumer. The taxable last distribution of electrical energy for sale outside of this state is the transmission or transfer of such energy to the transmission system from which it will be directly further transmitted or transferred to points outside this state whether under any wheeling arrangement or through the distributor's own transmission system or the transmission system of any out-of-state person. When a light and power business within this state delivers electric energy to an entity outside of this state in consideration of such entity's agreement to deliver electric energy to such business for consumption within this state, the taxable last distribution of such electrical energy is the transmission or transfer of energy to such business' consumers in this state.

(9) An "exchange" of electrical energy or the rights thereto is not the last distribution of such energy. An exchange is a transaction involving a delivery or transfer of energy or the rights thereto by one party to another for which the second party agrees, subject to the

terms and conditions of the agreement, to deliver electrical energy at the same or another time. Examples of nontaxable exchange transactions include, but are not limited to, the following:

~~((+)) (a) The residential exchange of electric power entered into between a light and power business and the administrator of the Bonneville Power Administration pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, Sec. 5(c), 16 U.S.C. 839(c) (Supp. 1982);~~

~~((+)) (b) The exchange of electric power for electric power between one light and power business and another light and power business;~~

~~((+)) (c) The transmission or transfer of electric power by one light and power business to another light and power business pursuant to the agreement for coordination of operations among power systems of the pacific northwest executed as of September 15, 1964;~~

~~((+)) (d) The Bonneville Power Administration's acquisition of electric power for resale to its Washington customers in the light and power business.~~

(10) Any consideration received in addition to or in excess of exchange power constitutes taxable consideration.

(11) The taxpayer liable for the payment of public utility tax under the light and power business classification is the "person" (as defined by RCW 82.04.030) who last distributes electrical energy within this state as explained above. Electrical energy generated or transmitted by the United States Army Corps of Engineers, United States Bureau of Reclamation, or the Bonneville Power Administration is not subject to this tax unless and until it is transferred by such federal entity to another person engaged in the light and power business within this state and then only upon the last distribution of such energy by such light and power business.

(12) For purposes of measuring the public utility tax liability, the "amount or value derived from the last distribution of electrical energy" (RCW 82.16.010(13) definition of "gross income") is the total consideration in terms of money or other value, however designated, received by or accruing to the taxpayer: PROVIDED, That the tax measure is the cost of production but not to exceed the fair market value of the electrical energy at the time it is generated in this state for any of the following: (a) For electrical energy generated in this state and transmitted or transferred by the person who generated the same to points outside this state without prior sale; and (b) for electrical energy sold pursuant to an agreement which requires the purchaser to pay certain costs of the generating facility without regard to the amount of electrical energy produced by such facility.

(13) In distinguishing gross income taxable under the public utility tax from gross income taxable under the business and occupation tax, the department of revenue will be guided by the uniform system of accounts established for the specific type of utility concerned. However, because of differences in the uniform systems of accounts established for various types of utility businesses, such guides will not be deemed controlling for the purposes of classifying revenue under the Revenue Act.

(14) VOLUME EXEMPTION. Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which taxable income reported under the combined total of all public utility tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons according to the following schedule:

Monthly reporting basis .....	\$500 per month
Quarterly reporting basis .....	\$1500 per quarter
Annual reporting basis .....	\$6000 per annum

(15) DEDUCTIONS. Amounts derived from the following sources do not constitute taxable income in computing tax under the public utility tax:

~~((+)) (a) Amounts derived by municipally owned or operated public services businesses directly from taxes levied for the support thereof, but not including service charges which are spread on the property tax rolls and collected as taxes.~~

~~((+)) (b) Amounts derived by persons engaged in the water distribution, or gas distribution business, from the sale of commodities to persons in the same public service business for resale as such within this state.~~

~~((+)) (c) Amounts actually paid by a taxpayer to another person taxable under chapter 82.16 RCW as the latter's portion of the consideration due for services jointly furnished by both. This includes the amount paid to a ferry company for the transportation of a vehicle and its contents (but not amounts paid to state owned or operated ferries)~~

when such vehicle is carrying freight or passengers for hire and is being operated by a person engaged in the business of urban transportation or motor transportation. It does not include amounts paid for the privilege of moving such vehicles over toll bridges. ~~(Also, for purposes of this deduction, all services rendered in connection with the collection, transfer, treatment, and disposal of sewage or refuse are deemed to be jointly rendered by service providers. (The effect of this deduction is to prevent the pyramiding or compounding of the public utility tax.)~~

~~(4)~~ (d) Amounts derived from the distribution of water through an irrigation system, solely for irrigation purposes.

~~(5)~~ (e) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or shipside on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destination: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such export elevator, wharf, dock, or shipside are located within the corporate limits of the same city or town.

~~(6)~~ (f) Amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the state of Washington representing payments of special assessments or installments thereof and interests and penalties thereon, charges in lieu of assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed or for the retirement of obligations and payment of interest thereon issued for capital purposes. The business and occupation tax is likewise inapplicable to such amounts. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes.

~~(7)~~ (g) Amounts derived from the distribution of water by a nonprofit water association which are used for capital improvements by that association.

~~(8)~~ (h) Amounts received by cities, counties, towns, or municipal corporations as payment of a share of the cost of capital facilities, but excluding charges for utility services which may be used for capital purposes.

~~(9)~~ (i) Amounts received for providing commuter share riding or ride sharing for the elderly and the handicapped in accordance with RCW 46.74.010.

~~(10)~~ (j) Amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer. (For details see WAC 458-20-1790.)

~~(11)~~ (k) Amounts equal to the cost of production at the plant for consumption in this state of:

~~(a)~~ (i) Electrical energy produced from cogeneration as defined in RCW 82.35.020; and

~~(b)~~ (ii) Electrical energy or gas produced from renewable energy resources (e.g., solar, wind, hydro, geothermal, wood, wastes, and end-use waste heat. (For details see WAC 458-20-1790.)

(16) Income derived from any of the foregoing sources is to be included within the reported gross income, and the applicable deductions may be taken in computing tax liability.

(17) Contributions in aid of construction not falling within item "6" above are subject to public utility tax, except that amounts received for line extensions, connection fees, and other charges for services rendered prior to the receipt of utility services by the customer against whom the charges are made are subject to business and occupation tax under the service and other activities classification rather than the public utility tax.

(18) In addition to the foregoing deductions there also may be deducted from the reported gross income (if included therein), the following:

(a) The amount of cash discount actually taken by the purchaser or customer.

(b) The amount of credit losses actually sustained.

(c) Amounts received from insurance companies in payment of losses.

(d) Amounts received from individuals and others in payment of damages caused by them to the utility's plant or equipment.

~~(f)~~ (19) For specific rules pertaining to the classifications of "urban transportation" and "motor transportation," see WAC 458-20-180~~(, and of "warehouses," see WAC 458-20-182.)~~.

(20) NOTICE—REFUSE AND SEWERAGE COLLECTION BUSINESSES. The specific provisions of this section, respecting refuse and sewerage collection businesses have been repealed, retroactively to July 1, 1985. The new express provisions for taxability of such businesses from July 1, 1985, forward are now set forth in WAC 458-20-250 (Refuse collection business) and WAC 458-20-251 (Sewerage collection business).

#### AMENDATORY SECTION (Amending Order 85-6, filed 11/1/85)

WAC 458-20-189 SALES TO AND BY THE STATE OF WASHINGTON, COUNTIES, CITIES, SCHOOL DISTRICTS AND OTHER MUNICIPAL SUBDIVISIONS. (1) BUSINESS AND OCCUPATION TAX. No deduction is allowed a seller in computing tax under the provisions of the business and occupation tax with respect to sales to the state of Washington, its departments and institutions or to counties, cities, school districts, or other municipal subdivisions thereof.

(2) The state of Washington, its departments and institutions, as distinct from its corporate agencies or instrumentalities, are not subject to the provisions of the business and occupation tax. Counties, cities, and other municipal subdivisions are not subject to the business and occupation tax upon amounts derived from license and permit fees, inspection fees, fees for copies of public records, reports and studies, processing fees involving fingerprinting and environmental impact statements, and taxes, fines or penalties, and interest thereon.

(3) Counties, cities and other municipal subdivisions are taxable with respect to amounts derived, however designated, from any "utility or enterprise activity" for which a specific charge is made.

(4) UTILITY ACTIVITIES. "Utility activities," which are taxable under the public utility tax, include water and electrical energy distribution, public transportation services, sewer collection services, and solid waste treatment~~(, and refuse collection services)~~. (See WAC 458-20-179.)

(5) ENTERPRISE ACTIVITY. An "enterprise activity," for the purposes of this rule, is an activity financed and operated in a manner similar to private business enterprises. The term includes activities which are generally in competition with private business enterprises and are over fifty percent funded by user fees. The term does not include activities which are exclusively governmental.

(6) Amounts derived from enterprise activities consisting of or from admission fees to special events, user fees (lockers, checkrooms), moorage fees (less than thirty days), cemetery and crematory fees, the granting of media broadcasting rights, and the granting of a license to use real property are taxable under the service and other activities classification of the business and occupation tax.

(7) Amounts derived from enterprise activities consisting of or from fees for participation in amusement or recreation (pay for play), user fees for off-street parking and garages, and charges for sale and rental of tangible personal property are taxable under the retailing classification of the business and occupation tax.

(8) Under RCW 82.04.419, amounts derived from an activity which is not a "utility or enterprise activity" are tax exempt. Such tax exempt amounts include admission fees other than to special events, fees for on-street metered parking and parking permits, instruction fees, health program fees, athletic team registration fees, and interagency and intergovernmental charges for services rendered.

(9) All counties, cities and other municipal subdivisions engaging in utility or enterprise activities and all corporate agencies or instrumentalities of the state of Washington engaging in business activities are subject to tax as follows:

~~(1)~~ (a) Extracting or manufacturing – taxable upon the value of products manufactured or extracted.

~~(2)~~ (b) Retailing or wholesaling – taxable upon gross proceeds of sales.

~~(3)~~ (c) Persons taxable under either the retailing or wholesaling classifications are not taxable under either extracting or manufacturing in respect to sales of articles extracted or manufactured by them in this state.

~~(4)~~ (d) Service and other business activities – taxable under the service and other business activities classification upon the gross income derived from services rendered by them.

~~(5)~~ (e) Public utility activities – taxable upon the gross income of the business (see WAC 458-20-179 and 458-20-1790.)



(10) Counties and cities are not subject to the business and occupation tax on the cost of labor and service in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.)

(11) For operation of hospitals by the state or its political subdivisions see WAC 458-20-168 and 458-20-188.

(12) The business and occupation tax does not apply to the value of materials printed solely for their own use by school districts, educational service districts, counties, cities, towns, libraries, or library districts.

(13) **RETAIL SALES TAX.** The retail sales tax applies to all retail sales made to the state of Washington, its departments and institutions and to counties, cities, school districts and all other municipal subdivisions of the state. The retail sales tax does not apply to sales to city or county housing authorities which were created under the provisions of the Washington housing authorities law, chapter 35.82 RCW. An exemption is also allowed municipal corporations, the state and all political subdivisions thereof for that portion of the selling price of contracts for watershed protection or flood control which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Law 566, as amended. The retail sales tax does not apply to sales of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any public utility enterprise except a tugboat business (RCW 82.08.0256).

(14) Where tangible personal property or taxable services are purchased by the state of Washington, its departments or institutions for the purpose of resale to any other department or institution of the state of Washington, or for the purpose of consuming the property purchased in manufacturing or producing for use or for resale to any other department or institution of the state of Washington a new article of which such property is an ingredient or component part, the transaction is deemed a purchase at retail and the retail sales tax must be paid by the state of Washington to its vendors. So-called sales between a department or institution of the state of Washington and any other such department or institution constitute interdepartmental charges (see WAC 458-20-201) and the retail sales tax is not applicable.

(15) The state of Washington, its departments and institutions and all counties, cities, and other municipal subdivisions are required to collect the retail sales tax on all retail sales of tangible personal property or services classified as retail sales, including sales of equipment or other capital assets. The retail sales tax is not applicable to charges for the production, searching, or copying of public records or documents by such public agencies charged with the responsibility to keep and provide such information. However, the tax does apply to charges for the sale of books, rules, regulations, and other materials sold from an inventory of such things, even though the charge is required by law or covers only the costs of production and distribution of such materials. The retail sales tax is not applicable to the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.)

(16) The sales tax does not apply to sales to the state or a local governmental unit thereof of ferry vessels, component parts thereof, nor labor and services in respect to construction or improvement of such vessels.

(17) **USE TAX.** The state of Washington, its departments and institutions and all counties, cities, school districts, and other municipal subdivisions are required to report the use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

(18) Counties and cities are not subject to use tax upon the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock taken from a pit or quarry owned or leased to a county or city when the materials are for use on public roads.

(19) The use tax does not apply to the use of ferry vessels or component parts thereof by the state or local governmental units.

(20) **PUBLIC UTILITY TAX.** No deduction in computing tax liability under the provisions of the public utility tax is allowed to any person or firm by reason of the fact that sales are to the state of Washington or any of its municipal subdivisions.

(21) Counties, cities and other municipal subdivisions of the state operating public utilities or public service businesses are subject to the provisions of the public utility tax.

(22) Neither the public utility tax nor the business tax apply to amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the state of Washington representing payments of special assessments or installments thereof and interests and penalties thereon, charges in lieu of assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed or for the retirement of obligations and payment of interest thereon issued for capital purposes. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes (see WAC 458-20-179).

(23) Where there is doubt as to the tax consequences applicable to any activity or transaction, the question should be submitted to the department of revenue for determination.

#### AMENDATORY SECTION (Amending Order ET 83-6, filed 8/23/83)

WAC 458-20-224 **SERVICE AND OTHER BUSINESS ACTIVITIES.** (1) Chapter 82.04 RCW imposes a tax upon every person for the privilege of engaging in business in this state. Persons engaged in the certain specifically named business activities are subject to a tax rate set out in the statute which is measured by value of products, gross sales or gross income, e.g.: Extracting, manufacturing, retailing, wholesaling, printing and publishing, and building and repairing of publicly owned streets and roads.

(2) Persons engaged in any business activity, other than or in addition to those for which a specific rate is provided in the statute, are taxable under a classification known as service and other business activities, and so designated upon return forms. In general, it includes persons rendering professional or personal services to persons (as distinguished from services rendered to personal property of persons) such as accountants, aerial surveyors and map makers, agents, ambulances, appraisers, architects, assayers, attorneys, automobile brokers, barbers, baseball clubs, beauty shop owners, brokers, chemists, chiropractors, collection agents, community television antenna owners, court reporters, dentists, detectives, employment agents, engineers, financiers, funeral directors, (~~garbage~~) refuse collectors, hospital owners, janitors, kennel operators, laboratory operators, landscape architects, lawyers, loan agents, music teachers, oculists, orchestra or band leaders contracting to provide musical services, osteopathic physicians, physicians, real estate agents, school bus operators, school operators, sewer services other than collection, stenographers, warehouse operators who are not subject to (~~public utility tax~~) other specific statutory tax classifications, teachers, theater operators, undertakers, veterinarians, and numerous other persons.

(3) It does not include persons engaged in the business of cleaning, repairing, improving, etc., the personal property of others, such as automobile, house, jewelry, radio, refrigerator and machinery repairmen, laundry or dry cleaners. Also, it does not include certain personal and professional services specifically included within the definition of the term "sale at retail" in RCW 82.04.050, such as amusement and recreation businesses of a participatory nature (see WAC 458-20-183); abstract, title insurance and escrow businesses, credit bureau businesses and automobile parking and storage garage businesses. Furthermore, it does not include persons who render services to others in the capacity of employees as distinguished from independent contractors. (See WAC 458-20-105.)

(4) **BUSINESS AND OCCUPATION TAX.** Persons engaged in any business activity, other than or in addition to those for which a specific rate is provided in chapter 82.04 RCW, are taxable under the service and other business activities classification upon gross income from such business.

(5) Persons engaged in a public service business taxable under chapter 82.16 RCW (see WAC 458-20-179) are exempt from business tax under chapter 82.04 RCW with respect to such businesses.

(6) **RETAIL SALES TAX.** The retail sales tax applies upon all sales of tangible personal property made to persons for use or consumption in performing a business activity which is taxable under the service and other business activities classification of chapter 82.04 RCW.

#### NEW SECTION

WAC 458-20-251 **SEWERAGE COLLECTION BUSINESS**  
(1) **INTRODUCTION.** Under the provisions of chapter 471, Laws of

1985, the "sewerage collection business" was reclassified for tax purposes from the Service classification of business and occupation tax to the Public Service Business - Sewer Collection classification of public utility tax. To implement this change in law the department of revenue amended and adopted WAC 458-20-179, on November 1, 1985, which subjected gross receipts from all sewerage services to the higher rated public utility tax classification, as of the effective date of chapter 471, Laws of 1985, July 1, 1985.

(2) The department has determined that, within the intent of the law, only the portion of gross receipts from customer billings attributable to the "collection" portion of services rendered should be taxed under the public utility tax classification. Thus, this section now supercedes and effectively repeals the specific provisions of WAC 458-20-179 pertaining to sewerage collection businesses. The provisions of this new section have retroactive effect from July 1, 1985 forward.

(3) DEFINITIONS. for purposes of this section the following terms will apply.

(a) "Sewerage collection business" means the activity of receiving sewage deposited into and carried off by a system of sewers, drains, and pipes to a common point for disposal or for transfer to treatment for disposal, but does not include such transfer, treatment, or disposal of sewage.

(i) This term does not include the activity of receiving, collecting, or disposing of toxic or hazardous waste materials regardless of the system employed for collection of such substances.

(b) "Sewage" means the waste matter carried off by sewer drains and pipes.

(c) "Gross receipts" of the sewerage collection business means only that portion of income from customer billings which is allocable to the collection of sewage by a sewerage collection business as defined herein.

(i) "Gross receipts," as defined here, is the public utility tax measure. It does not include any charges of any kind attributable to sewerage services other than collection.

(ii) The term does not include late charges or penalties which may be imposed for non-timely payment by customers.

(d) "Person" has the meaning given in RCW 82.04.030 or any later, superseding section.

(4) Persons engaged in the sewerage collection business may also be engaged in related business activities involving the interception, transfer, storage, treatment, and/or disposal of sewage, or any of these activities. If so, such persons are engaged in both public utility taxable activities (sewerage collection) and business and occupation taxable activities (other sewer services). See RCW 82.15.060 and RCW 82.04.310.

(5) PUBLIC UTILITY TAX. Persons engaged in the sewerage collection business, as defined herein, are subject to the public utility tax under the classification, Sewer Collection, measured by "gross receipts" of the collection business as explicitly defined herein, at the currently prescribed rate. (See RCW 82.15.020 (1)(a)).

(6) In order to determine the "gross receipts" of the collection business there are two alternative methods.

(a) If customer billings are itemized to show the actual charge for sewage "collection," that amount is the "gross receipts" tax measure; PROVIDED, that such amount shall not be less than the actual cost of providing the collection service.

(b) If collection services are provided jointly with other, related sewer services provided by the sewerage collection business or any other person, and the actual charge for sewerage "collection" is not itemized on customer billings, a simple cost-of-doing-business formula must be used to derive the "gross receipts," public utility tax measure.

(i) The totality of all business costs incurred in rendering all sewer services, including collection, is to be divided into the costs of providing sewerage collection services. The resulting percentage is to be multiplied by gross income from customer billings (all sewerage related charges). The result is the "gross receipts" public utility tax measure from engaging in the sewerage collection business.

(ii) The formula looks like this:

$$\frac{\text{Sewerage collection costs}}{\text{Total sewer service costs}} = \text{ \% } \times \text{ gross billings } = \text{ Public Utility Tax Measure}$$

(iii) All costs of operation of the sewer services business must be included in the numerator, including but not limited to capitalized equipment, labor, direct and indirect overhead, and administration.

(iv) The standard cost accounting records of the sewerage collection business will be used for this purpose.

(7) BUSINESS AND OCCUPATION TAX. Persons engaged in providing other sewer services, in addition to or separate from the "sewerage collection business" as defined herein, are subject to the business and occupation tax under the classification, Service and Other Business Activities. The measure of this tax is the gross income derived from such other services. It does not include any amount reported for public utility tax under the Sewer Collection classification.

(8) The Service business and occupation tax on sewer services is not intended to have a pyramiding effect. RCW 82.04.432 thus provides a deduction from the tax measure for amounts paid by municipal sewerage utilities and other public corporations to any other municipal corporation or governmental agency for sewage interception, treatment, or disposal. This deduction results in each one of several sewer service providers being taxable only on the amounts actually received and retained by them as their respective share of gross customer billings for the totality of all services.

(9) Under the law, depending upon the arrangement for providing the totality of all sewer services, it may be that a person will report tax under both the public utility tax (on collection services income) and business and occupation tax (on other related services income), as appropriate, upon respective portions of that person's retained share of income from customer billings.

(10) The "sewerage collection business" and many other sewer services are "enterprise activities" as defined in WAC 458-20-189, when funded over fifty percent by user fees. Thus, the amounts derived from these business activities are not exempt of tax even though they may be provided and charged for by governmental entities. (See RCW 82.04.419).

(11) Persons engaged in providing sewer services other than sewerage collection, such as the transfer, storage, treatment, and/or disposal of sewage, may be entitled to certain express deductions or exemptions from business and occupation tax for specific reasons unrelated to the nature of their sewer service activities. (See RCW 82.04.419 and RCW 82.04.4291.) These deductions and exemptions are not available for "sewerage collection businesses" upon their income subject to public utility tax.

(12) RETAIL SALES TAX. Persons engaged in the "sewerage collection business" and/or engaged in providing other related sewer services are themselves the consumers of all tangible personal property purchased for their own use in conducting such activities, other than items held for resale in the ordinary course of business. Retail sales tax must be paid to materials suppliers and providers of all such tangible consumables. (See RCW 82.04.050.)

(13) USE TAX. The use tax is due upon all tangible personal property used as consumers by "sewerage collection businesses" and sewer service providers, upon which the retail sales tax has not been paid. (See RCW 82.12.020.)

(14) RETROACTIVITY - PROCEDURES FOR REFUND. Because of the provisions of WAC 458-10-179 relating to sewer services, which were effective from July 1, 1985 and have been retroactively repealed, some persons providing sewer services after that date may have overreported their tax liability. Any such persons who reported and paid public utility tax measured by gross customer billings income or measured by income allocable to the transfer, treatment, and/or disposal of sewage are entitled to a refund or credit. Such refunds or credits will be in the amount of the difference between the public utility tax rate (.03852) and the Service business tax rate (.015) on the income reported. The refund or credit may be obtained by timely providing amended copies of past reporting documents to the Taxpayer Accounts Administration Section of the Department of Revenue, Olympia, Washington. (See RCW 82.32.170.) Similarly, persons who have discontinued reporting tax liability on income from any sewer services, on or after July 1, 1985, will have additional tax liability to report.

**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 86-15-082**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**  
 [Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse Racing Commission intends to adopt, amend, or repeal rules concerning:

Amd	WAC 260-16-040	Relating to Washington-bred horses.
New	WAC 260-16-050	Relating to certification of Washington-bred horses—Thoroughbreds.
New	WAC 260-16-060	Relating to certification of Washington-bred horses—Thoroughbreds—Before and after 1987.
New	WAC 260-16-070	Relating to Racing Commission funds.
New	WAC 260-16-080	Relating to certification of Washington-bred horses—Standardbreds.
Amd	WAC 260-13-020	Relating to applicant's affidavit—A.
Amd	WAC 260-13-160	Relating to personal information.
Amd	WAC 260-13-190	Relating to applicant's affidavit—B.
Amd	WAC 260-13-330	Relating to personal information.
New	WAC 260-13-460	Relating to identification of applicant.
New	WAC 260-13-470	Relating to applicant's affidavit—C.
New	WAC 260-13-480	Relating to other requirements for Class C license.
New	WAC 260-13-490	Relating to Class C license criteria.
New	WAC 260-13-500	Relating to public disclosure and confidentiality.
Amd	WAC 260-72-010	Relating to communication systems;

that the agency will at 11:00, Friday, August 29, 1986, in the Hyatt House, 17001 Pacific Highway South, Seattle, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020, 67.16.040 and 67.16.075.

The specific statute these rules are intended to implement is RCW 67.16.050, 67.16.060 and 67.16.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 22, 1986.

Dated: July 23, 1986

By: Billy Aliment  
 Executive Secretary

#### STATEMENT OF PURPOSE

In the matter of amending or adopting WAC 260-16-040, 260-16-050, 260-16-060, 260-16-070, 260-16-080, 260-13-020, 260-13-160, 260-13-190, 260-13-330, 260-13-460, 260-13-470, 260-13-480, 260-13-490, 260-13-500 and 260-72-010 relating to the rules of horse racing.

WAC 260-16-040, 260-16-050, 260-16-060, 260-16-070, 260-16-080, 260-13-020, 260-13-160, 260-13-190, 260-13-330, 260-13-460, 260-13-470, 260-13-480, 260-13-490, 260-13-500 and 260-72-010 are proposed for amendment and enactment as indicated in the notice of intention to adopt rules filed this date with the code reviser.

The amendment to the existing rules is proposed pursuant to RCW 67.16.020, 67.16.040 and 67.16.075 under the general rule-making authority of the Washington Horse Racing Commission. In addition,

WAC 260-16-040, 260-16-050, 260-16-060, 260-16-070 and 260-16-080 are proposed in direct response to the mandate of the legislature by providing for certification of Washington-bred horses in RCW 67.16.075.

The amendments and enactments are for the following reasons: WAC 260-16-040 through 260-16-080 all relate to certification of Washington-bred horses. The rules are intended to bring the Racing Commission in compliance with RCW 67.16.075 which directed the agency to set standards for certification of the horses. The Racing Commission has complied with the statute by consulting with the industry, by holding several public meetings and by working in small groups to promulgate a set of certification rules that will be easy to understand and as uniform as possible. The rules specify the necessity of compliance for eligibility for owners bonus and breeder awards, the organizations in the state that are involved, the exact standards for Washington-bred horses and the extent to which Racing Commission funds may be used to pay for the costs of certification. The rules reflect the participation of the thoroughbred industry and the standardbred industry. The rules also provide for the future participation by other groups who wish to. WAC 260-13-020 through 260-13-500 deal specifically with the process by which proposals to build new tracks are evaluated. These are amendments that were proposed by members of the Racing Commission itself for clarification of the earlier rules or by active participants in the industry. They clarify the nature of a Class A application, the extent to which personal information that must be submitted does not include that covered by the attorney-client privilege or other similarly recognized privileges, the specification of a Class B application, the identification of a Class C license, the requirements for a Class C license, the criteria for a Class C license, and, the necessity of full public disclosure of application information while safeguarding confidentiality and the right to privacy. These rules are the result of lengthy discussion among the commissioners as well as comments that have been received from members of the racing industry and their representatives. WAC 260-72-010 is directed to updating an existing rule to take into account new communication systems. The proposed rule ensures that private telephones or cellular telephones may not be used to circumvent the existing rule prohibiting communication from a race track absent approval by the Racing Commission.

Billy Aliment, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone 753-3741, and members of the Racing Commission staff were responsible for the drafting of the amendments and enactments and are to be responsible for their implementation and enforcement.

The proponent of the amendments and enactments is the Washington Horse Racing Commission, Barbara Black, Chairperson.

The Washington Horse Racing Commission recommends the adoption of the amendments and enactments. They have been drafted in consultation with various parties and in some cases, with consultation from members of the horse racing industry.

WAC 260-16-040 through 260-16-080 are necessary as the result of action by the legislature in enacting RCW 67.16.075.

The other rules set forth here are not in direct response to any specific statute or court decision.

This certifies that copies of this statement are on file with the Racing Commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

**Small Business Economic Impact Statement:** The amendments and enactments listed above are not anticipated to affect more than 20 percent of all industries, nor more than ten percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

**AMENDATORY SECTION** (Amending Rules of racing, filed 4/21/61)

WAC 260-16-040 WASHINGTON BRED HORSES. For the purpose of encouraging the breeding within this state, of valuable thoroughbred race horses, at least one race of each day's meeting shall consist exclusively of Washington bred horses. If sufficient competition cannot be had among such class of horses, said race may be eliminated for said day and a substitute race, also for Washington-bred horses, provided instead. (Section 8, chapter 55, Laws of 1933.)

Proof that horses entered in such races were bred in Washington rests with the owner. Certificate of registration or the evidence of a breeder or other responsible person will be accepted. Affidavits may be demanded at the discretion of the stewards.

Eligibility for the owners bonus and the breeder awards under RCW 67.16.075 and 67.16.102 are provided for in WAC 260-16-060.

**NEW SECTION**

WAC 260-16-050 CERTIFICATION OF WASHINGTON-BRED HORSES—THOROUGHBREDS. (1) For purposes of the distribution of the owners bonus and breeder awards, a Washington-bred horse is one that meets the following requirements:

(a) The horse was foaled within the boundaries of the state of Washington; and

(b) It is officially certified by the associations designated by the racing commission.

(2) The following associations presently comprised of a majority of owners and/or breeders of their respective breeds in the state of Washington are recognized by the racing commission for the purpose of certification of Washington-bred horses for the distribution of the owners bonus and breeder awards provided for in RCW 67.16.075 and 67.16.102:

(a) The Washington Horse Breeders Association, for thoroughbreds;

(b) The Washington State Standard Bred Association, for standard bred harness horses;

(c) The Northern Racing Quarter Horse Association, for quarter horses;

(d) The Washington State Appaloosa Racing Association, for appaloosas;

(e) The Washington State Arabian Horse Racing Association, for Arabian horses; and

(f) The Washington State Paint Horse Association, for paint horses.

(3) The racing commission may determine that other organizations should participate in the certification process if the organization is one that represents a majority of the owners and/or the breeders and, it is deemed to be in the best interests of racing. For other breeds specified in the racing act, organizations may present to the racing commission documentation that they represent a majority of the owners and/or the breeders.

**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 260-16-060 CERTIFICATION OF WASHINGTON-BRED HORSES—THOROUGHBREDS. (1) Certification of thoroughbreds foaled prior to 1987 shall be as follows:

(a) All thoroughbreds foaled prior to the year 1987 shall be certified Washington-breds provided (i) that the horse was foaled within the boundaries of the state of Washington; and (ii) that the jockey club certificate of foal registration shall state that said foal was foaled in the state of Washington.

(2) Certification of thoroughbreds foaled in 1987 and thereafter shall be as follows:

(a) All thoroughbreds foaled in 1987 and thereafter shall be certified Washington-breds provided (i) that the horse was foaled within the boundaries of the state of Washington; (ii) that the jockey club certificate of foal registration shall state that said horse was foaled in the state of Washington; and (iii) that the jockey club certificate of foal registration shall have affixed to it the certification stamp or seal of the Washington Horse Breeders Association. Said certification stamp or seal shall be affixed to each foal's jockey club certificate of foal registration only after the owner or breeder of a foal shall make application to the Washington Horse Breeders Association for certification as a Washington-bred and said association shall complete the certification process.

(b) Applications for certification of Washington-breds shall be processed by the Washington Horse Breeders Association at a cost of seventy-five dollars per foal, which cost shall be paid to the association by the Washington horse racing commission. If said application shall be filed prior to September 30 of the foals' weaning year, there shall be no additional cost to the owner or breeder.

(c) Applications for certification of Washington-breds made after September 30 of the foal's weaning year or prior to September 30 of the foal's yearling year shall be processed at an additional cost of twenty-five dollars, which cost shall be paid to the association by the owner or breeder of the foal at the time of filing the application.

(d) Applications for certification of Washington-breds made after September 30 of the foal's yearling year or prior to January 1 of the foal's two year old year shall be processed at an additional cost of seventy-five dollars, which cost shall be paid to the association by the owner or breeder of said foal at the time of filing the application.

(e) Applications for certification of Washington-breds made after January 1 of the foals' two year old year and prior to January 1 of the foal's three year old year shall be processed at an additional cost of one hundred fifty dollars, which cost shall be paid to the association by the owner or breeder of said foal at the time of filing the application.

(f) Applications for certification of Washington-breds made after January 1 of the foal's three year old year shall be precluded and such foals shall be ineligible for certification as Washington-breds.

(3) It shall be the responsibility of the owner or breeder to ensure that all Washington-breds he or she owns or has bred are certified pursuant to the standards established by the Washington horse racing commission.

(4) Owners and breeders of thoroughbreds foaled in 1987 and thereafter shall be precluded from receiving any owners bonus or breeder awards based on the race earnings of said foals prior to their certification as a Washington-bred.

(5) Owners and breeders of certified Washington-breds foaled in 1987 and thereafter who shall receive an owners bonus or breeder awards shall refund to the Washington horse racing commission any amount so received in the event it is later determined that any information provided to the association during the certification process which formed the basis for certification as a Washington-bred was incorrect or false.

(6) Washington horse racing commission funds generated through the parimutuel handle by a particular breed shall not be used for certification of any other breed.

**NEW SECTION**

WAC 260-16-070 RACING COMMISSION FUNDS. Racing commission funds generated through parimutuel handle by a particular breed shall not be used for certification of any other breed.

**NEW SECTION**

WAC 260-16-080 CERTIFICATION OF WASHINGTON-BRED HORSES—STANDARD BREDS. (1) Certification of standardbreds foaled prior to 1986 shall be as follows:

(a) All standardbreds foaled prior the year 1986 shall be certified as Washington-breds provided that (i) the horse was foaled within the boundaries of the state of Washington; (ii) the United States trotting association registration certificate shall state that said foal was foaled in the state of Washington; and, (iii) the Washington State Standardbred Association Certificate of Washington-bred has been issued for said horse.

(b) Application for certification shall be made by the owner (registered as such by the United States Trotting Association) of the standardbred to be certified as Washington-bred, at a cost of twenty-five dollars to said owner. The application fee shall accompany the application.

(c) Application for certification shall be made no later than twelve months from the effective date of these rules or thirty days prior to racing, whichever is sooner.

(2) Certification of standardbreds foaled in 1986 and thereafter shall be as follows:

(a) All standardbreds foaled in 1986 and thereafter shall be certified Washington-breds provided that (i) the horse was foaled within the boundaries of the state of Washington; (ii) the United States trotting association registration certificate shall state that said foal was foaled in the state of Washington; and (iii) that the Washington State Standardbred Association Certificate of Washington-bred has been issued for said horse.

Said certificate shall be issued only after the owner or breeder of a foal shall have made application to the Washington State Standardbred Association for certification as a Washington-bred, and said association shall have completed the certification process.

(b) Applications for certification of Washington-breds shall be processed by the Washington State Standardbred Association at a cost of seventy-five dollars per foal, which cost shall be paid to the association by the Washington horse racing commission. If said application shall be filed prior to December 31st of the year of foaling, then there shall be no additional cost to the owner or breeder.

(c) Applications for certification of Washington-breds made after December 31st of the year of foaling, but prior to May 15th of the foal's yearling year, shall be processed at an additional cost of twenty-five dollars, which cost shall be paid to the association by the applicant at the time of filing the application.

(d) Applications for certification of Washington-breds made after May 15th of the foal's yearling year but no later than December 31st of the foal's yearling year shall be processed at an additional cost of seventy-five dollars, which cost shall be paid to the association by the applicant at the time of filing the application.

(e) After December 31st of the foal's yearling year, no application can be made for certification of a Washington-bred, and further, any such foal not previously registered shall be ineligible for certification as a Washington-bred.

(3) It shall be the responsibility of the owner to ensure that all Washington-breds so owned are certified pursuant to the process of certification established by the Washington State Standardbred Association. In the event the owner does not certify the Washington-bred foal in a timely manner, then the breeder may, at its option, make application for, and receive certification of said foal as a Washington-bred. However, said application must be made no later than December 31st of the foal's yearling year.

(4) Owners and breeders of standardbreds foaled in 1986, and thereafter, shall be precluded from receiving any owners bonus or breeders award based on the race earnings of said foals prior to certification of said foals as Washington-breds.

(5) Owners and breeders of certified Washington-breds foaled in 1986, and thereafter, who shall receive an owners bonus, or breeders award, shall refund to the Washington horse racing commission any amount so received, in the event it is later determined that any information provided to the association during the certification process which formed the basis for certification as a Washington-bred, was incorrect or untrue.

#### AMENDATORY SECTION (Amending Order 86-03, filed 6/16/86)

WAC 260-13-020 APPLICANT'S AFFIDAVIT. An application for a Class A license must include, on a form prepared by the commission, an affidavit of the chief executive officer of a major financial participant in the applicant setting forth:

(1) That application is made for a Class A license to own and operate a horse racing facility at which parimutuel betting is conducted. The Class A license is granted directly to a licensee who will have

complete control over the horse racing and the facility including all aspects of ownership and operation.

(2) That affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached.

(3) That the applicant seeks a grant of a privilege from the state of Washington, and the burden of proving the applicant's qualifications rests at all times with the applicant.

(4) That the applicant consents to inquiries by the state of Washington, its employees, the commission members, staff, and agents into the financial, character, and other qualifications of the applicant by contacting individuals and organizations.

(5) That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the state of Washington, its employees, the commission, staff, or agents.

(6) That affiant has read the applicant's identification and disclosures and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated on information and belief; as to those matters, affiant believes them to be true.

(7) That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information or significant deviation from representations in the application may result in denial, revocation, or suspension of a license or imposition of a fine.

(8) That the applicant will comply with chapter 67.16 RCW and all rules of the commission.

(9) The affiant's signature, name, organization, position, address, and telephone number.

(10) The date.

#### AMENDATORY SECTION (Amending Order 86-03, filed 6/16/86)

WAC 260-13-160 PERSONAL INFORMATION AND AUTHORIZATION FOR RELEASE. In an application for a Class A license the applicant must make its best effort, as defined above to include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant and each individual identified pursuant to WAC 260-13-030.

(1) Full name, business and residence addresses and telephone numbers, last five residence addresses, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

(2) An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he or she:

(a) Authorizes a review by and full disclosure to an agent of the Washington state patrol of all records concerning the individual, whether the records are public, nonpublic, private, or confidential;

(b) Recognizes the information reviewed or disclosed may be used by the state of Washington, its employers, the commission, members, staff and agents to determine the signer's qualifications for a Class A license; and

(c) Releases authorized providers and users of the information from any liability under state or federal data privacy law.

(3) This rule will not apply to information that properly comes within privileges recognized by the law such as between attorney and client.

#### AMENDATORY SECTION (Amending Order 86-03, filed 6/16/86)

WAC 260-13-190 APPLICANT'S AFFIDAVIT. An application for a Class B license must include, on a form prepared by the commission, an affidavit of the chief executive officer of or a major financial participant in the applicant setting forth:

(1) That application is made for a Class B license to sponsor and manage horse racing on which parimutuel betting is conducted. The Class B license is granted directly to a licensee who will have complete control over the horse racing but who does not retain ownership of the facility itself as in a Class A license.

(2) That affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to

make the representations in the application on their behalf. Documentation of the authority must be attached.

(3) That the applicant seeks a grant of a privilege from the state of Washington, and the burden of proving the applicant's qualifications rests at all times with the applicant.

(4) That the applicant consents to inquiries by the state of Washington, its employees, the commission, members, staff, agents into the financial, character, and other qualifications of the applicant by contacting individuals and organizations.

(5) That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the state of Washington, its employees, the commission, staff, or agents.

(6) That affiant has read the applicant's identification and disclosures and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated on information and belief; as to those matters, affiant believes them to be true.

(7) That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or significant deviation from representations in the application may result in denial, revocation, or suspension of a license or imposition of a fine.

(8) That the applicant will comply with chapter 67.16 RCW and all rules of the commission.

(9) Affiant's signature, name, organization, position, address, and telephone number.

(10) The date.

#### AMENDATORY SECTION (Amending Order 86-03, filed 6/16/86)

**WAC 260-13-330 PERSONAL INFORMATION AND AUTHORIZATION FOR RELEASE.** In an application for a Class B license the applicant must make its best effort, as defined in WAC 260-13-030(5), to include the following with respect to each individual identified pursuant to WAC 260-13-200 as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of one percent or more in the applicant and each individual identified in WAC 260-13-200:

(1) Full name, business and residence addresses, and telephone numbers, last five residence addresses, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

(2) An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he or she:

(a) Authorizes a review by and full disclosure to an agent of the Washington state patrol of all records concerning the individual, whether the records are public, nonpublic, private, or confidential;

(b) Recognizes the information reviewed or disclosed may be used by the state of Washington, its employers, the commission, members, staff and agents to determine the signer's qualifications for a Class B license; and

(c) Releases authorized providers and users of the information from any liability under state or federal data privacy law.

(3) This rule will not apply to information that properly comes within privileges recognized by the law such as between attorney and client.

#### NEW SECTION

**WAC 260-13-460 IDENTIFICATION OF APPLICANT FOR CLASS C LICENSE.** An application for a Class C license must include, on a form prepared by the commission, the name, address, telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

#### NEW SECTION

**WAC 260-13-470 APPLICANT'S AFFIDAVIT.** An application for a Class C license must include, on a form prepared by the commission, an affidavit of the applicant or director of racing, setting forth:

(1) That application is made for a Class C license to sponsor and manage horse racing at which pari-mutuel betting is conducted. The

Class C license is granted directly to the licensee who will have the responsibility for operating a nonprofit race meet or special fair meet.

(2) That affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority must be attached.

(3) That the applicant seeks a grant of a privilege from the state of Washington and the burden of proving the applicant's qualifications rests at all times with the applicant.

(4) That the applicant consents to inquiries by the state of Washington, its employees, the commission members, staff, and agents into the financial, character, and other qualifications of the applicant by contacting individuals and organizations.

(5) That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the state of Washington, its employees, the commission, staff, or agents.

(6) That affiant has read the applicant's identification and disclosures and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated on information and belief; as to those matters, affiant believes them to be true.

(7) That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information or significant deviation from representations in the application may result in denial, revocation, or suspension of a license or imposition of a fine.

(8) That the applicant will comply with chapter 67.16 RCW and all rules of the commission.

(9) Affiant's signature, name, organization, position, address, and telephone number.

(10) The date.

#### NEW SECTION

**WAC 260-13-480 OTHER REQUIREMENTS FOR CLASS C LICENSE.** An application for a Class C license must include a short and concise statement providing the information required under WAC 260-13-030 through 260-13-160. If information of a more detailed nature is necessary for consideration of the application, a request for it will be made by the executive secretary of the commission and the request must be complied with.

#### NEW SECTION

**WAC 260-13-490 CLASS C LICENSE CRITERIA.** The Class C criteria shall be the same as for Class A license or Class B license set forth in WAC 260-13-170 and 260-13-340.

#### NEW SECTION

**WAC 260-13-500 PUBLIC DISCLOSURE OF RECORDS AND CONFIDENTIALITY.** (1) Pursuant to RCW 67.16.015, all records of the commission shall be public records and as such, subject to public inspection. This broad statute must be construed with due regard for a narrow set of exceptions. The exceptions derive from the necessity for the commission to strike a balance between the public interest in effective review of the license application and individual rights of privacy. The exceptions recognized by the commission are for the personal financial statements of an individual investor or proponent and, character information, including background checks conducted by security or reports by the Washington state patrol, or other law enforcement agencies.

(2) Where personal financial data or character information becomes material or relevant to the commission's deliberations on the approval of a license application, the commission will conduct an in camera review of the materials to determine whether they should be made public in the course of the proceedings. Written comments on behalf of the applicant in support of its position in regard to disclosure of the information may be submitted to the commission prior to its consideration of them.

(3) The members of the commission, its executive secretary, staff, investigators, and duly authorized consultants shall have the duty to maintain and safeguard the confidentiality of all documents, reports, or papers which are determined to come within the exceptions to public disclosure set forth above. The failure to abide by this rule will subject the person involved to disciplinary action by the commission which

may include a reprimand, a fine, suspension from work, or termination depending upon the gravity of the infraction.

**AMENDATORY SECTION** (Amending Rules of racing, filed 4/21/61)

WAC 260-72-010 COMMUNICATION SYSTEMS, COMMISSION APPROVAL REQUIRED—CLOSURE DURING RACING. No telephone, telegraph, teletype, semaphore, signal device, radio, television, or other method of electrical, mechanical, manual or visual communication shall be installed within the enclosure of any licensee, until same has been approved by the commission.

(1) All public telephones and telegraph wires at the track, or on the grounds of the association conducting the meeting, shall be closed with the opening of the parimutuel windows for the first race of the day. No calls or wires shall be allowed to be made or received after the telephones and telegraph wires are closed until after the last race has been finished except by the officials of the commission, by duly authorized officials of the association, or duly accredited members of the press.

(2) The association is responsible to see that no unauthorized person uses their telephones during the period from thirty minutes prior to the first race to fifteen minutes after the last race of the day.

(3) No person shall be permitted to communicate information through the use of private telephones or other methods of communication, including but not limited to cellular telephones, while on the grounds of the association after the opening of the parimutuel windows for the first race of the day until after the last race has been finished, except as permitted by the officials of the commission or duly authorized officials of the association.

### WSR 86-15-083

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Ecology intends to adopt, amend, or repeal rules concerning the amending of Referendum 39 regulations (chapter 173-80 WAC) to limit its use and distribution;

that the agency will at 0900 hours, Friday, August 29, 1986, in the Energy Facility Site Evaluation Council Hearing Room, 4224 6th Avenue S.E., Building #1, Lacey, WA 98504-8911, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 12, 1986.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 82.24 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 4, 1986.

Dated: July 23, 1986

By: Phillip C. Johnson  
Deputy Director

#### STATEMENT OF PURPOSE

Title: WAC 173-80-080 Limiting the use of existing Referendum 39 regulations and funds.

Description of Purpose: Amend chapter 173-80 WAC to limit the use and distribution of existing Referendum 39 funds.

Statutory Authority: Chapter 82.24 RCW.

Summary of Rule: The amendment restricts use of Referendum 39 funds.

Reasons Supporting Proposed Action: New funding program created by ESSB 4519 changes allowable funding activities and requires this amendment.

Agency Personnel Responsible for Drafting: Larry McCallum, mailstop PV-11, 459-6098; Implementation: John Stetson, mailstop PV-11, 459-6096; and Enforcement: Not applicable.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: Not applicable.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: Not applicable.

Small Business Economic Impact Statement: Not applicable.

#### NEW SECTION

WAC 173-80-080 LIMITING THE USE OF EXISTING REFERENDUM 39 REGULATIONS AND FUNDS. This chapter is not applicable to the allocation and uses of moneys administered by the department of ecology pursuant to chapter 3, Laws of 1986.

### WSR 86-15-084

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Ecology intends to adopt, amend, or repeal rules concerning a new regulation for implementing section 4, chapter 3, Laws of 1986 (ESSB 4519), and allocate 20.0 million dollars for water pollution control facilities and activities;

that the agency will at 0900 hours, Friday, August 29, 1986, in the Energy Facility Site Evaluation Council Hearing Room, 4224 6th Avenue S.E., Building #1, Lacey, WA 98504-8911, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 12, 1986.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 82.24 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 4, 1986.

Dated: July 23, 1986

By: Phillip C. Johnson  
Deputy Director

STATEMENT OF PURPOSE

Title: Chapter 173-90 WAC, Standards and limitations on the use of clean water funds for pollution abatement.

Description of Purpose: To adopt rules for implementing section 4 of the Substate [Substitute] Senate Bill 4519 of the centennial clean water fund and amend existing Referendum 39 rules.

Statutory Authority: Chapter 82.24 RCW.

Summary of Rule: Summary statement on the new regulation and amended regulation to implement the interim (Phase I) \$20.0 million clean water program.

Background and Purpose: Engrossed Substitute Senate Bill 4519 established the new centennial clean water fund in February of this year. The law provides for the development of two water quality funding programs; a long-term one financed principally from tobacco tax revenue and a short-term (interim) program for fiscal year '87, funded from the existing Referendum 39 monies. This regulation (chapter 173-90 WAC), and amendment to the existing Referendum 39 regulation, will implement the short-term \$20.0 million program.

The new regulation provides implementing rules which cover four major program funding areas. The appropriation and funding categories are as follows: \$1,500,000 for planning assistance to ground water management areas; \$500,000 for nonpoint source pollution control activities; \$4,000,000 to assist aquifer protection areas; and \$13,500,000 for designing water pollution control facilities.

The \$500,000 for organic laboratory capability provided in the bill does not need to be addressed in this regulation.

The new regulation sets forth standards to establish and determine funding eligibilities and priorities for each pollution control category listed above. Program guidelines are currently being developed to provide potential grantees with procedures and timelines for receiving grant funds.

Filing Process: The new legislation mandates the department to obligate all of the funds in the interim program by end of the fiscal year 1987. Therefore, both the rule and amendment were filed July 3, 1986, under emergency procedure to allow the jurisdictions to proceed with project activities. This second filing of the enclosed regulation and amendment constitutes the start of the regular adoption process. A public hearing will be held August 29, 1986, and an adoption hearing the first part of September.

Reasons Supporting Proposed Action: The new regulation and amendment will implement section 4 of the centennial clean water program as established by ESSB 4519.

Agency Personnel Responsible for Drafting: Larry McCallum, mailstop PV-11, 459-6098; Implementation: John Stetson, mailstop PV-11, 459-6096; and Enforcement: Not applicable.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: Not applicable.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: Not applicable.

Small Business Economic Impact Statement: Not applicable.

Chapter 173-90 WAC
STANDARDS AND LIMITATIONS ON THE USE OF CLEAN WATER FUNDS FOR POLLUTION ABATEMENT

WAC

- 173-90-010 Purpose and scope.
173-90-015 Definitions.
173-90-020 Provision of guidelines.
173-90-040 Ground water management area planning grants—Eligibility criteria, funding levels, development of priority rating and priority lists—Eligibility criteria.
173-90-050 Nonpoint source pollution control activity grants—Eligible criteria, funding levels and administration, and establishing highest priority.
173-90-060 Aquifer protection assistance grants—Eligibility criteria, funding levels, and establishing highest priority.
173-90-070 Water pollution control design grants—Eligibility criteria, funding levels, and establishing highest priority.

NEW SECTION

WAC 173-90-010 PURPOSE AND SCOPE. The purpose of this chapter is to set forth criteria and limitations on uses of moneys administered by the department of ecology pursuant to chapter 3, Laws of 1986 (ESSB No. 4519).

Chapter 3, Laws of 1986 appropriates from the general fund, state and local improvements revolving account, twenty million dollars to be obligated for the fiscal year ending June 30, 1987, for state grants, loans, or combinations of grants/loans for the following purposes:

- (1) Planning assistance to any ground water area created pursuant to chapter 453, Laws of 1985.
(2) Nonpoint source pollution control activities.
(3) Assistance to aquifer protection areas created pursuant to chapter 425, Laws of 1985.
(4) Assistance for the design of water pollution control facilities.
(5) Acquisition of organic laboratory capability for joint use by the department of social and health services and the department to test and analyze waters, including public drinking water supplies.

This chapter applies only to the allocation of funds appropriated by chapter 3, Laws of 1986.

NEW SECTION

WAC 173-90-015 DEFINITIONS. (1) "Department" means the Washington state department of ecology.

(2) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.

(3) "Director" means the director of the Washington state department of ecology or the director's designee.

(4) "Water pollution control facility" or "facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole sources aquifers.

(5) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water; (b) to control and/or prevent nonpoint



sources of water pollution; (c) to prevent pollution and restore the water quality of fresh water lakes; and (d) to maintain or improve water quality through the use of water pollution control facilities or other means.

(6) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(7) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, or other aquatic life.

(8) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(9) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the administrator of the environmental protection agency pursuant to Public Law 93-523.

(10) "Project priority list" means the annual list of rated and ranked projects for which state grant assistance is expected during the year for which the list is issued.

(11) "Priority rating system" means the process and criteria used by the department of ecology to rate and rank ground water management area projects in the state that are considered eligible for assistance under chapter 3, Laws of 1986 (ESSB 4519) and chapter 173-100 WAC Ground water management area and programs.

#### NEW SECTION

WAC 173-90-020 PROVISION OF GUIDELINES. The department will publish guidelines which establish procedures and describe the grant application review and award process for categorical funding areas described in WAC 173-90-040 through 173-90-070. The guidelines will be made available prior to the first grant award.

#### NEW SECTION

WAC 173-90-040 GROUND WATER MANAGEMENT AREA PLANNING GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, DEVELOPMENT OF PRIORITY RATING AND PRIORITY LISTS—ELIGIBILITY CRITERIA. (1) To be eligible for a planning grant, an applicant must:

(a) Be identified as a probable ground water management area; and  
(b) Be on the department's general schedule as a designated ground water management area for program planning purposes (WAC 173-100-070).

(2) Cost eligible items include:

(a) Development of a ground water management program identified in chapter 173-100 WAC Ground water management areas and programs. Program requirements shall include but not be limited to:

(i) A detailed characterization of the area's hydrogeology.  
(ii) A discussion of land and water use activities potentially affecting the ground water of the area.

(iii) Identification of present and long-term resource management objectives and alternatives for the area, and implementation plans, as set forth in WAC 173-100-100.

(b) Public hearings held on the proposed programs pursuant to RCW 90.44.400 and WAC 173-100-120.

(c) Costs associated with the responsibilities of the lead agency and ground water advisory committee under WAC 173-100-080, 173-100-090, 173-100-120 and 173-100-140.

(3) Funding levels:

(a) Total state grant or loan awards for fiscal year 1987 shall not exceed one million five hundred thousand dollars for planning assistance for developing ground water management programs.

(b) The department funded share for planning assistance shall not exceed fifty percent of the estimated annual cost of developing the ground water management program except assistance to conservation districts which shall not exceed seventy-five percent of such cost.

(c) Funds awarded to designated ground water management areas shall not exceed three hundred thousand dollars.

(4) Development of project priority ratings and priority lists.

(a) Project priority ratings—The department shall establish an ad hoc ecology review committee to review and evaluate all requests for designation and rank eligible proposals on the general schedule as adopted under WAC 173-100-060. The committee shall consist of headquarters program and regional staff with project review authority. A core group of ad hoc committee members shall be formed and responsible for the initial review of all requests for identification as probable ground water area. The entire committee shall review, evaluate, and rank eligible proposals to be designated on the general schedule. Projects shall be rated on the following criteria:

(i) The significance of the problem.

(ii) The affected users.

(iii) Aquifer sensitivity.

(iv) Regional and local interest and commitment.

(v) Probability of successful implementation.

(b) Project priority lists:

(i) The director or the director's designee shall utilize the general schedule as the annual project priority lists for awarding ground water management program planning grants.

(ii) The priority lists shall be available to the public for review and comment prior to approval by the director.

(iii) Comments received during the review period shall be considered and responded to before a final list is approved by the director.

(iv) Schedules and procedures for submitting applications shall be made available to the public.

#### NEW SECTION

WAC 173-90-050 NONPOINT SOURCE POLLUTION CONTROL ACTIVITY GRANTS—ELIGIBLE CRITERIA, FUNDING LEVELS AND ADMINISTRATION, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligible criteria:

(a) Grants shall be made available to public bodies involved in the planning and development of nonpoint source pollution control activities and facilities. Funding shall focus on but not be limited to those sources of nonpoint pollution generated by agricultural activities, urban and stormwater runoff, on-site waste disposal, and impacts from forest practices.

(b) A jurisdiction shall be eligible for grants if it meets the following criteria:

(i) It has the basic capability to develop and implement the long range water quality management plan.

(ii) It is able to document accomplishments and progress towards achieving water quality objectives.

(2) Funding levels and administration:

(a) Funding levels:

(i) Total grant funds for assisting in the development of nonpoint source pollution control activities shall not exceed five hundred thousand dollars. The grant funds are intended to be awarded to solve pollution problems caused by urban and stormwater runoff, on-site waste disposal and forest practices activities and including those identified by the Washington state conservation commission.

(ii) The department shall determine an appropriate state/local funding ratio. However, total state funded share shall not exceed fifty percent of the eligible costs, except for conservation districts which shall not exceed seventy-five percent of the estimated cost.

(b) Program administration:

(i) The department—The department shall administer the funding of all nonpoint source water quality grants as identified under this section. The total level of funding received shall depend on the funding needs of projects of highest priority.

(ii) Application for funding—The department shall accept applications for funding from all public entities for eligible planning programs and projects. The department shall award a grant to the Washington state conservation commission for the purpose of awarding special project water quality grants to conservation districts. The director or director's designee shall review the commission's request for funding and award a grant to the commission for all or part of the application.

(3) Establishing highest priority:

(a) The department—A review committee shall be established within ecology to determine the highest priority nonpoint program and projects for funding. Rating criteria shall include:

(i) How the plan or program corrects, prevents, or controls nonpoint pollution in priority water bodies as identified by the department.

(ii) How the program or project implements best management practices to control nonpoint source pollution.

(iii) Level of corrective action proposed for priority water bodies and the cleanup process.

(iv) Level of preventative actions proposed.

(v) How plans and programs educate and train the public in using existing management techniques to control nonpoint pollution.

(b) Washington state conservation commission—The commission shall develop rating criteria and use the established water quality funding advisory committee to evaluate eligible planning programs and projects submitted by conservation districts. The department shall review rating criteria used.

(4) Establishment of final priorities:

(a) The director or director's designee shall determine final priorities after reviewing all project priority lists.

(b) The priority lists will be readily available to the public for review and comment prior to approval by the director.

(c) Comments received during any review period shall be considered and responded to before final list approval.

(d) Approved lists shall be made available after the close of the application period.

#### NEW SECTION

WAC 173-90-060 AQUIFER PROTECTION ASSISTANCE GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligible criteria:

(a) Grants shall be made available to public bodies involved in aquifer protection assistance. A jurisdiction shall be eligible for grants if it meets the following criteria:

(i) The jurisdiction is an established aquifer protection area pursuant to chapter 425, Laws of 1985 (SHB No. 1116); and

(ii) The jurisdiction has an adopted comprehensive plan to protect, preserve, and rehabilitate subterranean water. The plan may be prepared as a portion of a county sewerage and/or water general plan pursuant to RCW 36.94.030.

(2) Funding levels:

(a) Total funding assistance to any aquifer protection area shall not exceed four million dollars.

(b) Grants will be made for eligible planning, design and/or construction items that are performed under the grant agreement on a cost-share basis, not to exceed fifty percent of the total eligible cost for the state-funded portion.

(3) Establishing highest priority: The department staff shall determine priority funding for aquifer protection activities. Highest priority will be given for funding aquifer protection in areas where water quality and quantity has been shown to be imminently threatened and the community has provided matching funds for implementing an existing aquifer protection plan.

(4) New design and construction activities: Eligible costs shall be limited to new activity begun after the emergency filing date of these regulations. In addition, written approval must be obtained from the department. Costs incurred prior to the date of written approval are not grant eligible.

#### NEW SECTION

WAC 173-90-070 WATER POLLUTION CONTROL DESIGN GRANTS—ELIGIBILITY CRITERIA, FUNDING LEVELS, AND ESTABLISHING HIGHEST PRIORITY. (1) Eligibility criteria:

(a) Funds must be used solely for design of water pollution control facilities.

(b) Grant awards will be given to those public entities deemed of highest priority for designing facilities for eventual upgrading from primary to secondary treatment facilities or for designing new secondary treatment facilities.

(c) Funds will be awarded for the design of facilities on a first-come, first-served basis. Guidelines shall be developed and made available prior to the first grant award.

(2) Funding levels:

(a) Total design grant funds shall not exceed thirteen million five hundred thousand dollars.

(b) No single public body can receive more than eight million dollars from these grant funds for a design grant.

(c) Grants will be made for eligible design items not to exceed fifty percent of the total eligible cost for the state-funded portion.

(3) Establish highest priority: The department shall consider the following criteria in determining highest priority:

(a) Whether the department has issued an enforcement order or the applicant has a legally binding schedule for compliance with secondary treatment requirements.

(b) Whether the applicant has completed an approved facility plan engineering report.

**WSR 86-15-085**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**  
[Filed July 23, 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 amendment of WAC 284-24-060 to require the approval of the commissioner before commercial rate filings may be used and excluding the need for rate filings with respect to surplus line coverages placed in this state; the amendment of WAC 284-24-080 to require the approval of the commissioner before certain inland marine risks' rate filings may be used, adding boatowners' and/or boats under twenty-seven feet to the rule; and adding a new section to chapter 284-20 WAC to exclude the need for form filings with respect to surplus line coverages placed in this state;

that the agency will at 9:00 a.m., Wednesday, August 27, 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 29, 1986, in the Insurance Commissioner's Office, Olympia, Washington, at 10:30 a.m.

The authority under which these rules are proposed is RCW 48.02.060 (3)(a).

The specific statute these rules are intended to implement is RCW 48.19.030, 48.19.070, 48.19.080 and 48.18.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 27, 1986. Mailing address: Insurance Building, AQ-21, Olympia, Washington 98504.

Dated: July 22, 1986  
By: Robert E. Johnson  
Deputy Commissioner

#### STATEMENT OF PURPOSE

Title: Amending WAC 284-24-060 to require the Insurance Commissioner's approval of commercial rate filings before they may be used and to exclude the need for rate filings with respect to surplus line coverages; amending WAC 284-24-080 to require the commissioner's approval before certain inland marine risks' rate filings may be used and adding boatowners' and/or boats under twenty-seven feet to the rule; and adding a new section to chapter 284-20 WAC to exclude the need for form filings with respect to surplus line coverages placed in this state.

The statutory authority for amending WAC 284-24-060 is RCW 48.02.060 to effectuate the provisions of

RCW 48.19.080. The statutory authority for amending WAC 284-24-080 is RCW 48.02.060 to effectuate the provisions of RCW 48.19.030 and 48.19.070. The statutory authority for proposed WAC 284-20-100 is RCW 48.02.060 to effectuate RCW 48.18.100(6).

In 1982, prompted in part by budgetary restraints, the commissioner issued WAC 284-24-080 to permit rates for certain insurance, primarily of a commercial nature, to be used as soon as a proper filing had been made. The purpose then was to allow commercial rates to be adjusted more rapidly and to be more readily subject to the restraints of competition. The recent crisis in the insurance market has indicated that there should be a return to the regular statutory procedures with respect to the commissioner's review of insurance rates. In its report to the legislature of November 13, 1985, the Joint Study Committee on Insurance Availability and Affordability recommended that the commissioner return to "prior approval" on commercial rate filings, recognizing that more staff would be needed to implement such change. The commissioner anticipates additional staffing so that he will be able to assure that the commercial insurance rates will be fair and thoroughly "checked out" before they are used, as recommended by the study committee. These amendments will overturn the 1982 experiment which permitted "file and use" of commercial rates, and return to the statutory system of "prior approval."

The proposed amendment of WAC 284-24-080 will also add to the list of inland marine risks that require rate filings the category of "boatowners' and/or boats under twenty-seven feet in length," so that the protection of the rating laws will be extended as to small boat risks.

The 1986 amendments of RCW 48.18.290 and 48.18.296, by chapter 287, Laws of 1986, to exclude surplus lines insurance from the cancellation and nonrenewal laws, demonstrates that chapters 48.18 and 48.19 RCW otherwise apply to surplus lines insurance. In the past, the commissioner has not required that surplus lines insurance rates or forms be filed for approval. The proposed rules confirm that practice by specifically excluding the filing requirements for rates and forms with respect to coverages placed in this state pursuant to chapter 48.15 RCW. The amendment to WAC 284-24-060 deals with rates, and new rule, WAC 284-20-100 deals with forms.

The need for the rules was determined by Dick Marquardt, Insurance Commissioner. They were drafted by Robert E. Johnson, Deputy Commissioner, (206) 753-2406, with the assistance of Allen Morrow, Rates and Forms Analyst, (206) 753-5396. Implementation and enforcement will be the responsibility of Edward H. Southon, Deputy Insurance Commissioner for Company Supervision, (206) 753-7303, under the supervision of David Rodgers, Chief Deputy, (206) 753-7302. The address for each is Insurance Building, AQ-21, Olympia, WA 98504.

The rules are proposed by the insurance commissioner, a state public official.

The rules are not necessary as the result of federal law or federal or state court action.

Small Business Impact Statement: Adoption of the rules as proposed will have no economic impact on large or small business whether measured by cost per employee or cost per hour of labor. With respect to rate filings, the same filings have been required in the past that will be required in the future. The difference which will result from the proposed action is that insurance companies will not be able to use their new rates as quickly as they sometimes have in the past. With respect to the elimination of surplus lines insurance from the rate and form filing requirements, the practices of the past are merely continued and confirmed by rule.

#### AMENDATORY SECTION (Amending Order R 82-1, filed 3/1/82)

WAC 284-24-060 MODIFICATION OF FILING REQUIREMENTS. ((+)) Pursuant to RCW 48.19.080, the commissioner rules and hereby orders that the rate filing requirements set forth in chapter 48.19 RCW are modified so that ~~((an insurer, having made its rates in full compliance with the requirements of such chapter, may use such rates immediately after it has made its filing thereof with the commissioner, with respect to the following kinds of insurance policies:~~

(a) Property insurance policies, other than  
(i) Homeowners and tenants policies, and  
(ii) Dwelling fire and allied lines insurance on one to four family units, or fire insurance on individual dwelling contents.

(b) Casualty insurance policies, other than  
(i) Vehicle insurance which provides coverage on motor homes, private passenger or station wagon type vehicles or four-wheel motor vehicles with a load capacity of fifteen hundred pounds or less, which vehicles are not part of a fleet and are used principally for personal or family needs, and motorcycles not used for commercial purposes;  
(ii) Policies covering mobile homes, travel trailers and/or their contents, and

(iii) Professional liability insurance policies.

(c) Surety insurance policies or bonds.  
(d) Marine and transportation insurance policies, other than  
(i) Boatowners' insurance policies, and  
(ii) Inland marine insurance policies covering personal property primarily intended for personal, family or household use, such as cameras, golfer's equipment, silverware, personal jewelry and personal articles.

(2) For purposes of this section the terms "dwelling units" and "dwelling buildings" include mobile homes)) no filings with respect to rates pertaining to surplus line coverages placed in this state pursuant to chapter 48.15 RCW need be made, hereby confirming the long-standing practice in this state.

#### AMENDATORY SECTION (Amending Order R 82-1, filed 3/1/82)

WAC 284-24-080 RATE FILINGS REQUIRED FOR CERTAIN INLAND MARINE RISKS. RCW 48.19.030 and 48.19.070 recognize that certain inland marine risks are by general custom of the business not written according to manual rates or rating plans. The following inland marine classes of risks are, however, by general custom of the business written according to manual rates or rating plans, and, therefore, manual rates or rating plans applicable to the following such risks shall be filed with the commissioner ~~((and may be used immediately after filing except as otherwise provided in WAC 284-24-060 (1)(d)(iii)):~~

- (1) Accounts receivable and valuable papers and records,
- (2) Agricultural machinery, farm equipment and livestock floaters,
- (3) Bicycle floater,
- (4) Cameras,
- (5) Camera and musical instrument dealers,
- (6) Equipment dealers,
- (7) Hardware and implement dealers floater,
- (8) Implement dealers stock floater,
- (9) Fine arts (private collections),
- (10) First class mail,
- (11) Floor plan,
- (12) Furriers' block,
- (13) Furriers' customers,
- (14) Garment contractors,
- (15) Golfer's equipment floater,

- (16) Musical instruments,
- (17) Negative film floater,
- (18) Neon signs,
- (19) Personal articles floater,
- (20) Personal effects,
- (21) Personal furs or fur floater,
- (22) Personal jewelry or jewelry floater,
- (23) Personal property floater,
- (24) Physicians' and surgeons' equipment floater,
- (25) Registered mail,
- (26) Silverware floater,
- (27) Stamp and coin collection floater,
- (28) Theatrical floater,
- (29) Tourist baggage,
- (30) Travel baggage (issued in combination with accident and sickness insurance), ((and))
- (31) Wedding presents, and
- (32) Boatowners' and/or boats under twenty-seven feet in length.

#### NEW SECTION

WAC 284-20-100 MODIFICATION OF FORM FILING REQUIREMENTS. Pursuant to RCW 48.18.100(6), the commissioner rules and hereby orders that all insurance documents and forms pertaining to surplus line coverages placed in this state pursuant to chapter 48.15 RCW are exempt from the requirements of RCW 48.18.100, hereby confirming the long-standing practice in this state.

**WSR 86-15-086**  
**PROPOSED RULES**  
**DEPARTMENT OF FISHERIES**  
 [Filed July 23, 1986]

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

that the agency will at 9:00 a.m., Thursday, August 28, 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 September 2, 1986.

The authority under which these rules are proposed is RCW 75.08.080 and 75.58.040.

The specific statute these rules are intended to implement is RCW 75.08.080 and 75.58.040.

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

Dated: July 23, 1986  
 By: Russell W. Cahill  
 for William R. Wilkerson  
 Director

#### STATEMENT OF PURPOSE

Sections Affected: Aquaculture: WAC 220-22-510 Aquaculture districts; 220-52-010 Shellfish—Unlawful acts; 220-52-060 Crawfish fishery; 220-69-23402 Description of aquatic farm production report; 220-69-240 Duties of commercial purchasers and receivers; 220-69-241 Duties of commercial fisherman; 220-69-242 Duties of commercial shellfish purchasers, receivers, and shuckers; 220-69-243 Duties of aquatic farmers; 220-69-300

Commercial foodfish and shellfish transportation ticket; 220-76-010 Aquatic farm registration required; 220-76-015 Aquatic farm—Definition; 220-76-020 Aquatic farm registration form—Required information; and repealed WAC 220-69-235 Description of oyster production report; 220-69-23501 Description of hardshell clam and mussel production report; 220-69-25402 Required information on aquaculture production report; 220-69-255 Required information on oyster production report; 220-69-25501 Required information on hardshell clam and mussel production report; 220-69-26402 Distribution of copies of aquaculture production report; 220-69-265 Distribution of copies of oyster production report; 220-69-26501 Distribution of copies of hardshell clam and mussel production report; 220-76-016 Aquaculture—Salmon eggs—Resale; and 220-76-025 Aquaculture—Sale of products—Invoice.

Description of Purpose: Establish aquaculture districts; substitute registration for licensing; and simplify reporting requirements.

Statutory Authority: RCW 75.08.080 and 75.58.040.

Catch Data Reporting: WAC 220-69-220 Definition of terms; 220-69-234 Description of treaty Indian fish receiving ticket; 220-69-240 Duties of commercial purchasers and receivers; 220-69-250 Required information on nontreaty fish receiving tickets; 220-69-254 Required information on treaty Indian fish receiving tickets; 220-69-260 Distribution of copies of cannery and troll fish receiving tickets; 220-69-262 Distribution of copies of marine fish and utility fish receiving tickets; 220-69-264 Distribution of copies of treaty Indian fish receiving tickets; 220-69-26401 Distribution of copies of shellfish receiving tickets; 220-69-272 Treaty Indian identification cards; 220-69-273 Imprinters; 220-69-274 Signatures; and 220-69-300 Fish receiving ticket accountability.

Description of Purpose: Increase accountability and update mailing addresses and ticket series.

Statutory Authority: RCW 75.08.080.

Summary of Rule: Aquaculture: WAC 220-22-510 establishes aquaculture districts and boundaries; 220-52-010 changes licensing requirement to registration requirement; 220-52-060 exempts aquatic farm crawfish; 220-69-23402 establishes aquatic farm production report; 220-69-240 (3)(d) exempts cultured aquatic products from fish receiving ticket requirements; 220-69-241 deletes aquatic farmer fish receiving ticket requirements; 220-69-242 exempts cultured aquatic products; 220-69-243 establishes duty to report production; 220-69-300 exempts cultured aquatic products; 220-76-010 establishes requirement for registration of aquatic farms; 220-76-015 defines aquatic farm; and 220-76-020 establishes aquatic farm registration form and required information.

Reasons Supporting Proposed Action: WAC 220-22-510, standardized districts provide for ease of reporting; 220-52-010, the licensing requirement was removed by the 1985 legislature; 220-52-060, private sector cultured aquatic products were exempted from fisheries regulation by the 1985 legislature; 220-69-23402 and 220-69-243, the 1985 legislative session established a requirement that production statistical data be kept by fisheries;

220-69-240 (3)(d), 220-69-241 and 220-69-242, private sector cultured aquatic products were exempted from taxation by the 1985 legislature, and fish receiving tickets that report wholesale values are unnecessary; 220-69-300, the transportation ticket provides documentation of catch between the harvest site and the wholesale dealer. With no wholesale dealer reporting requirement, intermediate documentation is unnecessary; 220-76-010, the 1985 legislative session made it mandatory that aquatic farms register with fisheries; 220-76-015, it is necessary to know who must register; and 220-76-020, standardization of form of reporting and required information provides for ease of reporting.

**Repealers:** If the reporting requirements in the amendments and new sections are adopted, these repealed sections will be obsolete.

**Catch Data Reporting: Summary of Rule:** WAC 220-69-220 defines working day; 220-69-234 removes differentiation between on- and off-reservation catch areas; provides for recording of shellfish; 220-69-240(9) establishes date of entry on ticket for landings that take more than 24 hours; 220-69-250 deletes take-home fish requirements for ocean bottomfish catches; 220-69-254 makes dealer use of imprinter card mandatory; 220-69-260, 220-69-262 and 220-69-26401 changes requirement that fish receiving ticket be mailed daily to requirement that fish receiving ticket be received by the Department of Fisheries no later than the fourth working day after completion; 220-69-264 changes requirement that fish receiving ticket be mailed daily to requirement that fish receiving ticket be received by the Department of Fisheries no later than the fourth working day after completion; provides new address of Northwest Indian Fisheries Commission; 220-69-272 provides identification cards may be used with imprinters for shellfish deliveries; 220-69-273 deletes imprinter exemption for minimal transactions; 220-69-274 clarifies that original receiver's signature required on all completed fish receiving tickets; and 220-69-280 deletes use of old fish receiving ticket series.

**Reasons Supporting Proposed Action:** WAC 220-69-220, 220-69-260, 220-69-262, 220-69-264 and 220-69-26401, these proposals allow for timely receipt of catch data, but do not require that the completed fish ticket be mailed daily; 220-69-234, conforms the treaty Indian fish ticket to management needs; 220-69-240(9), when landings take longer than 24 hours, the delay in dating the fish receiving ticket until completion of the landing provides that the original receiver is not unfairly penalized for late mailing; 220-69-250, there is no present need to capture this data; 220-69-254 and 220-69-273, mandatory imprinter usage reduces coding errors and allows for timely use of management data; 220-69-272, ease of reporting; 220-69-274, increases accountability; and 220-69-280, use of current year tickets only increases accountability.

**Personnel Responsible for Drafting:** Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; **Implementation:** G. Curtis Smith and Ronald E. Westley, 115 General Administration Building, Olympia, Washington, 753-6772; and

**Enforcement:** James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

**Comments:** None.

These proposals are not the result of federal law or court order.

**Small Business Economic Impact Statement:** No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

#### NEW SECTION

WAC 220-22-510 AQUACULTURE DISTRICTS. (1) AREA 41A shall include all waters of Budd Inlet south of a line between Dofflemeyer Point to Cooper Point.

(2) AREA 41B shall include all waters of Carr Inlet north and west of a line between Gibson Point on Fox Island and Hyde Point on McNeil Island and a line crossing Pitt Passage southwest from Signal Tower No. 5, and all waters of Hale Passage west of a line from Point Fosdick and Fox Point on Fox Island.

(3) AREA 41C shall include all waters of Case Inlet between Harstene Island and the Longbranch Peninsula between an east-west line from the extreme north shore of Herron Island, and an east-west line from Johnson Point.

(4) AREA 41D shall include all waters of Case Inlet north of Area 41C and west of a line running north from Dougall Point.

(5) AREA 41E shall include all waters of Eld Inlet south of a line across the entrance of Eld Inlet projected from Dofflemeyer Point through Cooper Point.

(6) AREA 41F shall include all waters surrounding Anderson Island south of Area 41B and 41C and a southwesterly line from Gibson Point on Fox Island to Sunset Beach.

(7) AREA 41G shall include all waters of Hammersley Inlet and Oakland Bay west of a line between Hungerford Point and Arcadia and the entrance of Hammersley Inlet.

(8) AREA 41H shall include all waters of Totten and Skookum Inlets southwest of a line from Arcadia to Hunter Point.

(9) AREA 41J shall include all waters of Pickering Passage and Peale Passage bounded by Areas 41A, 41C, 41H, 41G, 41D, and a line running south from Brisco Point on Harstene Island.

(10) AREA 41K shall include all waters of Henderson Inlet and Dana Passage east of Area 41J and south of Area 41C.

(11) AREA 41L shall include all waters of The Narrows, Dalco Passage, and Commencement Bay north and west of Areas 41F and 41B and south of a line from the Gig Harbor entrance marker to Neill Point on Vashon Island to Browns Point.

(12) AREA 41M shall include all waters of East Passage north and east of Area 41L and south of a line from Point Vashon to Brace Point.

(13) AREA 41N shall include all waters of Colvos Passage north of Area 41L and south of a line from Point Southworth to Point Vashon.

(14) AREA 42A shall include all waters of Dyes Inlet, the Washington Narrows, and Sinclair Inlet west of a southeast line from the north shore of the Washington Narrows entrance.

(15) AREA 42B shall include all waters of Discovery Bay south of a line between Diamond Point and Cape George.

(16) AREA 42C shall include all waters of all waters of Hood Canal south of the Hood Canal Floating Bridge and north of a line between Quatsap Point and the entrance of Stavis Bay.

(17) AREA 42D shall include all waters of Hood Canal south of Area 42C and north of a line between Lilliwap Creek and the south entrance of Dewatto Bay.

(18) AREA 42E shall include all waters of Hood Canal south of Area 42D.

(19) AREA 42F shall include all waters of Oak Bay west of a line from Liplip Point on Marrowstone Island to Olele Point and east of the bridge connecting Indian Island and the mainland.

(20) AREA 42G shall include all waters near Port Angeles south of a line between Angeles Point and the northern extremity of Dungeness Spit.

(21) AREA 42H shall include all waters north of the Hood Canal Bridge and south of a line between Olele Point and Foulweather Bluff.

(22) AREA 42J shall include all waters of Port Madison east of the Agate Pass Bridge and west of a line between Point Jefferson and Skiff Point on Bainbridge Island.

(23) AREA 42K shall include all waters of Port Orchard south of an east-west line at Battle Point on Bainbridge Island, west of a line projected from Restoration Point on Bainbridge Island through the westernmost portion of Blake Island to the Mainland in Yukon Harbor, excluding Area 42A.

(24) AREA 42L shall include all waters of Port Townsend and Kilisut Harbor bounded by the Indian Island Bridge and a line from Marrowstone Point to Point Wilson.

(25) AREA 42M shall include all waters of Liberty Bay and those contiguous waters north of Area 42K and south of Area 42J.

(26) AREA 42N shall include all waters of Admiralty Inlet and Puget Sound north of Areas 41N and 41M, east of 42K and 42J, east of Areas 42H, 42F and 42L, south of a line between Point Wilson and Admiralty Head, and west of a line between Possession Point and Picnic Point.

(27) AREA 42P shall include all waters of Sequim Bay.

(28) AREA 42R shall include all waters south of a line between the northern extremity of Dungeness Spit and Point Wilson, excluding Areas 42B and 42P.

(29) AREA 43A shall include all waters of Padilla Bay west of the line from Shannon Point and the closest portion of Guemes Island, and south of a line between Clark Point on Guemes Island and William Point on Samish Island.

(30) AREA 43B shall include all waters of Lummi Bay and Bellingham Bay east of the line between Sandy Point and Point Migley on Lummi Island, northeast of the line between William Point on Samish Island and Governors Point.

(31) AREA 43C shall include all waters of Boundary Bay and Crayton Harbor northeast of the line between Point Roberts and Birch Point, and south of the international border.

(32) AREA 43D shall include all waters of Possession Sound east of Area 42N, and south of a line from Sandy Point on Whidbey Island, to Camano Head, then to south entrance of Tulalip Bay.

(33) AREA 43E shall include all waters of Port Susan north of Area 43D.

(34) AREA 43F shall include all waters of Samish Bay southwest of Area 43B.

(35) AREA 43G shall include all waters of Saratoga Passage between a line from Sandy Point on Whidbey Island and Camano Head, and a line from Polnell Point on Whidbey Island to Rocky Point on Camano Island.

(36) AREA 43H shall include all waters of Skagit Bay and Similk Bay north of Area 43G, south of the La Conner Bridge, and east of the Deception Pass Bridge.

(37) AREA 43J shall include all United States waters of the Strait of Georgia, the United States waters surrounding the San Juan Islands, and the United States waters of the Strait of Juan de Fuca east of Angeles Point.

(38) Area 43K shall include all United States waters of the Strait of Juan de Fuca west of Angeles Point and east of a line between Tatoosh Island and Bonilla Point.

(39) AREA 44A shall include all waters of Grays Harbor north of the marked Chehalis River Channel and west of a line between Point Chehalis and the southwestern most point of the Ocean Shores Peninsula.

(40) AREA 44B shall include all waters of Grays Harbor south of the marked Chehalis River Channel and west of a line between Point Chehalis and the southwestern most point of the Ocean Shores Peninsula.

(41) AREA 45A shall include all waters of Willapa Bay north of the Willapa River Channel and west of the North River Channel.

(42) AREA 45B shall include all waters of Willapa Bay north of the Willapa River Channel, west of the North River Channel and west of a line between Cape Shoalwater and Leadbetter Point.

(43) AREA 45C shall include all waters of Willapa Bay south of the Willapa River Channel and east of Stoney Point.

(44) AREA 45D shall include all waters of Willapa Bay south of the Willapa River Channel, west of Stoney Point, east of the Nahcotta Channel, and north and east of a line running north from Goose Point to the middle of the Bay Center Channel and then westerly following the Bay Center Channel to the Nahcotta Channel.

(45) AREA 45E shall include all waters of Willapa Bay east of the Nahcotta Channel, south of Area 45D, and north of a line projected west from Sandy Point.

(46) AREA 45F shall include all waters of Willapa Bay east of the Nahcotta Channel, south of Area 45E, and northeast of a line following the Nemah River Channel to channel marker "4" then west of the Nahcotta Channel.

(47) AREA 45G shall include all waters of Willapa Bay west of Diamond Point, southwest of the Nahcotta Channel, south of Area 45F, and north of a line between Paradise Point on Long Island and Sunshine Point.

(48) AREA 45H shall include all waters of Willapa Bay south of Area 45G and north and west of the ferry crossing to Long Island.

(49) AREA 45J shall include all waters of Willapa Bay west of the Long Island ferry crossing and south of High Point.

(50) AREA 45K shall include all waters of Willapa Bay north of High Point, east of the Nahcotta Channel, and south of the line between Diamond Point and the Nahcotta Boat Basin.

(51) AREA 45L shall include all waters of Willapa Bay north of High Point, west of the Nahcotta Channel and south of the line between Diamond Point and the Nahcotta Boat Basin.

(52) AREA 45M shall include all waters of Willapa Bay east of the line between Cape Shoalwater and Leadbetter Point, south of Area 45B, west of Areas 45D, 45E, and 45F, and north of latitude 46 degrees, 35 minutes north.

(53) AREA 45N shall include all waters of Willapa Bay south of Area 45M, east of Areas 45F and 45G, and north of Areas 45K and 45L.

(54) AREA 47A shall include all freshwater streams, ponds or lakes in Clallam County.

(55) AREA 47B shall include all freshwater streams, ponds or lakes in Clark County.

(56) AREA 47C shall include all freshwater streams, ponds or lakes in Cowlitz County.

(57) AREA 47D shall include all freshwater streams, ponds or lakes in Grays Harbor County.

(58) AREA 47E shall include all freshwater streams, ponds or lakes in Island County.

(59) AREA 47F shall include all freshwater streams, ponds or lakes in Jefferson County.

(60) AREA 47G shall include all freshwater streams, ponds or lakes in King County.

(61) AREA 47H shall include all freshwater streams, ponds or lakes in Kitsap County.

(62) AREA 47J shall include all freshwater streams, ponds or lakes in Lewis County.

(63) AREA 47K shall include all freshwater streams, ponds or lakes in Mason County.

(64) AREA 47L shall include all freshwater streams, ponds or lakes in Pacific County.

(65) AREA 47M shall include all freshwater streams, ponds or lakes in Pierce County.

(66) AREA 47N shall include all freshwater streams, ponds or lakes in San Juan County.

(67) AREA 47O shall include all freshwater streams, ponds or lakes in Skagit County.

(68) AREA 47P shall include all freshwater streams, ponds or lakes in Skamania County.

(69) AREA 47Q shall include all freshwater streams, ponds or lakes in Snohomish County.

(70) AREA 47R shall include all freshwater streams, ponds or lakes in Thurston County.

(71) AREA 47S shall include all freshwater streams, ponds or lakes in Wahkiakum County.

(72) AREA 47T shall include all freshwater streams, ponds or lakes in Whatcom County.

(73) AREA 48A shall include all freshwater streams, ponds or lakes in Adams County.

(74) AREA 48B shall include all freshwater streams, ponds or lakes in Asotin County.

(75) AREA 48C shall include all freshwater streams, ponds or lakes in Benton County.

(76) AREA 48D shall include all freshwater streams, ponds or lakes in Chelan County.

(77) AREA 48E shall include all freshwater streams, ponds or lakes in Columbia County.

(78) AREA 48F shall include all freshwater streams, ponds or lakes in Douglas County.

(79) AREA 48G shall include all freshwater streams, ponds or lakes in Ferry County.

(80) AREA 48H shall include all freshwater streams, ponds or lakes in Franklin County.

(81) AREA 48J shall include all freshwater streams, ponds or lakes in Garfield County.

(82) AREA 48K shall include all freshwater streams, ponds or lakes in Grant County.

(83) AREA 48L shall include all freshwater streams, ponds or lakes in Kittitas County.

(84) AREA 48M shall include all freshwater streams, ponds or lakes in Klickitat County.

(85) AREA 48N shall include all freshwater streams, ponds or lakes in Lincoln County.

(86) AREA 48O shall include all freshwater streams, ponds or lakes in Okanogan County.

(87) AREA 48P shall include all freshwater streams, ponds or lakes in Pend Oreille County.

(88) AREA 48Q shall include all freshwater streams, ponds or lakes in Spokane County.

(89) AREA 48R shall include all freshwater streams, ponds or lakes in Stevens County.

(90) AREA 48S shall include all freshwater streams, ponds or lakes in Walla Walla County.

(91) AREA 48T shall include all freshwater streams, ponds or lakes in Whitman County.

(92) AREA 48U shall include all freshwater streams, ponds or lakes in Yakima County.

**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 84-24, filed 3/27/84)

WAC 220-52-010 SHELLFISH—UNLAWFUL ACTS. (1) It shall be unlawful to take, dig for or possess geoduck clams for commercial purposes except from ~~((licensed clam))~~ registered aquatic farms under permit issued by the director or as provided in WAC 220-52-019.

(2) It shall be unlawful to take, dig for or possess clams taken for commercial purposes within the boundaries of any state park located on tidewater unless authorized by a permit issued by the director.

(3) It shall be unlawful to take oysters or clams for commercial purposes from tidelands reserved for public use unless authorized by a permit issued by the director.

(4) It shall be unlawful to take oysters, clams, or mussels for commercial purposes from state oyster reserves without being licensed under RCW 75.28.290 and having permission of the director of fisheries.

(5) It shall be unlawful to take from any building, scow, boat, live-box, container, trap, net or vehicle any caught or impounded shellfish with intent to deprive the rightful owner of such shellfish.

(6) All geoduck and mechanical clam harvester vessels shall be issued an identification number. This number will be placed in a visible location on each side of the vessel and on the top of the cabin or deck awning to be visible from the air. A sign board or banner arranged so the numbers can be seen at all times from directly overhead may be substituted if the vessel does not have a fixed roof. The numbers shall be black on a white background and shall be not less than 18 inches high and of proportionate width.

(7) It shall be unlawful for a commercial clam digger to harvest clams from intertidal ground without having on his person a signed authorization from the ~~((licensed))~~ registered clam farmer for whom he is harvesting. The digger will also be required to have suitable personal identification with him when engaged in clam harvesting. The authorization from the ~~((licensed))~~ registered clam farmer must be legible, dated and must contain the date on which the authorization expires, provided that in no instance may the authorization go beyond the end of any calendar year. The authorization must additionally contain the name of each bay or area where the ~~((licensed))~~ registered clam farmer has owned or leased ground from which the named clam digger is authorized to harvest.

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

WAC 220-52-060 CRAWFISH FISHERY. (1) It shall be unlawful to take, fish for or possess crawfish for commercial purposes from waters of the state of Washington without first obtaining and having in possession a commercial crawfish permit from the director of

fisheries and it shall be unlawful to fail to comply with any of the provisions of a commercial crawfish permit and with the following regulations.

(2) It shall be unlawful to operate, set or have in the water any baited or unbaited shellfish pots for the taking of crawfish for commercial purposes except in the times and areas specified and with no more than the number of shellfish pots specified in the commercial crawfish permit issued by the director of fisheries.

(3) It shall be unlawful to take, fish for or possess crawfish for commercial purposes with gear other than shellfish pots.

(4) It shall be unlawful to take, fish for or possess crawfish for commercial purposes from the waters of the state of Washington except from the first Monday in May through October 31; provided that it shall be lawful to take, fish for and possess crawfish for commercial purposes in Washington waters of the Columbia River downstream from the mouth of the Walla Walla River from April 1 through October 31.

(5) It shall be unlawful to take, fish for or possess crawfish for commercial purposes less than 3-1/4 inches in length from the tip of the rostrum (nose) to the tip of the tail and all undersize crawfish and female crawfish with eggs or young attached to the abdomen must be immediately returned unharmed to the waters from which taken: It shall be unlawful for crawfish fishermen to fail to sort and return illegal crawfish to the waters from which taken immediately after the crawfish are removed from the shellfish pot and prior to lifting additional pots from the water.

(6) It shall be unlawful for crawfish fishermen to discard into any water of the state any crawfish bait.

(7) It shall be unlawful to plant or place in the waters of the state any crawfish imported from any other state or country without prior written approval of the director of fisheries.

~~((It shall be unlawful to engage in culture of crawfish for commercial purposes without having obtained a crawfish culture permit from the director of fisheries, and it shall be unlawful to fail to comply with any provisions of the crawfish culture permit:))~~

~~((9))~~ Commercial crawfish harvest permits will be issued only in those "waters" where fishing will not conflict with high-density residential or recreational areas provided that no permit will be issued in areas where developed parks encompass more than one-half of the water shoreline. In areas where developed parks encompass less than one-half of the water shoreline, fishing will not be permitted within 1/4 mile of the park shoreline.

~~((10))~~ (9) Commercial crawfish harvest permits will be issued to restrict the number of crawfish pots per fisherman per lake, reservoir, pond, river, slough, or stream as follows:

(a) Under 10 acres - no commercial harvest.

(b) Between 10 and 25 acres - 50 pots.

(c) Between 25 and 400 acres - 100 pots.

(d) Over 400 acres - 200 pots.

Provided that permits issued and number of pots allowed for individual fishermen will not exceed a maximum total of 400 pots per individual fisherman.

~~((11))~~ (10) The department of fisheries shall fix the maximum number of pots to be permitted in any given body of water. Once the permitted maximum number of pots for any given body of water has been reached, no further permits will be issued. Permits will be issued on a first-come, first-serve basis consistent with all other regulations concerning issuance of commercial crawfish harvest permits.

(11) The provisions of this section shall not apply to the private commercial culture of crayfish at a registered aquatic farm.

#### AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-220 DEFINITION OF TERMS. (1) DEPARTMENT OF FISHERIES as referred to in this chapter means:

Department of Fisheries  
Data Processing Section  
Room 115 General Administration Building  
Olympia, Washington 98504  
Telephone (206) 753-2540 or (206) 753-6580

(2) DEALER as referred to in this chapter means the original purchaser or receiver of food fish, shellfish, or parts thereof.

(3) BUYER as referred to in this chapter means the person who originally receives food fish, shellfish, or parts thereof on behalf of a dealer whose name appears on the buyer's license.

(4) FISHERMAN as referred to in this chapter means the person who catches or delivers food fish, shellfish, or parts thereof.

(5) ORIGINAL RECEIVER OR RECEIVER as referred to in this chapter means the first person in possession of food fish or shellfish in the state of Washington who is a licensed wholesale dealer or fish handler or who is acting in that capacity, after the food fish or shellfish have been caught or harvested by a commercial fisherman.

(6) IPSFC as referred to in this chapter means:

International Pacific Salmon Fisheries Commission  
P.O. Box 30  
New Westminster, British Columbia CANADA

(7) TREATY as referred to in this chapter means any person, group, or activity thereof made unique by virtue of descendancy from Indian tribes signatory to treaties made with the United States government in the mid-1850's where such treaties reserved certain rights in what is now the state of Washington or waters bordering that state.

(8) NONTREATY as used in this chapter means all entities not qualified by definition as treaty.

(9) TREATY INDIAN as referred to in this chapter means an individual treaty Indian fisherman.

(10) WORKING DAY as referred to in this chapter means Monday through Friday exclusive of a Washington state or federal holiday.

#### AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-234 DESCRIPTION OF TREATY INDIAN FISH RECEIVING TICKET. (1) There is hereby created a treaty Indian fish receiving ticket form to be prepared, printed, and distributed upon request, by the department of fisheries, which shall contain space for the following information:

- (a) Tribal name: Name or identification number of tribe.
  - (b) Fisherman: Name or identification number of deliverer.
  - (c) Signature: Signature of deliverer on tribal copy of ticket.
  - (d) Date: Date of landing.
  - (e) Dealer: Name of dealer, and department of fisheries' number assigned to dealer.
  - (f) Buyer: Name of buyer, and department of fisheries' number assigned to buyer.
  - (g) Gear: Code name or number of specific gear type used.
  - (h) Receiver's signature: Signature of original receiver.
  - (i) ~~((On-reservation))~~ Catch area: River name for river catch, salmon catch area for saltwater salmon catch, marine fish/shellfish catch area for nonsalmon saltwater catch.
  - (j) ~~((Off-reservation catch area: River name for river catch, salmon catch area for saltwater salmon catch, marine fish/shellfish catch area for nonsalmon saltwater catch.~~
  - (k) ~~Physical gear used: Circle physical gear actually used.~~
  - (~~h~~) Tally space for dealer's use: Used at dealer's discretion.
  - (~~m~~) (k) Species and description: Species name of fish landed.
  - (~~m~~) (l) Number of fish, pounds, and value: Information for each species landed.
  - (~~t~~) (m) Subtotal: Total price of catch landed.
  - (~~t~~) (n) Tribal tax: Tribal tax collected.
  - (~~t~~) (o) Total: Total price paid seller or deliverer.
  - (~~t~~) (p) Take-home fish: Species, number, and pounds of fish retained for personal, ceremonial, or subsistence use.
- (2) The treaty Indian fish receiving ticket shall be used for any deliveries of fish or shellfish caught by treaty Indians exercising a treaty fishing right in established treaty waters.

#### AMENDATORY SECTION (Amending Order 81-6, filed 1/13/81)

WAC 220-69-23402 DESCRIPTION OF ((AQUACULTURE)) AQUATIC FARM PRODUCTION REPORT. (1) There is hereby created an aquaculture production report form to be prepared, printed and distributed upon request by the department of fisheries ~~((which shall contain space for))~~. The aquatic farmer shall provide the following information:

- (a) Firm name: Name of aquaculture firm and telephone number
- (b) Firm address: Address of aquaculture firm
- (c) ~~((Site address: Address of aquaculture site~~
- (d) ~~Aquaculture dealer))~~ Aquatic farm registration number: Department of fisheries assigned dealer number
- (~~c~~) ~~Report for month of: Month and year covered by the report~~
- (f) Number of employees: Number of employees employed by the firm during reporting month

(~~g~~) (d) Species: Common name of species grown at ~~((aquaculture))~~ aquatic farm site

(~~h~~) Species code: Department of fisheries assigned species code  
(i) ~~Number produced: Number~~) (e) Quantity sold: Quantity, in production units, of each species ~~((produced monthly))~~ sold each month

(~~i~~) Pounds produced: Pounds of each species produced monthly  
(k) Price: Price per pound received  
(t) Value: Value of monthly production  
(~~m~~) (f) Signature: Signature of firm executive or authorized representative and date signed

(2) The aquaculture production report shall be used for monthly reporting of aquaculture production as specified in WAC ~~((220-69-241(3)))~~ 220-69-243.

#### AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-240 DUTIES OF COMMERCIAL PURCHASERS AND RECEIVERS. (1) Every person originally receiving or purchasing fresh or iced food fish or shellfish or parts thereof, or frozen food fish or shellfish or parts thereof that have not been previously landed in another state, territory, or country from fishermen, firms, or individuals, regardless of whether or not the receiver or purchaser holds a license as required under Title 75 RCW, must immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket regarding each and every purchase or receipt of such commodities. Any employee of a licensed wholesale dealer who has authorization to receive or purchase fish or shellfish for that dealer on the premises of the primary business address or any of its branch plant locations shall be authorized to initiate and sign fish receiving tickets on behalf of his employer. The business or firm shall be responsible for the accuracy and legibility of all such documents initiated in its name. Each delivery must be recorded on a separate state of Washington fish receiving ticket.

- (2) State of Washington fish receiving tickets are required for:
  - (a) Fresh food fish and shellfish landed in the state of Washington.
  - (b) Fresh food fish and shellfish previously landed in another state, territory, or country and shipped or transported into the state of Washington to an original receiver.
  - (c) Frozen food fish or shellfish not previously landed in another state, territory, or country and shipped or transported into the state of Washington to an original receiver.
- (3) State of Washington fish receiving tickets are not required for:
  - (a) Purchases or receipts made by individuals or consumers at retail.
  - (b) Purchases or receipts from any person possessing a valid Washington wholesale dealer's license except that a wholesale dealer purchasing fish from a commercial fisherman or shellfish ~~((grower))~~ gatherer shall complete the appropriate fish receiving ticket regardless of whether the commercial fisherman or shellfish ~~((grower))~~ gatherer possesses a wholesale dealer's license. It is the purchaser's responsibility to obtain the name, address, and Washington wholesale dealer's license number, together with such sales receipt documents or information as may be required, to show the deliverer's name, quantity of fish, and date of the transaction and retain these with the food fish or shellfish.
  - (c) Fresh or frozen food fish or shellfish that are in transit through the state of Washington, if no storage, handling, processing, or repackaging occurs within the state.

(d) Private sector cultured aquatic products.  
(4) Fishermen, fishermen-wholesalers, and wholesalers shall determine the weight of baitfish contained in an average and normal brail and multiply the number of such brailers of baitfish by this weight factor and report such baitfish in both dozens and total weight: PROVIDED, That it is lawful for such fishermen, fishermen-wholesalers, and wholesalers, when receiving herring, candlefish, anchovy, or pilchards for bait purposes, to delay completing that portion of the fish receiving ticket which indicates number of herring received, only if the herring, candlefish, anchovy, or pilchards are sold individually or counted as dozens. Such counts must be entered on the fish tickets immediately. An estimate of herring, candlefish, anchovy, or pilchards caught but not sold due to mortality must be included on the fish ticket as "loss estimate."

(5) It is lawful for an original receiver, when receiving purse seine-caught herring taken from Areas 20A, 20B, 21A, and 21B during the period April 15 through May 31, to delay completing that portion of the fish receiving ticket which indicates the weight of herring received only until the herring are off-loaded from the original receiver's vessel. The herring must then be weighed and the weight immediately entered



in the appropriate space on the ticket. A separate state of Washington fish receiving ticket must be initiated at the time of each individual receipt of herring from the purse seine catching vessel.

(6) The original receiver of herring taken from Puget Sound Marine Fish-Shellfish Catch Areas 20A, 20B, 21A, and 21B, during the period April 16 through May 31 must report each calendar day's receipts by noon of the following day to the Department of Fisheries, Olympia, Washington; telephone (206) 753-6637.

(7) It is unlawful for any person receiving or purchasing geoducks from fishermen, firms, or individuals, regardless of whether or not the purchaser or receiver holds a license as required under Title 75 RCW, to fail to accurately and legibly complete the fish receiving ticket initiated on the harvest tract immediately upon the actual landing of geoducks from the harvesting vessel onto the shore. This fish receiving ticket shall accompany the harvested geoducks from the department of natural resources harvest tract to the point of landing.

(8) It is unlawful for the original receiver of Pacific whiting to fail to enter an estimated weight of Pacific whiting on the fish receiving ticket immediately upon completion of the landing. The exact weights of whiting, by grade, and all incidental species in the landing must be entered on the fish receiving ticket within twenty-four hours of the landing.

(9) It is unlawful for the original receiver to fail to initiate the completion of the fish receiving ticket immediately upon receipt of any portion of a commercial catch. Should the unloading of a catch take more than one day, the date that the unloading is completed shall be entered on the fish receiving ticket as the date of landing. If, for any purpose, the vessel leaves the unloading site, the original receiver must immediately enter the current date on the fish receiving ticket.

#### AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-241 DUTIES OF COMMERCIAL FISHERMAN (~~AND GROWERS~~). (1) Every fisherman (~~or food fish or shellfish grower~~) selling his food fish or shellfish to the consumer, restaurant, boathouse, or other retail outlet, and every fisherman (~~or food fish or shellfish grower~~) who places, or attempts to place, into inter-state commerce any food fish or shellfish previously landed in this state, or caught, or harvested from the territorial waters of this state, is required to:

(a) Immediately, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket in his own name for each retail sale or out-of-state shipment so made, or

(b) At the close of each day's business, completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket in his own name for the total day's activities, or

(2) In the commercial geoduck fishery, a vessel operator so designated by the geoduck tract holder must be present at all times on each vessel commercially harvesting geoducks or having commercially harvested geoducks aboard. For each day's harvest of geoducks from each tract, the designated operator must legibly and accurately enter the following information on a fish receiving ticket before leaving the department of natural resources geoduck harvest tract:

(a) Enter in the "dealer's use" column the number of cages of geoducks harvested.

(b) Write across the top of the fish receiving ticket directly below the tear strip, the harvest vessel name, its Washington department of fisheries identification number and the date.

(c) Sign the fish receiving ticket as the fisherman.

~~((3) Food fish growers who sell their product as a wholesale dealer or make a direct sale out of state may, upon written approval from the department of fisheries, completely, accurately and legibly prepare a monthly state of Washington aquaculture production report for each and every month irrespective of whether aquaculture harvest was done during that month, or~~

~~(4) Clam farm licensees harvesting hardshell clams or mussels may, upon written approval from the department of fisheries, completely, accurately and legibly prepare a monthly state of Washington hardshell clam and mussel production report for each and every month irrespective of whether hardshell clams or mussels were harvested that month:))~~

#### AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-242 DUTIES OF COMMERCIAL (~~OYSTER~~) SHELLFISH PURCHASERS, RECEIVERS, AND SHUCKERS.

Every person receiving, purchasing, or shucking (~~oysters~~) shellfish for resale, (~~or any grower shipping oysters out of the state~~) excluding privately cultured aquatic products, shall keep complete and accurate records showing the (~~grower~~) person from whom the (~~oysters~~) shellfish were received, the quantity received, the quantity of (~~oysters~~) shellfish shucked or opened, if applicable, and the location from which the (~~oysters~~) shellfish were harvested, and shall (~~either:~~

~~(1) completely, accurately, and legibly prepare the appropriate state of Washington fish receiving ticket for each and every day's activities (or~~

~~(2) Upon written approval from the department of fisheries, completely, accurately, and legibly prepare a monthly state of Washington oyster production report for each and every month irrespective of whether oysters were received, harvested, shucked, or shipped during that month)).~~

#### NEW SECTION

WAC 220-69-243 DUTIES OF AQUATIC FARMERS. Every aquatic farmer selling or shipping out of state his private sector cultured aquatic products shall keep complete and accurate records showing the quantity of these products sold and the location of the aquatic farm where they were grown, and shall completely, accurately, and legibly prepare an aquatic farm production report. An aquatic farm production report shall be prepared for each aquatic farm and shall be mailed to the department within thirty days of the end of each quarter for which production is reported.

#### AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-250 REQUIRED INFORMATION ON NON-TREATY FISH RECEIVING TICKETS. (1) (~~Entries (a) through (m) and entries (p), (s), and (t) of subsection (1) of)~~ WAC 220-69-230 (1)(a) through (m), (p), (s), and (t) shall be required on each completed nontreaty fish receiving ticket except that (~~entries (s) and (t)~~) WAC 220-69-230 (1)(s) and (t) are not required for bottom fish landings from Pacific Ocean waters and waters of Puget Sound west of the mouth of the Sekiu River.

(2) A valid license card or duplicate license card issued by the department of fisheries shall be used in conjunction with an approved mechanical imprinter in lieu of (~~entries (a) through (e) of subsection (1) of)~~ WAC 220-69-230 (1)(a) through (e) except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department of fisheries shall be used in conjunction with an approved mechanical imprinter in lieu of (~~entries (h) and (i) of subsection (1) of)~~ WAC 220-69-230 (~~except as provided in WAC 220-69-273~~) (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) The Puget Sound crab pot/buoy brand certification number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab taken with shellfish pot gear from Puget Sound waters. The Puget Sound crab pot/buoy brand certification number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

#### AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-254 REQUIRED INFORMATION ON TREATY INDIAN FISH RECEIVING TICKETS. (~~Entries (a) through (k) and entries (m), (n), (q), and (r) of subsection (1) of)~~ (1) WAC 220-69-234 (1)(a) through (k), (m), (n), (q), and (r) shall be required on each completed treaty Indian fish receiving ticket.

~~((PROVIDED, That))~~ (2) A valid treaty Indian identification card may be used in lieu of (~~entries (a) and (b) of subsection (1) of)~~ WAC 220-69-234 (1)(a) and (b).

~~((PROVIDED FURTHER, That))~~ (3) A valid dealer or buyer card issued by the department of fisheries (~~may~~) shall be used in lieu of (~~entries (e) and (f) of subsection (1) of)~~ WAC 220-69-234 (1)(e) and (f).

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 83-203, filed 12/2/83)

WAC 220-69-260 DISTRIBUTION OF COPIES OF CANNERY AND TROLL FISH RECEIVING TICKET. State of Washington cannery and troll fish receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the fish receiving ticket the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copy (green) shall be mailed (~~each day~~) to the department of fisheries. It is required that the state copy be received by the department no later than the fourth working day after the day the ticket was completed by the original receiver.

(3) The IPSFC copy (pink) shall be mailed (~~each day~~) to the IPSFC, P.O. Box 30, New Westminster, B.C.: PROVIDED, That in the event the fish receiving ticket does not contain any pink or sockeye salmon caught in catch Areas 3, 4, 4A, 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7B, 7C, 57, 58 and 59 the fish receiving ticket shall be mailed (~~each day~~) to the department of fisheries with the state copy.

(4) Dealer copy #2 (yellow) shall be retained by receiver for their use.

(5) Fisherman copy (gold) shall be retained by the deliverer for their use.

AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-262 DISTRIBUTION OF COPIES OF MARINE AND UTILITY FISH RECEIVING TICKET. State of Washington marine and utility fish receiving tickets shall be made out in quadruplicate (four copies) at the time of landing. Upon completion of the fish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copy (green) shall be mailed (~~each day~~) to the department of fisheries (~~except for tickets recording landings of Pacific whiting as specified in WAC 220-69-240(7), which must be mailed within twenty-four hours of completion~~). It is required that the state copy be received by the department no later than the fourth working day after the day the ticket was completed by the original receiver.

(3) The dealer copy #2 (yellow) shall be retained by receiver for their use.

(4) The fisherman copy (gold) shall be retained by the deliverer for their use.

AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-264 DISTRIBUTION OF COPIES OF TREATY INDIAN FISH RECEIVING TICKETS. State of Washington treaty Indian fish receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the treaty Indian fish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copy (green) shall be mailed (~~each day~~) to the Northwest Indian Fisheries Commission, P.O. Box (~~10009, Olympia, Washington 98502~~) 5247, Lacey, Washington 98503. It is required that the state copy 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.

(3) The IPSFC copy (pink) shall be mailed (~~each day~~) to the IPSFC, P.O. Box F 203-2112, Blaine, WA 98230: PROVIDED, That in the event the fish receiving ticket does not contain any pink or sockeye salmon caught in Catch Areas 3, 4, 4A, 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7B, 7C, 57, 58 and 59 the fish receiving ticket shall be mailed (~~each day~~) to the Northwest Indian Fisheries Commission, P.O. Box (~~10009, Olympia, Washington 98502~~) 5247, Lacey, Washington 98503 with the state copy.

(4) The tribal copy (yellow) shall be mailed (~~each day~~) with the state copy to the Northwest Indian Fisheries Commission, P.O. Box (~~10009, Olympia, Washington 98502~~) 5247, Lacey, Washington 98503: PROVIDED, That upon written agreement received by the department of fisheries from a specific tribe and buyer indicating the desire to transmit the tribe's copy directly to the fisherman's tribe, then that one copy may be so disposed.

(5) The fisherman copy (gold) shall be retained by the deliverer for their use.

AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-26401 DISTRIBUTION OF COPIES OF SHELLFISH RECEIVING TICKET. State of Washington shellfish receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the shellfish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver of their use.

(2) The state copy #1 (green) shall be mailed (~~each day~~) to the department of fisheries. It is required that the state copy be received by the department no later than the fourth working day after the day the ticket was completed by the original receiver.

(3) The state copy #2 (pink) shall be mailed (~~each day~~) with state copy #1 (green) to the department of fisheries.

(4) The dealer copy #2 shall be retained by the receiver for their use.

(5) The fisherman copy (gold) shall be retained by the deliverer for their use.

AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-272 TREATY INDIAN IDENTIFICATION CARDS. Treaty Indians delivering fish or shellfish caught in treaty waters while exercising a treaty fishing right may use a treaty Indian identification card, properly embossed with the tribe number and treaty Indian identification number, in lieu of hand-written fisherman information except that the fisherman's signature is required on the tribal copy of the treaty Indian fish receiving ticket.

AMENDATORY SECTION (Amending Order 83-203, filed 12/2/83)

WAC 220-69-273 IMPRINTERS. (1) Use of a mechanical imprinter approved by the department of fisheries, in conjunction with a license card, duplicate license card, or treaty Indian identification card to identify the deliverer, and a dealer plate or buyer plate to identify the receiver on all state of Washington fish receiving tickets is hereby made mandatory.

PROVIDED, That license card information may be recorded manually on the state of Washington fish receiving tickets in the following exceptions:

(a) Oregon licensed fishermen delivering fish caught in the Columbia River.

(b) Purchases made from out-of-state firms.

(c) Fishermen selling on a (~~single-delivery vessel~~) delivery permit who have not received a delivery permit card from the department.

(d) (~~Glam and oyster farmers~~;

~~(e))~~ For nontreaty fishermen, any instance where a commercial gear license is not required and license card has not been issued.

~~((f) Upon written approval from the department of fisheries, license card and dealer or buyer plate information may be recorded manually by a dealer or buyer having a minimal number of transactions:))~~

AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-69-274 SIGNATURES. (1) The deliverer of nontreaty food fish, shellfish, or parts thereof, shall sign the complete nontreaty fish receiving ticket, which signature shall be deemed certification of the correctness of all entries thereon. The original receiver of nontreaty food fish, shellfish, or parts thereof, shall sign the complete nontreaty fish receiving ticket.

(2) The deliverer of treaty food fish, shellfish, or parts thereof shall sign the tribal copy of the treaty Indian fish receiving ticket, which signature shall be deemed certification of the correctness of all entries on the complete fish receiving ticket. The original receiver of treaty food fish, shellfish, or parts thereof, shall sign the complete treaty Indian fish receiving ticket.

(3) Where the fisherman is unable to deliver the catch, an agent of the fisherman is authorized to sign the fish receiving ticket if the person has first obtained an additional operator's license for the fishing vessel operated by the fisherman.

(4) Should the receiver receive the food fish, shellfish, or parts thereof, by other than direct delivery, the receiver shall affix his or her signature to the fish receiving ticket, and the fish receiving ticket shall be completed and submitted without the deliverer's signature together with a statement as to the reasons the signature was not obtained, and

the receiver shall assume complete responsibility for the correctness of all entries.

**AMENDATORY SECTION** (Amending Order 85-43, filed 5/10/85)

WAC 220-69-280 FISH RECEIVING TICKET ACCOUNTABILITY. Only ((Series G, Series H, Series J, Series K, Series L, Series M, or Series N)) current year state of Washington fish receiving tickets shall be used, and shall be subject to the following orders:

- (1) Official state of Washington fish receiving tickets may be ordered free of charge from the department of fisheries.
- (2) Fish receiving ticket books shall be used in numerical sequence, starting with the lowest numbered ticket book issued to the purchaser or receiver.
- (3) Fish receiving tickets or ticket books shall not be transferred from one purchaser or receiver to another purchaser or receiver without written permission from the department of fisheries.
- (4) Any purchaser or receiver terminating business shall notify the department of fisheries in writing and shall return all unused fish receiving tickets and ticket books to the department of fisheries within 30 days after termination of business.

(5) All fish receiving tickets that are incorrectly made out, voided, or otherwise unused, shall be submitted to the department of fisheries accompanying, and in sequence with, other fish receiving tickets.

(6) All fish receiving tickets that are lost, destroyed, or otherwise missing, shall be accounted for in writing to the department of fisheries.

((7) After September 30, 1985, Series G, H, J, K, L, and M fish receiving tickets are void and may not be used, but oyster, hardshell clam, and oyster production reports in these series may continue to be used:))

**AMENDATORY SECTION** (Amending Order 85-44, filed 5/10/85)

WAC 220-69-300 COMMERCIAL FOOD FISH AND SHELLFISH TRANSPORTATION TICKET. (1) It is unlawful for any person to transport commercial quantities of food fish or shellfish in Washington state unless the person has in possession a completed state of Washington commercial food fish and shellfish transportation ticket (referred to hereafter as a "transportation ticket").

- (2) The transportation ticket shall contain space for:
  - (a) The name of the fisherman who caught the fish.
  - (b) The fisherman's vessel registration number.
  - (c) The signature of the fisherman or additional operator.
  - (d) The name of the transporter.
  - (e) The signature of the transporter.
  - (f) The catch area where the food fish or shellfish were caught.
  - (g) The species of food fish or shellfish being transported.
  - (h) The number or approximate pounds of food fish or shellfish being transported.

(3) The information in subsection (2) (a) through (h) of this section are required entries on all completed transportation tickets.

(4) The transportation ticket is to be mailed together with the state copy of the fish receiving ticket as provided for in WAC 220-69-260, 220-69-262, 220-69-264, and 220-69-26401.

(5) It is unlawful for any transporter of commercial quantities of food fish or shellfish to fail to show the transportation ticket, on demand, to a fisheries patrol officer or ex officio fisheries patrol officer.

- (6) The provisions of this section do not apply to:
  - (a) Food fish and shellfish purchased at retail, provided the purchaser has, in possession, a sales receipt documenting purchase.
  - (b) Food fish or shellfish for which a fish receiving ticket has been completed.
  - (c) Food fish or shellfish being transported by the department.
  - (d) Hatchery carcass sales.
  - (e) ((Aquaculture)) Private sector cultured aquatic products in transport.
  - (f) Food fish or shellfish being transported on an Oregon transportation ticket.
  - (g) Food fish or shellfish being transported in the catching vessel.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 220-69-235 DESCRIPTION OF OYSTER PRODUCTION REPORT. (78-7)

WAC 220-69-23501 DESCRIPTION OF HARDSHELL CLAM AND MUSSEL PRODUCTION REPORT. (83-203)

WAC 220-69-25402 REQUIRED INFORMATION ON AQUACULTURE PRODUCTION REPORT. (81-6)

WAC 220-69-255 REQUIRED INFORMATION ON OYSTER PRODUCTION REPORT. (78-7)

WAC 220-69-25501 REQUIRED INFORMATION ON HARDSHELL CLAM AND MUSSEL PRODUCTION REPORT. (83-203)

WAC 220-69-26402 DISTRIBUTION OF COPIES OF AQUACULTURE PRODUCTION REPORT. (81-6)

WAC 220-69-265 DISTRIBUTION OF COPIES OF OYSTER PRODUCTION REPORT. (81-6)

WAC 220-69-26501 DISTRIBUTION OF COPIES OF HARDSHELL CLAM AND MUSSEL PRODUCTION REPORT. (83-203)

**AMENDATORY SECTION** (Amending Order 84-11, filed 2/21/84)

WAC 220-76-010 ((~~AQUACULTURE PERMITS~~)) AQUATIC FARM REGISTRATION REQUIRED. (1) It shall be unlawful for any person((~~firm, or corporation~~)) to engage in cultivation of food fish, shellfish, or other)) to cultivate aquatic ((~~animals for commercial purposes~~)) products (private sector cultured aquatic products as defined under RCW 15.85.020(3)) without the aquatic farmer having first ((~~having obtained from the director of fisheries an aquaculture permit, and it shall be unlawful for any person, firm, or corporation to fail to comply with the provisions of said aquaculture permit~~)) registered the aquatic farm with the department. Any aquatic farm must be registered with the department prior to the commencement of culture activities.

(2) ((~~Aquaculture permits~~)) Aquatic farm registrations are non-transferable. In the event there is a change of ownership of ((~~a~~)) an aquatic fish farm established under chapter 220-76 WAC ((~~and RCW 75.28.265~~)) the ((~~aquaculture permit~~)) aquatic farm registration issued to the previous owner shall be invalid.

(3) ((~~Applications for aquaculture permits shall be submitted on forms supplied by the department setting forth the following:~~

(a) Name and address of owner and operator.

(b) Location of project, including legal description and location map.

(c) Proposed layout of facilities, equipment, operation plans and procedures including disease control, and such other pertinent data as may be required:)) Registrations must be renewed annually, prior to December 31 for the succeeding calendar year. Reporting of aquaculture activity (WAC 220-69-243) during the previous calendar year shall constitute renewal for the following year.

**AMENDATORY SECTION** (Amending Order 980, filed 2/3/72)

WAC 220-76-015 ((~~AQUACULTURE SEED STOCK IMPORTATION~~)) AQUATIC FARM-DEFINITION. ((~~It shall be unlawful for the operator of a fish farm to import into the state of Washington any food fish, shellfish, or aquatic animal, eggs, fry or fingerlings without prior written approval of the director of fisheries:)) An aquatic farm is any facility or tract of land used for private, commercial culture of aquatic products. Each geographically separate facility or tract of land used for commercial culture shall constitute a separate farm. In marine waters, facilities, or tracts of land in the same marine aquaculture district which are owned or operated by the same person shall be considered to be a single farm for the purposes of this section.~~

**AMENDATORY SECTION** (Amending Order 980, filed 2/3/72)

WAC 220-76-020 ((~~AQUACULTURE INSPECTION FACILITIES AND RECORDS~~)) AQUATIC FARM REGISTRATION FORM-REQUIRED INFORMATION. ((~~fish farm facilities, fish cultural activities, and fish cultural and disease control records shall be open to inspection by authorized department personnel at any reasonable time, and the director may revoke the aquaculture permit of any person, firm, or corporation who refuses to submit such facilities and records for inspection to authorized department personnel:)) There is hereby created an aquatic farm registration form to be prepared, printed, and distributed on request by the department of fisheries. The following information shall be provided by the aquatic farmer.~~

(1) Company name/owner: Name of individual or company owning or leasing the aquatic farm, mailing address and telephone number.

- (2) Contact person: Name and telephone number of the individual immediately responsible for operation of the aquatic farm.
- (3) DSHS Shellfish Certification No.: Department of social and health services shellfish certification number where required by the department of social and health services.
- (4) Species cultured: Common name of aquatic species cultured.
- (5) Culture method: Method(s) of cultured used on aquatic farm.
- (6) Legal description, street address, county and aquaculture district for freshwater or onshore aquatic farm, and the number of separate tracts or facilities within that district which comprise the aquatic farm.
- (7) Name of bay or inlet, county and aquaculture district for marine aquatic farms.
- (8) Signature: Signature of company official or owner.
- (9) A site drawing of the aquatic farm and a brief narrative describing the facility and its operation. Freshwater farms should identify the source of culture water, where the water is discharged, and the watershed where the facility is located.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-76-016 AQUACULTURE—SALMON EGGS—RE-SALE. (980)
- WAC 220-76-025 AQUACULTURE—SALE OF PRODUCTS—INVOICES. (980)

**WSR 86-15-087**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF ECOLOGY**  
 [MEMORANDUM—JULY 23, 1986]

**NOTICE OF INTENTION TO DESIGNATE GROUND WATER MANAGEMENT AREAS AND DEVELOP GROUND WATER MANAGEMENT PROGRAMS**

The Washington State Department of Ecology hereby gives notice of its intention to designate ground water management areas and develop ground water management programs in accordance with chapter 173-100 WAC, ground water management areas and programs. Probable ground water management areas include the Clover-Chambers Creek Basin and the Gig Harbor Peninsula areas with Pierce County; Island County; South King County, Vashon/Maury Islands, Redmond-Bear Creek, and the Issaquah Creek Valley areas within King County; and Kitsap County. Designation of the areas will allow the development of comprehensive ground water management programs to protect the quality and quantity of ground water, to meet future water needs while recognizing existing water rights and to provide for effective and coordinated management of the ground water resources. The programs will be developed by state and local government agencies in conjunction with local ground water advisory committees.

The Department of Ecology will conduct public hearings to consider designation of the following areas at the time and place noted for each area:

- Island County 7:30 p.m., Thursday, August 28, 1986  
 Commissioner's Hearing Room No. 1  
 Courthouse Annex  
 Coupeville, WA 98239
- Vashon/Maury Islands 7:30 p.m., Thursday, September 4, 1986  
 Vashon Senior Center  
 17527 100th S.W.  
 Vashon, WA

- Kitsap County 3:00 p.m., Monday, September 8, 1986  
 Commissioner's Meeting Room  
 Kitsap County Courthouse  
 614 Division  
 Port Orchard, WA 98366
- South King County 7:30 p.m., Tuesday, September 9, 1986  
 Hearing Room  
 Federal Way Water and Sewer District  
 31627 First Avenue South  
 Federal Way, WA 98003
- Redmond-Bear Creek 7:30 p.m., Monday, September 15, 1986  
 Redmond City Council Chambers  
 15670 N.E. 85th Street  
 Redmond, WA 98052

Designation of the above probable ground water management areas will take place on October 7, 1986. Public hearings for the remaining areas will be scheduled at a later date.

Interested persons may request additional information or submit data, views, or comments in writing before September 30, 1986, to: David Peeler, Water Resources Program, Washington Department of Ecology, Mailstop PV-11, Olympia, Washington 98504.

**WSR 86-15-088**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning food stamp monthly reporting, amending WAC 388-54-768;

that the agency will at 2:00 p.m., Tuesday, August 26, 1986, in the Auditorium, OB-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 29, 1986.

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 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

August 12, 1986. The meeting site is in a location which is barrier free.

Dated: July 23, 1986

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

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: WAC 388-54-768.

Purpose of the Rule or Rule Change: Effective October 1, 1986, require food stamp households with a recent work history to complete and return a monthly status report. Effective October 1, 1986, clarify that food stamp recipients required to report monthly are not required to report any changes prior to the submission of their next monthly report.

Reason(s) These Rules are Necessary: Comply with federal requirements (7 CFR 273.21) to require food stamp households with a recent work history to report monthly and to clarify reporting requirements.

Summary of the Rule or Rule Change: Require food stamp households with a recent work history to report monthly. Clarify that food stamp recipients required to report monthly are not required to report any changes prior to the submission of their next monthly report. Impacts 11,800 clients with work history.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Joan Wirth, Program Manager, Division of Income Assistance, Office of Assistance Programs, mailstop OB-31J, phone 234-4913 scan.

These rules are necessary as a result of federal law, 7 CFR Parts 271, 272, 273, 274, 276, 279 and 285 (Food Security Act of 1985).

### AMENDATORY SECTION (Amending Order 2286, filed 9/24/85)

WAC 388-54-768 FOOD STAMP MONTHLY REPORTING.

(1) ~~((As a condition of continuing eligibility for food stamps certain recipients must))~~ The following households shall return ~~((to the department))~~ a completed monthly status report by the fifth day of the month following the month for which the ~~((monthly status))~~ report describes the household circumstances~~((:~~

~~Recipients who must report monthly are):~~

(a) ~~((Food stamp))~~ Households with earned income or a recent work history; ((or)) and

(b) AFDC households subject to mandatory monthly reporting per WAC 388-24-044.

(2) Recent work history is defined as having received earnings in one of the two months prior to the payment month.

(3) Households with a recent work history shall:

(a) At initial application, report for two months beginning the month following the month of opening; or

(b) During the certification period, report for two months after the last month of earnings.

(4) ~~((Failure))~~ The department shall terminate households failing to return a completed report by the fifth day of the month ((shall result in termination)), except as provided in subsection (({3})) (5) of this section.

~~(({3}))~~ (5) If the recipient furnishes the completed report to the department by the compliance date, the department shall:

(a) Accept the monthly status report; and

(b) Continue food stamps if ~~((the information on the monthly status report indicates))~~ the recipient is still eligible.

(6) The department shall not require households reporting monthly to report any changes included on the monthly report prior to the submission of the next monthly report.

WSR 86-15-089

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning student eligibility, amending WAC 388-54-670.

These rules were adopted on an emergency basis on July 8, 1986;

that the agency will at 2:00, Tuesday, August 26, 1986, in the Auditorium, OB-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 29, 1986.

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 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 August 12, 1986. The meeting site is in a location which is barrier free.

Dated: July 23, 1986

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

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amending WAC 388-54-670, regarding the addition of Job Training Partnership Act (JTPA) to criteria for student eligibility.

Purpose of Rule Change: To allow persons attending an institution of higher learning through JTPA to qualify as an eligible student.

The rule change is required by federal regulation.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: WAC 388-54-670 (3)(f), adds attending an institution of higher learning through JTPA as a criterion for student eligibility.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Dana Beck, Program Manager, Assistance Programs, Division of Income Assistance, mailstop OB-31J, phone 753-4912.

These rules are necessary as a result of federal law, 7 CFR Parts 271, 272, 273, 274, 276, 279 and 285.

AMENDATORY SECTION (Amending Order 1956, filed 4/6/83)

WAC 388-54-670 STUDENT ELIGIBILITY. (1) A student is any person who is:

- (a) Between the ages of eighteen and sixty years; and
- (b) Physically and mentally fit; and
- (c) Enrolled at least half-time in an institution of higher education.

A student shall be ineligible to ((participate in the)) receive food ((stamp program;)) stamps unless that person ((complies with)) meets one of the ((eligibility)) requirements of subsection (3) of this section.

(2) Institution of higher education ((shall be)) is any institution which normally requires a high school diploma or equivalency certificate for enrollment ((including, but not limited to;)). This includes colleges, universities, and vocational or technical schools at the post-high school level.

(3) ((In order to be eligible, any)) A student ((as defined in subsection (1) of this section)) shall meet ((at least)) one of the following ((criteria)) to receive food stamps:

(a) ((Be employed)) Work and be paid for a minimum of twenty hours per week ((and be paid for such employment or if)). A self-employed ((be employed for a minimum of twenty hours per week and receive)) student must work at least twenty hours per week and the weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) ((Participate in)) Receive money from a ((federally financed)) federal work study program during the regular school year;

(c) Be responsible for the care of a dependent household member under age six;

(d) Be responsible for the care of a dependent household member who ((has reached the)) is at least age ((of)) six but ((is)) under age twelve ((where)) and the CSO has determined adequate child care is not available;

(e) ((Receiving)) Receive benefits from the aid to families with dependent children program;

(f) Attend an institution of higher learning through a program under the Job Training Partnership Act.

(4) ((Enrollment status of a)) Student ((shall begin on)) status begins the first day of the school term ((of the institution of higher education. Such enrollment shall be deemed to)) and continues through normal periods of class attendance, vacation, and recess ((unless the)). Student status is lost when a student:

- (a) Graduates,
- (b) Is suspended ((or)),
- (c) Is expelled,
- (d) Drops out, or
- (e) Does not intend to register for the next normal school term ((excluding summer school(3))).

((5) The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household.

((6) The remainder of the household in which the ineligible student resides shall be certified, if otherwise eligible.))

**WSR 86-15-090  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed July 23, 1986]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Food stamps—Overpayments, amending WAC 388-54-850;

that the agency will at 2:00 p.m., Tuesday, August 26, 1986, in the Auditorium, OB-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 29, 1986.

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 26, 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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Dated: July 23, 1986

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

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.025.

Re: WAC 388-54-850.

Purpose of the Rule Change: Effective October 1, 1986, hold all adult household members jointly and severally liable for the value of any overissuance of food stamp benefits to the household. Effective October 1, 1986, allow the department to pursue collection action against any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

Reason These Rules are Necessary: To comply with federal requirements (7 CFR 273.18) to hold all adult household members jointly and severally liable for the overissuance of food stamp benefits to the household and to allow collection actions against any or all households containing such adult members.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: Hold all adult household members jointly and severally liable for food stamp overissuances. Allow collection actions against any or all households containing an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Joan Wirth, Program Manager, Division of Income Assistance, Office of Assistance Programs, mailstop OB-31J, phone 234-4913 scan.

These rules are necessary as a result of the Food Security Act of 1985, 7 CFR Parts 271, 272, 273, 274, 276, 279 and 285.

AMENDATORY SECTION (Amending Order 2216, filed 3/20/85)

WAC 388-54-850 OVERPAYMENTS. (1) Definitions of overpayments for which ((recovery)) collection action may be taken.

(a) An administrative error overpayment is an overpayment caused solely by department action or failure to act when the household had properly and accurately reported all the household's circumstances to the department.

(b) An inadvertent household error overpayment is an overpayment caused by misunderstanding or unintended error on the part of the household.

(c) An intentional program violation overpayment is an overpayment which a court or an administrative decision determined was caused by fraud or intentional program violation.

(2) Households and household members against which ((recovery)) the department can take collection action ((can be taken)).

(a) ~~((The department shall take recovery action against a))~~ All household members who were adult members of the household ((which was overpaid)) at the time an overpayment occurred shall be jointly and severally liable for the value of any overpayment of food stamps.

~~(b) ((If the household membership at the time an agency error or inadvertent household error overpayment occurred is not the same when recovery action is to be taken, the department shall take action against the household containing a majority of those who were members at the time the overpayment occurred.~~

~~(c) If the household membership at the time an intentional program violation overpayment occurred cannot be determined, the department shall take recovery action against the household containing the individual committing the act of intentional program violation.~~

~~(d) If the department is unable to take recovery action under subsection (2)(a), (b), or (c) of this section, then the department shall take recovery action against the household containing the person who was the head of the household at the time the overpayment occurred.)~~ The department shall establish an overpayment claim against any household that:

(i) Received more food stamp benefits than it was entitled to receive, or

(ii) Contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive.

(3) Collection actions taken by the department.

(a) The department shall pursue collection action against any or all persons described in subsection (2)(a) of this section.

(b) If a change in household composition occurs, the department may pursue collection action against any household which has a member who was an adult member of the household that received the overpayment.

(c) The department shall not collect more than the amount of the overpayment.

(4) Amount of overpayment.

(a) When the department discovers an administrative error or inadvertent household error overpayment occurred in the prior twenty-four months or discovers an intentional program violation in the prior seventy-two months, the department shall calculate the allotment the household should have been authorized. The date of discovery shall be the month the overpayment is calculated by completion of the food stamp claim determination report (DSHS 5-07).

(i) If the household accurately and timely reports the household's circumstances and changes in circumstances to the department, the calculation shall be based on the day the household's circumstances were reported.

(ii) If the household did not accurately and timely report the household's circumstances and change of circumstances, the calculation shall be based on the household having accurately reported the household's circumstances to the department in the application or on the date the change of circumstances occurred.

(iii) Calculation shall be based on the department having given the household advance notice if such notice would have been required.

(b) The difference between the monthly allotment the household should have been authorized as calculated in subsection (3)(a) of this section and the monthly allotment actually authorized is the amount of the overpayment.

~~((+))~~ (5) Amount of a household's and/or household member's liability for an overpayment. The difference between the amount of the overpayment calculated in subsection (3)(b) of this section and any food stamp lost benefits incurred prior to writing a letter demanding repayment, which had not previously been restored or used as an offset,

is the amount of a household's and/or a household member's liability for an overpayment.

~~((5))~~ (6) Demand letter. Prior to initiating recovery action, the department shall provide the household member a demand letter.

~~((6))~~ (7) Methods of recovery. A household or household member may repay an overpayment in a lump sum or sums, in regular installments under a payment schedule agreed upon by the household or member and the department, and/or through reductions in the food stamp allotment.

(a) Lump sum.

(i) A household member may pay all or part of his or her liability for an overpayment in a lump sum.

(ii) A household member may use food stamp coupons, money order, check, cash, or any combination thereof to make a lump-sum payment.

(b) Installments.

(i) A household member may use food stamp coupons, money order, check, cash, or any combination thereof to make installment payments.

(ii) If the full liability for the overpayment or overpayments cannot be paid through a lump sum or allotment reduction or reductions, and the remaining amount of liability cannot be repaid in full in installment payments in three years, then the department may compromise the claim by reducing the claim to an amount allowing the household to pay the claim in three years.

(iii) The minimum installment payment schedule the department will agree to with a currently participating household member liable for an overpayment caused by inadvertent household error or intentional program violation shall be not less than the amount that could be recovered through allotment reduction.

(iv) When an installment payment schedule has been agreed to by the household member and the department, the amount to be repaid each month shall be that agreed to regardless of subsequent changes in the household's monthly household allotment unless the parties renegotiate the payment schedule and agree on a new payment schedule.

(v) A household member and/or the department may request of the other party a payment schedule be renegotiated.

(A) The most recent agreed upon payment schedule shall remain in effect until the household member and the department agree to a different schedule.

(B) When a household member requests renegotiation and the department agrees the member's economic circumstances have changed enough to warrant a different schedule, the department shall offer a different schedule and/or consider any reasonable schedule the member offers.

(C) When a household member requests renegotiation and the department determines the member's economic circumstances have not changed enough to warrant a different schedule, the department shall inform the member of this determination and the most recently agreed upon schedule remains in effect.

(vi) When a household member agreeing to repay in installments fails to make a payment in accordance with the repayment schedule:

(A) The department shall give notice informing him or her:

(I) No payment or an insufficient payment was received;

(II) The household member may contact the department to discuss renegotiation of the payment schedule; and

(III) Unless the household member makes the overdue payment or payments or contacts the department to discuss renegotiation by a specified date, the allotment of a currently participating household will be reduced without additional notice of the overpayment being recovered.

(B) If the household member fails to make the overdue payments or request renegotiation of the payment schedule and the overpayment was caused by inadvertent household error or intentional program violation, the department shall reduce the food stamp allotment without additional notice.

(C) If the household member responds to the notice by making the overdue payments and wishes to continue the current payment schedule, the department shall permit him or her to do so.

(D) If the household member responds to the notice by requesting renegotiation of the payment schedule, the department shall consider the request.

(E) When the department determines agreement on a new repayment schedule cannot be reached and the overpayment was caused by inadvertent household error or intentional program violation, the department may invoke allotment reductions against a currently participating household.

(c) Reduction in food stamp allotment.

(i) Administrative error overpayment.

(A) For administrative error overpayments, the household member may repay through reduction in the food stamp allotment.

(B) The amount to be recovered each month through a reduction in allotment for an agency error overpayment shall be entirely up to the household member.

(ii) Inadvertent household error overpayment and intentional program violation overpayment. The department shall reduce a currently participating household's food stamp allotment to repay an inadvertent household error overpayment by the greater of ten percent of the household's monthly allotment or ten dollars per month and for an intentional program violation overpayment by the greater of twenty percent of the entitlement or ten dollars per month.

(A) If the household member and the department are negotiating in good-faith for an agreement to repay in installments, the department shall reduce the household's food stamp allotment only when the household member and the head of the household consent.

(B) If the household member and the department have made an agreement to repay in installments and the member has made each payment when due, the department shall reduce the household's food stamp allotment only when the household member and the head of the household consent.

~~((7))~~ (8) The department shall suspend collection action when:

(a) The department determines the household member is financially unable to pay the claim; or

(b) The department determines there is little likelihood the state can collect or enforce collection of any significant sum from the household member; or

(c) The department cannot locate a liable household member; or

(d) The department determines cost of further collection action is likely to exceed the amount that can be recovered.

~~((8))~~ (9) After the claim has been held in suspense for three years, the claim shall be terminated.



**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.

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
16-59-030	AMD-E 86-09-001	16-324-375	AMD-P 86-11-063	16-462-020	AMD 86-08-078
16-86-092	AMD-E 86-04-050	16-324-375	AMD 86-15-045	16-462-025	AMD-P 86-04-070
16-86-092	AMD-P 86-04-051	16-324-390	AMD-P 86-11-063	16-462-025	AMD 86-08-078
16-86-092	AMD 86-08-055	16-324-390	AMD 86-15-045	16-462-030	AMD-P 86-04-070
16-108-010	AMD 86-04-027	16-324-400	AMD-P 86-11-063	16-462-030	AMD 86-08-078
16-125-200	NEW-P 86-13-051	16-324-400	AMD 86-15-045	16-462-035	AMD-P 86-04-070
16-125-210	NEW-P 86-13-051	16-324-430	AMD-P 86-11-063	16-462-035	AMD 86-08-078
16-154-010	NEW-P 86-13-050	16-324-430	AMD 86-15-045	16-462-050	NEW-P 86-04-070
16-154-020	NEW-P 86-13-050	16-324-445	AMD-P 86-11-063	16-462-050	NEW 86-08-078
16-154-030	NEW-P 86-13-050	16-324-445	AMD 86-15-045	16-462-055	NEW-P 86-04-070
16-212-030	AMD-E 86-14-083	16-324-510	AMD-P 86-11-063	16-462-055	NEW 86-08-078
16-212-060	AMD-E 86-14-083	16-324-510	AMD 86-15-045	16-462-010	AMD-P 86-03-075
16-212-070	AMD-E 86-14-083	16-324-520	AMD-P 86-11-063	16-470-010	AMD 86-07-020
16-212-082	AMD-E 86-14-083	16-324-520	AMD 86-15-045	16-470-020	AMD-P 86-03-075
16-218-010	AMD-P 86-14-098	16-324-530	AMD-P 86-11-063	16-470-020	AMD 86-07-020
16-218-02001	AMD-P 86-14-098	16-324-530	AMD 86-15-045	16-470-100	AMD-P 86-03-075
16-230-079	NEW-E 86-13-032	16-324-540	AMD-P 86-11-063	16-470-100	AMD 86-07-020
16-304-110	AMD-P 86-09-090	16-324-540	AMD 86-15-045	16-470-200	AMD-P 86-03-075
16-304-110	AMD 86-13-014	16-400-010	AMD-P 86-04-029	16-470-200	AMD 86-07-020
16-304-130	AMD-P 86-09-090	16-400-010	AMD-E 86-06-038	16-470-240	NEW-E 86-08-009
16-304-130	AMD 86-13-014	16-400-010	AMD 86-08-081	16-470-240	NEW-P 86-10-048
16-316-183	NEW-P 86-09-090	16-400-040	AMD-P 86-04-029	16-470-240	NEW 86-14-097
16-316-183	NEW 86-13-014	16-400-040	AMD-E 86-06-038	16-470-300	AMD-P 86-03-075
16-316-350	AMD-P 86-09-090	16-400-040	AMD 86-08-081	16-470-300	AMD 86-07-020
16-316-350	AMD 86-13-014	16-400-050	AMD-P 86-04-029	16-488-001	REP-P 86-14-023
16-316-355	AMD-P 86-09-090	16-400-050	AMD-E 86-06-038	16-488-002	NEW-P 86-14-023
16-316-355	AMD 86-13-014	16-400-050	AMD 86-08-081	16-488-005	REP-P 86-14-023
16-316-370	AMD-P 86-09-090	16-400-100	AMD-P 86-04-029	16-488-006	NEW-P 86-14-023
16-316-370	AMD 86-13-014	16-400-100	AMD-E 86-06-038	16-488-010	AMD-P 86-14-023
16-316-445	AMD-P 86-09-090	16-400-100	AMD 86-08-081	16-488-015	AMD-P 86-14-023
16-316-445	AMD 86-13-014	16-400-210	AMD-P 86-04-029	16-488-020	REP-P 86-14-023
16-316-525	AMD-P 86-09-090	16-400-210	AMD-E 86-06-038	16-488-025	AMD-P 86-14-023
16-316-525	AMD 86-13-014	16-400-210	AMD 86-08-081	16-488-030	AMD-P 86-14-023
16-316-800	AMD-P 86-09-090	16-403-141	NEW-P 86-10-057	16-488-035	REP-P 86-14-023
16-316-800	AMD 86-13-014	16-403-141	NEW 86-14-026	16-488-040	REP-P 86-14-023
16-316-810	AMD-P 86-09-090	16-403-160	AMD-P 86-10-057	16-488-990	NEW-P 86-14-023
16-316-810	AMD 86-13-014	16-403-160	AMD 86-14-026	16-488-995	NEW-P 86-14-023
16-316-820	AMD-P 86-09-090	16-403-225	AMD-P 86-08-080	16-524-040	AMD-P 86-06-045
16-316-820	AMD 86-13-014	16-403-225	AMD 86-10-045	16-524-040	AMD 86-13-057
16-316-830	AMD-P 86-09-090	16-425-001	REP-P 86-04-070	16-536-040	AMD-P 86-09-079
16-316-830	AMD 86-13-014	16-425-001	REP 86-08-078	16-536-040	AMD-E 86-15-001
16-316-832	NEW-P 86-09-090	16-425-010	REP-P 86-04-070	16-536-040	AMD 86-15-002
16-316-832	NEW 86-13-014	16-425-010	REP 86-08-078	16-560-06001	AMD-P 86-07-051
16-316-850	NEW-P 86-09-090	16-425-015	REP-P 86-04-070	16-560-06001	AMD 86-14-066
16-316-850	NEW 86-13-014	16-425-015	REP 86-08-078	16-561-010	AMD-P 86-06-046
16-316-860	NEW-P 86-09-090	16-462-001	REP-P 86-04-070	16-561-010	AMD 86-13-012
16-316-860	NEW 86-13-014	16-462-001	REP 86-08-078	16-561-020	AMD-P 86-06-046
16-316-870	NEW-P 86-09-090	16-462-010	AMD-P 86-04-070	16-561-020	AMD 86-13-012
16-316-870	NEW 86-13-014	16-462-010	AMD 86-08-078	16-561-040	AMD-P 86-06-046
16-316-880	NEW-P 86-09-090	16-462-015	AMD-P 86-04-070	16-561-040	AMD 86-13-012
16-316-880	NEW 86-13-014	16-462-015	AMD 86-08-078	16-561-041	AMD-P 86-06-046
16-324	AMD-C 86-14-096	16-462-020	AMD-P 86-04-070	16-561-041	AMD 86-13-012











Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
182-08-170	AMD-E 86-13-045	212-32-040	AMD-P 86-08-063	212-52-065	REP 86-11-038
182-08-220	NEW-P 86-13-044	212-32-040	AMD 86-12-062	212-52-070	AMD-P 86-08-064
182-08-220	NEW-E 86-13-045	212-32-045	AMD-P 86-08-063	212-52-070	AMD 86-11-038
182-12-115	AMD-P 86-13-043	212-32-045	AMD 86-12-062	212-52-075	AMD-P 86-08-064
182-12-122	AMD-P 86-13-044	212-32-050	AMD-P 86-08-063	212-52-075	AMD 86-11-038
182-12-122	AMD-E 86-13-045	212-32-050	AMD 86-12-062	212-52-080	AMD-P 86-08-064
182-12-126	NEW-P 86-13-044	212-32-070	AMD-P 86-08-063	212-52-080	AMD 86-11-038
182-12-126	NEW-E 86-13-045	212-32-070	AMD 86-12-062	212-52-085	AMD-P 86-08-064
182-12-160	AMD-C 86-05-020	212-32-075	AMD-P 86-08-063	212-52-085	AMD 86-11-038
182-12-160	AMD 86-06-003	212-32-075	AMD 86-12-062	212-52-090	AMD-P 86-08-064
182-12-210	NEW-P 86-13-044	212-32-080	AMD-P 86-08-063	212-52-090	AMD 86-11-038
182-12-210	NEW-E 86-13-045	212-32-080	AMD 86-12-062	212-52-095	AMD-P 86-08-064
182-12-220	NEW-P 86-13-044	212-32-085	AMD-P 86-08-063	212-52-095	AMD 86-11-038
182-12-220	NEW-E 86-13-045	212-32-085	AMD 86-12-062	212-52-100	AMD-P 86-08-064
192-12-025	AMD-P 86-11-044	212-32-095	AMD-P 86-08-063	212-52-100	AMD 86-11-038
192-12-025	AMD 86-14-031	212-32-095	AMD 86-12-062	212-52-105	AMD-P 86-08-064
192-12-134	REP-P 86-14-095	212-32-100	AMD-P 86-08-063	212-52-105	AMD 86-11-038
192-28-105	AMD-P 86-14-095	212-32-100	AMD 86-12-062	212-52-112	NEW-P 86-08-064
192-28-110	AMD-P 86-14-095	212-32-110	NEW-P 86-08-063	212-52-112	NEW 86-11-038
192-28-115	AMD-P 86-14-095	212-32-110	NEW 86-12-062	212-52-115	AMD-P 86-08-064
192-28-120	AMD-P 86-14-095	212-32-115	NEW-P 86-08-063	212-52-115	AMD 86-11-038
192-28-125	AMD-P 86-14-095	212-32-115	NEW 86-12-062	212-52-120	AMD-P 86-08-064
192-40-010	NEW-P 86-05-022	212-32-120	NEW-P 86-08-063	212-52-120	AMD 86-11-038
192-40-010	NEW 86-08-073	212-32-120	NEW 86-12-062	212-52-99001	NEW-P 86-08-064
192-40-020	NEW-P 86-05-022	212-32-125	NEW-P 86-08-063	212-52-99001	NEW 86-11-038
192-40-020	NEW 86-08-073	212-32-125	NEW 86-12-062	212-52-99002	NEW-P 86-08-064
192-40-030	NEW-P 86-05-022	212-32-130	NEW-P 86-08-063	212-52-99002	NEW 86-11-038
192-40-030	NEW 86-08-073	212-32-130	NEW 86-12-062	220-16-315	AMD-P 86-08-103
192-40-040	NEW-P 86-05-022	212-32-135	NEW-P 86-08-063	220-16-315	AMD-C 86-13-037
192-40-040	NEW 86-08-073	212-32-135	NEW 86-12-062	220-16-315	AMD 86-13-038
192-40-050	NEW-P 86-05-022	212-32-140	NEW-P 86-08-063	220-22-020	AMD-P 86-10-075
192-40-050	NEW 86-08-073	212-32-140	NEW 86-12-062	220-22-510	NEW-P 86-15-086
192-40-060	NEW-P 86-05-022	212-32-145	NEW-P 86-08-063	220-22-51000A	NEW-E 86-10-027
192-40-060	NEW 86-08-073	212-32-145	NEW 86-12-062	220-24-02000J	NEW-E 86-10-007
192-40-070	NEW-P 86-05-022	212-32-150	NEW-P 86-08-063	220-24-02000J	REP-E 86-10-015
192-40-070	NEW 86-08-073	212-32-150	NEW 86-12-062	220-24-02000K	NEW-E 86-10-015
192-40-080	NEW-P 86-05-022	212-32-155	NEW-P 86-08-063	220-24-02000K	REP-E 86-11-016
192-40-080	NEW 86-08-073	212-32-155	NEW 86-12-062	220-24-02000L	NEW-E 86-11-016
192-40-090	NEW-P 86-05-022	212-32-160	NEW-P 86-08-063	220-24-02000L	REP-E 86-11-043
192-40-090	NEW 86-08-073	212-32-160	NEW 86-12-062	220-24-02000M	NEW-E 86-11-043
192-40-100	NEW-P 86-05-022	212-52-001	AMD-P 86-08-064	220-24-02000M	REP-E 86-12-012
192-40-100	NEW 86-08-073	212-52-001	AMD 86-11-038	220-24-02000N	NEW-E 86-12-012
192-40-110	NEW-P 86-05-022	212-52-002	NEW-P 86-08-064	220-24-02000N	REP-E 86-12-032
192-40-110	NEW 86-08-073	212-52-002	NEW 86-11-038	220-24-02000O	NEW-E 86-11-016
192-40-120	NEW-P 86-05-022	212-52-005	AMD-P 86-08-064	220-28-601	NEW-E 86-15-017
210-01-010	NEW-P 86-10-056	212-52-005	AMD 86-11-038	220-28-601	REP-E 86-15-055
210-01-010	NEW 86-14-002	212-52-012	AMD-P 86-08-064	220-28-602	NEW-E 86-15-055
210-01-020	NEW-P 86-10-056	212-52-012	AMD 86-11-038	220-32-02000A	NEW-E 86-07-035
210-01-020	NEW 86-14-002	212-52-016	NEW-P 86-08-064	220-32-02000B	NEW-E 86-14-012
210-01-030	NEW-P 86-10-056	212-52-016	NEW 86-11-038	220-32-021	AMD-P 86-05-040
210-01-030	NEW 86-14-002	212-52-018	NEW-P 86-08-064	220-32-021	AMD 86-08-039
210-01-040	NEW-P 86-10-056	212-52-018	NEW 86-11-038	220-32-02200P	NEW-E 86-04-017
210-01-040	NEW 86-14-002	212-52-020	AMD-P 86-08-064	220-32-03000Y	NEW-E 86-06-013
210-01-050	NEW-P 86-10-056	212-52-020	AMD 86-11-038	220-32-03000Z	NEW-E 86-14-012
210-01-050	NEW 86-14-002	212-52-025	AMD-P 86-08-064	220-32-04100I	NEW-E 86-12-013
210-01-060	NEW-P 86-10-056	212-52-025	AMD 86-11-038	220-32-042	REP-P 86-05-040
210-01-060	NEW 86-14-002	212-52-027	AMD-P 86-08-064	220-32-042	REP 86-08-039
210-01-070	NEW-P 86-10-056	212-52-027	AMD 86-11-038	220-32-05100W	NEW-E 86-14-012
210-01-070	NEW 86-14-002	212-52-028	NEW-P 86-08-064	220-32-05500Q	NEW-E 86-11-050
210-01-080	NEW-P 86-10-056	212-52-028	NEW 86-11-038	220-32-05500Q	REP-E 86-12-014
210-01-080	NEW 86-14-002	212-52-030	AMD-P 86-08-064	220-32-05500P	NEW-E 86-12-014
210-01-090	NEW-P 86-10-056	212-52-030	AMD 86-11-038	220-32-05500P	REP-E 86-12-055
210-01-090	NEW 86-14-002	212-52-037	AMD-P 86-08-064	220-32-05500R	NEW-E 86-12-055
210-01-100	NEW-P 86-10-056	212-52-037	AMD 86-11-038	220-32-05900I	NEW-E 86-09-015
210-01-100	NEW 86-14-002	212-52-040	REP-P 86-08-064	220-32-05900J	NEW-E 86-10-005
210-01-110	NEW-P 86-10-056	212-52-040	REP 86-11-038	220-36-020	AMD-P 86-10-075
210-01-110	NEW 86-14-002	212-52-041	NEW-P 86-08-064	220-36-020	AMD 86-15-016
210-01-120	NEW-P 86-10-056	212-52-041	NEW 86-11-038	220-36-021	AMD-P 86-10-075
210-01-120	NEW 86-14-002	212-52-045	AMD-P 86-08-064	220-36-021	AMD 86-15-016
210-01-130	NEW-P 86-10-056	212-52-045	AMD 86-11-038	220-36-02100Y	NEW-E 86-14-084
210-01-130	NEW 86-14-002	212-52-050	AMD-P 86-08-064	220-36-022	AMD-P 86-10-075
212-32-005	AMD-P 86-08-063	212-52-050	AMD 86-11-038	220-36-022	AMD 86-15-016
212-32-005	AMD 86-12-062	212-52-055	AMD-P 86-08-064	220-36-024	AMD-P 86-10-075
212-32-015	AMD-P 86-08-063	212-52-055	AMD 86-11-038	220-36-024	AMD 86-15-016
212-32-015	AMD 86-12-062	212-52-060	AMD-P 86-08-064	220-36-025	AMD-P 86-10-075
212-32-035	AMD-P 86-08-063	212-52-060	AMD 86-11-038	220-36-025	AMD 86-15-016
212-32-035	AMD 86-12-062	212-52-065	REP-P 86-08-064	220-36-02500S	NEW-E 86-11-073





**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-57A-183	NEW	86-09-020	230-12-040	AMD	86-13-055	232-28-409	REP-P	86-14-106
220-57A-185	AMD-P	86-05-039	230-12-240	NEW-P	86-13-053	232-28-410	NEW-P	86-14-106
220-57A-185	AMD	86-08-040	230-12-310	AMD-P	86-09-040	232-28-508	REP-P	86-12-053
220-57A-190	AMD-P	86-05-039	230-12-310	AMD-P	86-13-053	232-28-509	NEW-P	86-12-053
220-57A-190	AMD	86-08-040	230-12-310	AMD-P	86-14-076	232-28-61423	NEW-E	86-05-051
220-69-220	AMD-P	86-15-086	230-20-010	AMD-P	86-05-044	232-28-615	REP-P	86-14-102
220-69-234	AMD-P	86-15-086	230-20-010	AMD	86-09-036	232-28-61502	NEW-E	86-03-002
220-69-23402	AMD-P	86-15-086	230-20-064	AMD-P	86-07-043	232-28-61506	NEW-E	86-03-018
220-69-23402A	NEW-E	86-10-027	230-20-064	AMD-C	86-13-054	232-28-61507	NEW-E	86-07-030
220-69-235	REP-P	86-15-086	230-20-100	AMD-P	86-05-044	232-28-61508	NEW-E	86-06-029
220-69-23501	REP-P	86-15-086	230-20-100	AMD	86-09-036	232-28-61508	NEW-E	86-12-047
220-69-240	AMD-P	86-15-086	230-20-240	AMD-P	86-05-044	232-28-61509	NEW-E	86-08-060
220-69-241	AMD-P	86-15-086	230-20-240	AMD	86-09-036	232-28-61510	NEW-E	86-08-061
220-69-242	AMD-P	86-15-086	230-20-246	AMD-P	86-05-044	232-28-61511	NEW-E	86-09-071
220-69-243	NEW-P	86-15-086	230-20-246	AMD	86-09-036	232-28-61511	NEW-P	86-09-083
220-69-250	AMD-P	86-15-086	230-30-050	AMD	86-07-037	232-28-61511	NEW	86-12-046
220-69-254	AMD-P	86-15-086	230-40-010	AMD-P	86-15-059	232-28-61512	NEW-E	86-13-041
220-69-25402	REP-P	86-15-086	230-40-055	AMD-P	86-11-005	232-28-616	NEW-P	86-14-102
220-69-255	REP-P	86-15-086	230-40-055	AMD-C	86-15-026	232-28-707	REP	86-06-028
220-69-25501	REP-P	86-15-086	230-40-070	AMD-P	86-09-040	232-28-708	NEW	86-06-028
220-69-260	AMD-P	86-15-086	230-40-070	AMD	86-13-055	232-28-807	REP-P	86-05-048
220-69-26000A	NEW-E	86-08-024	230-40-120	AMD-P	86-11-005	232-28-807	REP	86-12-045
220-69-26000B	NEW-E	86-14-028	230-40-120	AMD	86-15-025	232-28-808	NEW-P	86-05-048
220-69-262	AMD-P	86-15-086	230-40-310	AMD-P	86-09-040	232-28-808	NEW	86-12-045
220-69-264	AMD-P	86-15-086	230-40-310	AMD	86-13-055	240-10-010	AMD-P	86-05-023
220-69-26401	AMD-P	86-15-086	230-40-400	AMD-P	86-11-005	240-10-010	AMD	86-08-070
220-69-26402	REP-P	86-15-086	230-46-010	AMD-P	86-03-035	240-10-030	AMD-P	86-05-023
220-69-265	REP-P	86-15-086	230-46-010	AMD	86-08-007	240-10-030	AMD	86-08-070
220-69-26501	REP-P	86-15-086	230-46-020	AMD-P	86-03-035	240-10-040	AMD-P	86-05-023
220-69-272	AMD-P	86-15-086	230-46-020	AMD	86-08-007	240-10-040	AMD	86-08-070
220-69-273	AMD-P	86-15-086	230-46-030	REP-P	86-03-035	240-10-055	NEW-P	86-05-023
220-69-274	AMD-P	86-15-086	230-46-030	REP	86-07-044	240-10-055	NEW	86-08-070
220-69-280	AMD-P	86-15-086	230-46-040	REP-P	86-03-035	248-16-900	AMD-P	86-03-070
220-69-300	AMD-P	86-15-086	230-46-040	REP	86-07-044	248-16-900	AMD	86-08-002
220-76-010	AMD-P	86-15-086	230-46-050	REP-P	86-03-035	248-16-999	AMD-P	86-03-070
220-76-01000A	NEW-E	86-10-027	230-46-050	REP	86-07-044	248-16-999	AMD	86-08-002
220-76-015	AMD-P	86-15-086	230-46-060	REP-P	86-03-035	248-18-001	AMD-P	86-03-070
220-76-01500A	NEW-E	86-10-027	230-46-060	REP	86-07-044	248-18-001	AMD	86-08-002
220-76-016	REP-P	86-15-086	230-46-100	NEW-P	86-05-045	248-18-010	AMD-P	86-03-070
220-76-020	AMD-P	86-15-086	230-46-100	NEW-P	86-06-001	248-18-010	AMD	86-08-002
220-76-02000A	NEW-E	86-10-027	230-46-100	NEW-C	86-11-004	248-18-040	AMD-P	86-05-005
220-76-025	REP-P	86-15-086	230-46-100	NEW-C	86-13-054	248-18-040	AMD	86-08-086
230-02-020	AMD	86-15-025	230-46-110	NEW-P	86-05-045	248-18-245	AMD-P	86-03-070
230-02-110	AMD-P	86-15-027	230-46-110	NEW-P	86-07-036	248-18-245	AMD	86-08-002
230-02-120	AMD-P	86-15-027	230-46-110	NEW-C	86-11-004	248-18-515	AMD-P	86-03-070
230-02-125	NEW-P	86-15-027	230-46-110	NEW-C	86-13-054	248-18-515	AMD	86-08-002
230-02-130	AMD-P	86-15-027	230-46-120	NEW-P	86-05-045	248-18-718	AMD-P	86-03-070
230-02-135	NEW-P	86-15-027	230-46-120	NEW-C	86-11-004	248-18-718	AMD	86-08-002
230-02-270	AMD-P	86-15-027	230-46-140	NEW-P	86-05-045	248-18-999	AMD-P	86-03-070
230-02-350	AMD-P	86-11-005	230-46-140	NEW-C	86-11-004	248-18-999	AMD	86-08-002
230-02-350	AMD-C	86-15-026	232-12-001	AMD-P	86-13-054	248-19-200	REP	86-06-030
230-02-350	AMD-P	86-15-027	232-12-04506	NEW-E	86-14-102	248-19-210	AMD	86-06-030
230-02-360	NEW-P	86-15-027	232-12-04507	NEW-E	86-03-017	248-19-220	AMD	86-06-030
230-02-370	NEW-P	86-15-027	232-12-091	AMD-P	86-04-021	248-19-230	AMD	86-06-030
230-02-380	NEW-P	86-15-027	232-12-091	AMD	86-05-047	248-19-240	AMD	86-06-030
230-04-060	AMD-P	86-09-040	232-12-091	AMD	86-09-023	248-19-260	AMD	86-06-030
230-04-060	AMD-P	86-13-053	232-12-167	REP-P	86-14-102	248-19-270	AMD	86-06-030
230-04-201	AMD-P	86-07-043	232-12-168	NEW-P	86-14-102	248-19-280	AMD	86-06-030
230-04-201	AMD-P	86-09-040	232-12-189	AMD	86-03-054	248-19-290	REP	86-06-030
230-04-201	AMD-C	86-13-054	232-12-241	AMD	86-03-055	248-19-295	NEW	86-06-030
230-04-201	AMD	86-13-055	232-12-804	AMD-P	86-14-103	248-19-300	AMD	86-06-030
230-04-900	NEW-P	86-09-040	232-12-806	AMD	86-03-052	248-19-310	AMD	86-06-030
230-04-900	NEW	86-13-055	232-12-807	REP	86-03-053	248-19-320	AMD	86-06-030
230-08-010	AMD	86-07-037	232-12-807	NEW	86-03-053	248-19-325	REP	86-06-030
230-08-010	AMD-P	86-15-027	232-12-809	AMD-P	86-05-049	248-19-326	NEW	86-06-030
230-08-080	AMD-P	86-05-044	232-12-809	AMD	86-09-024	248-19-327	NEW	86-06-030
230-08-080	AMD	86-09-036	232-16-289	REP-P	86-14-105	248-19-330	AMD	86-06-030
230-08-100	AMD-P	86-09-040	232-16-380	AMD-P	86-14-104	248-19-340	AMD	86-06-030
230-08-100	AMD-P	86-10-042	232-16-630	REP-P	86-14-105	248-19-350	AMD	86-06-030
230-08-100	AMD	86-13-055	232-16-650	REP-P	86-14-105	248-19-373	AMD-P	86-09-049
230-08-100	REP-P	86-15-027	232-16-670	REP-P	86-14-105	248-19-373	AMD	86-12-044
230-08-130	AMD-P	86-15-027	232-28-108	REP-P	86-12-054	248-19-400	AMD	86-06-030
230-08-160	AMD-P	86-15-027	232-28-109	NEW-P	86-12-054	248-19-403	AMD	86-06-030
230-08-165	NEW-P	86-11-005	232-28-210	REP-P	86-09-084	248-19-405	AMD	86-06-030
230-08-165	NEW-C	86-15-026	232-28-211	NEW-P	86-05-050	248-19-410	AMD	86-06-030
230-12-040	AMD-P	86-09-040	232-28-211	NEW-W	86-06-027	248-19-415	AMD	86-06-030
			232-28-212	NEW-P	86-09-084	248-19-420	AMD	86-06-030

### Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
248-19-430	AMD	86-06-030	251-01-060	NEW-P	86-06-052	251-01-260	NEW	86-09-078
248-19-440	AMD	86-06-030	251-01-060	NEW	86-09-078	251-01-265	NEW-P	86-06-052
248-19-450	AMD	86-06-030	251-01-065	NEW-P	86-06-052	251-01-265	NEW	86-09-078
248-19-460	AMD	86-06-030	251-01-065	NEW	86-09-078	251-01-270	NEW-P	86-06-052
248-19-470	AMD	86-06-030	251-01-070	NEW-P	86-06-052	251-01-270	NEW	86-09-078
248-19-475	AMD	86-06-030	251-01-070	NEW	86-09-078	251-01-275	NEW-P	86-06-052
248-19-480	AMD	86-06-030	251-01-075	NEW-P	86-06-052	251-01-275	NEW	86-09-078
248-21-002	AMD-P	86-03-070	251-01-075	NEW	86-09-078	251-01-280	NEW-P	86-06-052
248-21-002	AMD	86-08-002	251-01-080	NEW-P	86-06-052	251-01-280	NEW	86-09-078
248-29-001	AMD	86-04-031	251-01-080	NEW	86-09-078	251-01-285	NEW-P	86-06-052
248-29-010	AMD	86-04-031	251-01-085	NEW-P	86-06-052	251-01-285	NEW	86-09-078
248-29-020	AMD	86-04-031	251-01-085	NEW	86-09-078	251-01-290	NEW-P	86-06-052
248-29-030	AMD	86-04-031	251-01-100	NEW-P	86-06-052	251-01-290	NEW	86-09-078
248-29-040	AMD	86-04-031	251-01-100	NEW	86-09-078	251-01-295	NEW-P	86-06-052
248-29-050	AMD	86-04-031	251-01-105	NEW-P	86-06-052	251-01-295	NEW	86-09-078
248-29-060	AMD	86-04-031	251-01-105	NEW	86-09-078	251-01-300	NEW-P	86-06-052
248-29-070	AMD	86-04-031	251-01-110	NEW-P	86-06-052	251-01-300	NEW	86-09-078
248-29-080	AMD	86-04-031	251-01-110	NEW	86-09-078	251-01-305	NEW-P	86-06-052
248-29-090	AMD	86-04-031	251-01-115	NEW-P	86-06-052	251-01-305	NEW	86-09-078
248-40-040	AMD-P	86-10-074	251-01-115	NEW	86-09-078	251-01-310	NEW-P	86-06-052
248-40-040	AMD	86-14-008	251-01-120	NEW-P	86-06-052	251-01-310	NEW	86-09-078
248-40-050	AMD-P	86-10-074	251-01-120	NEW	86-09-078	251-01-315	NEW-P	86-06-052
248-40-050	AMD	86-14-008	251-01-125	NEW-P	86-06-052	251-01-315	NEW	86-09-078
248-100-175	REP	86-05-013	251-01-125	NEW	86-09-078	251-01-320	NEW-P	86-06-052
248-140-010	AMD-P	86-03-070	251-01-130	NEW-P	86-06-052	251-01-320	NEW	86-09-078
248-140-010	AMD	86-08-002	251-01-130	NEW	86-09-078	251-01-325	NEW-P	86-06-052
248-140-140	AMD-P	86-03-070	251-01-135	NEW-P	86-06-052	251-01-325	NEW	86-09-078
248-140-140	AMD	86-08-002	251-01-135	NEW	86-09-078	251-01-330	NEW-P	86-06-052
248-140-150	AMD-P	86-03-070	251-01-140	NEW-P	86-06-052	251-01-330	NEW	86-09-078
248-140-150	AMD	86-08-002	251-01-140	NEW	86-09-078	251-01-335	NEW-P	86-06-052
248-140-220	AMD-P	86-03-070	251-01-145	NEW-P	86-06-052	251-01-335	NEW	86-09-078
248-140-220	AMD	86-08-002	251-01-145	NEW	86-09-078	251-01-340	NEW-P	86-06-052
250-20-021	AMD-P	86-09-033	251-01-150	NEW-P	86-06-052	251-01-340	NEW	86-09-078
250-20-021	AMD-E	86-09-034	251-01-150	NEW	86-09-078	251-01-345	NEW-P	86-06-052
250-20-021	AMD	86-12-077	251-01-155	NEW-P	86-06-052	251-01-345	NEW	86-09-078
250-40-050	AMD-E	86-04-038	251-01-155	NEW	86-09-078	251-01-350	NEW-P	86-06-052
250-40-050	AMD-E	86-07-041	251-01-160	NEW-P	86-06-052	251-01-350	NEW	86-09-078
250-40-050	AMD-P	86-07-042	251-01-160	NEW	86-09-078	251-01-355	NEW-P	86-06-052
250-40-050	AMD	86-10-014	251-01-165	NEW-P	86-06-052	251-01-355	NEW	86-09-078
250-61-010	NEW-P	86-13-067	251-01-165	NEW	86-09-078	251-01-360	NEW-P	86-06-052
250-61-020	NEW-P	86-13-067	251-01-170	NEW-P	86-06-052	251-01-360	NEW	86-09-078
250-61-030	NEW-P	86-13-067	251-01-170	NEW	86-09-078	251-01-365	NEW-P	86-06-052
250-61-040	NEW-P	86-13-067	251-01-175	NEW-P	86-06-052	251-01-365	NEW	86-09-078
250-61-050	NEW-P	86-13-067	251-01-175	NEW	86-09-078	251-01-370	NEW-P	86-06-052
250-61-060	NEW-P	86-13-067	251-01-180	NEW-P	86-06-052	251-01-370	NEW	86-09-078
250-61-070	NEW-P	86-13-067	251-01-180	NEW	86-09-078	251-01-375	NEW-P	86-06-052
250-61-080	NEW-P	86-13-067	251-01-185	NEW-P	86-06-052	251-01-375	NEW	86-09-078
250-61-090	NEW-P	86-13-067	251-01-185	NEW	86-09-078	251-01-380	NEW-P	86-06-052
250-61-100	NEW-P	86-13-067	251-01-190	NEW-P	86-06-052	251-01-380	NEW	86-09-078
250-61-110	NEW-P	86-13-067	251-01-190	NEW	86-09-078	251-01-385	NEW-P	86-06-052
250-61-120	NEW-P	86-13-067	251-01-195	NEW-P	86-06-052	251-01-385	NEW	86-09-078
250-61-130	NEW-P	86-13-067	251-01-195	NEW	86-09-078	251-01-390	NEW-P	86-06-052
250-61-140	NEW-P	86-13-067	251-01-200	NEW-P	86-06-052	251-01-390	NEW	86-09-078
250-61-150	NEW-P	86-13-067	251-01-200	NEW	86-09-078	251-01-395	NEW-P	86-06-052
250-61-160	NEW-P	86-13-067	251-01-205	NEW-P	86-06-052	251-01-395	NEW	86-09-078
251-01-005	NEW-P	86-06-052	251-01-205	NEW	86-09-078	251-01-400	NEW-P	86-06-052
251-01-005	NEW	86-09-078	251-01-210	NEW-P	86-06-052	251-01-400	NEW	86-09-078
251-01-010	NEW-P	86-06-052	251-01-210	NEW	86-09-078	251-01-405	NEW-P	86-06-052
251-01-010	NEW	86-09-078	251-01-215	NEW-P	86-06-052	251-01-405	NEW	86-09-078
251-01-015	NEW-P	86-06-052	251-01-215	NEW	86-09-078	251-01-410	NEW-P	86-06-052
251-01-015	NEW	86-09-078	251-01-220	NEW-P	86-06-052	251-01-410	NEW	86-09-078
251-01-020	NEW-P	86-06-052	251-01-220	NEW	86-09-078	251-01-415	NEW-P	86-06-052
251-01-020	NEW	86-09-078	251-01-225	NEW-P	86-06-052	251-01-415	NEW	86-09-078
251-01-025	NEW-P	86-06-052	251-01-225	NEW	86-09-078	251-01-420	NEW-P	86-06-052
251-01-025	NEW	86-09-078	251-01-230	NEW-P	86-06-052	251-01-420	NEW	86-09-078
251-01-030	NEW-P	86-06-052	251-01-230	NEW	86-09-078	251-01-425	NEW-P	86-06-052
251-01-030	NEW	86-09-078	251-01-235	NEW-P	86-06-052	251-01-425	NEW	86-09-078
251-01-035	NEW-P	86-06-052	251-01-235	NEW	86-09-078	251-01-430	NEW-P	86-06-052
251-01-035	NEW	86-09-078	251-01-240	NEW-P	86-06-052	251-01-430	NEW	86-09-078
251-01-040	NEW-P	86-06-052	251-01-240	NEW	86-09-078	251-01-435	NEW-P	86-06-052
251-01-040	NEW	86-09-078	251-01-245	NEW-P	86-06-052	251-01-435	NEW	86-09-078
251-01-045	NEW-P	86-06-052	251-01-245	NEW	86-09-078	251-01-440	NEW-P	86-06-052
251-01-045	NEW	86-09-078	251-01-250	NEW-P	86-06-052	251-01-440	NEW	86-09-078
251-01-050	NEW-P	86-06-052	251-01-250	NEW	86-09-078	251-01-445	NEW-P	86-06-052
251-01-050	NEW	86-09-078	251-01-255	NEW-P	86-06-052	251-01-445	NEW	86-09-078
251-01-055	NEW-P	86-06-052	251-01-255	NEW	86-09-078	251-01-450	NEW-P	86-06-052
251-01-055	NEW	86-09-078	251-01-260	NEW-P	86-06-052	251-01-450	NEW	86-09-078

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
251-01-455	NEW-P	86-06-052	251-25-030	NEW-E	86-12-037	260-13-330	NEW	86-13-056
251-01-455	NEW	86-09-078	251-25-030	NEW	86-14-041	260-13-330	AMD-P	86-15-082
251-01-460	NEW-P	86-06-052	251-25-040	NEW-P	86-10-066	260-13-340	NEW-P	86-09-092
251-01-460	NEW	86-09-078	251-25-040	NEW-E	86-12-037	260-13-340	NEW	86-13-056
251-04-020	AMD	86-03-081	251-25-040	NEW	86-14-041	260-13-350	NEW-P	86-09-092
251-04-020	AMD-P	86-04-076	251-25-050	NEW-P	86-10-066	260-13-350	NEW	86-13-056
251-04-020	AMD	86-06-034	251-25-050	NEW-E	86-12-037	260-13-360	NEW-P	86-09-092
251-04-020	REP-P	86-06-052	251-25-050	NEW	86-14-041	260-13-360	NEW	86-13-056
251-04-020	REP	86-09-078	260-12-160	AMD-P	86-04-042	260-13-370	NEW-P	86-09-092
251-04-050	AMD-P	86-06-052	260-13-010	NEW-P	86-09-092	260-13-370	NEW	86-13-056
251-04-050	AMD	86-09-077	260-13-010	NEW	86-13-056	260-13-380	NEW-P	86-09-092
251-09-020	AMD-W	86-08-091	260-13-020	NEW-P	86-09-092	260-13-380	NEW	86-13-056
251-09-030	AMD-W	86-08-091	260-13-020	NEW	86-13-056	260-13-390	NEW-P	86-09-092
251-09-030	AMD-P	86-08-102	260-13-020	AMD-P	86-15-082	260-13-390	NEW	86-13-056
251-09-030	AMD	86-12-006	260-13-030	NEW-P	86-09-092	260-13-400	NEW-P	86-09-092
251-10-025	AMD-P	86-10-066	260-13-030	NEW	86-13-056	260-13-400	NEW	86-13-056
251-10-025	AMD-E	86-12-037	260-13-040	NEW-P	86-09-092	260-13-410	NEW-P	86-09-092
251-10-025	AMD	86-14-041	260-13-040	NEW	86-13-056	260-13-410	NEW	86-13-056
251-10-105	NEW	86-06-033	260-13-050	NEW-P	86-09-092	260-13-420	NEW-P	86-09-092
251-10-110	AMD-C	86-04-011	260-13-050	NEW	86-13-056	260-13-420	NEW	86-13-056
251-10-110	AMD	86-06-033	260-13-060	NEW-P	86-09-092	260-13-430	NEW-P	86-09-092
251-10-110	AMD-W	86-08-091	260-13-060	NEW	86-13-056	260-13-430	NEW	86-13-056
251-10-111	NEW	86-06-033	260-13-070	NEW-P	86-09-092	260-13-440	NEW-P	86-09-092
251-10-115	NEW-W	86-08-091	260-13-070	NEW	86-13-056	260-13-440	NEW	86-13-056
251-10-120	AMD-W	86-08-091	260-13-080	NEW-P	86-09-092	260-13-450	NEW-P	86-09-092
251-14-050	AMD-P	86-04-077	260-13-080	NEW	86-13-056	260-13-450	NEW	86-13-056
251-14-050	AMD-P	86-04-078	260-13-090	NEW-P	86-09-092	260-13-460	NEW-P	86-09-092
251-14-050	AMD-C	86-08-038	260-13-090	NEW	86-13-056	260-13-460	NEW-P	86-15-086
251-14-050	AMD	86-09-076	260-13-100	NEW-P	86-09-092	260-13-470	NEW-P	86-09-092
251-14-060	AMD-P	86-04-078	260-13-100	NEW	86-13-056	260-13-470	NEW-P	86-15-086
251-14-060	AMD-C	86-08-038	260-13-110	NEW-P	86-09-092	260-13-480	NEW-P	86-15-086
251-14-060	AMD	86-09-076	260-13-110	NEW	86-13-056	260-13-490	NEW-P	86-15-086
251-14-080	AMD-W	86-08-091	260-13-120	NEW-P	86-09-092	260-13-500	NEW-P	86-15-086
251-14-080	AMD-P	86-10-064	260-13-120	NEW	86-13-056	260-16-040	AMD-P	86-04-042
251-14-080	AMD-P	86-10-065	260-13-130	NEW-P	86-09-092	260-16-040	AMD-P	86-15-082
251-14-080	AMD	86-14-042	260-13-130	NEW	86-13-056	260-16-050	NEW-P	86-04-042
251-14-082	NEW-W	86-08-091	260-13-140	NEW-P	86-09-092	260-16-050	NEW-P	86-15-082
251-14-082	NEW-P	86-10-064	260-13-140	NEW	86-13-056	260-16-060	NEW-P	86-15-082
251-14-082	NEW	86-14-042	260-13-150	NEW-P	86-09-092	260-16-070	NEW-P	86-15-082
251-14-083	NEW-W	86-08-091	260-13-150	NEW	86-13-056	260-16-080	NEW-P	86-15-082
251-14-083	NEW-P	86-10-064	260-13-160	NEW-P	86-09-092	260-36-020	AMD-P	86-04-042
251-14-083	NEW	86-14-042	260-13-160	NEW	86-13-056	260-36-020	AMD-E	86-05-017
251-14-084	NEW-W	86-08-091	260-13-160	AMD-P	86-15-082	260-36-020	AMD	86-09-072
251-14-084	NEW-P	86-10-065	260-13-170	NEW-P	86-09-092	260-36-030	AMD-P	86-04-042
251-14-085	NEW-W	86-08-091	260-13-170	NEW	86-13-056	260-36-030	AMD-E	86-05-017
251-14-085	NEW-P	86-10-064	260-13-180	NEW-P	86-09-092	260-36-030	AMD	86-09-072
251-14-085	NEW	86-14-042	260-13-180	NEW	86-13-056	260-36-040	AMD-P	86-04-042
251-14-086	NEW-W	86-08-091	260-13-190	NEW-P	86-09-092	260-36-040	AMD-E	86-05-017
251-14-086	NEW-P	86-10-064	260-13-190	NEW	86-13-056	260-36-040	AMD	86-09-072
251-14-086	NEW	86-14-042	260-13-190	AMD-P	86-15-082	260-36-040	AMD-P	86-04-042
251-14-087	NEW-W	86-08-091	260-13-200	NEW-P	86-09-092	260-36-080	AMD-E	86-05-017
251-14-087	NEW-P	86-10-064	260-13-200	NEW	86-13-056	260-36-080	AMD	86-09-072
251-14-087	NEW	86-14-042	260-13-210	NEW-P	86-09-092	260-40-100	AMD-P	86-04-042
251-14-090	AMD-W	86-08-091	260-13-210	NEW	86-13-056	260-40-100	AMD-E	86-05-017
251-18-035	AMD	86-06-034	260-13-220	NEW-P	86-09-092	260-40-100	AMD	86-09-072
251-18-041	AMD	86-03-081	260-13-220	NEW	86-13-056	260-48-035	NEW-P	86-04-042
251-18-060	AMD	86-06-034	260-13-230	NEW-P	86-09-092	260-48-035	NEW-E	86-05-017
251-18-180	AMD	86-03-081	260-13-230	NEW	86-13-056	260-48-035	NEW	86-09-072
251-18-240	AMD	86-06-034	260-13-240	NEW-P	86-09-092	260-70-010	AMD-P	86-04-042
251-18-250	REP	86-06-034	260-13-240	NEW	86-13-056	260-70-010	AMD	86-09-072
251-18-390	REP	86-06-034	260-13-250	NEW-P	86-09-092	260-72-010	AMD-P	86-15-082
251-22-040	AMD-P	86-04-079	260-13-250	NEW	86-13-056	261-02-050	NEW-P	86-08-077
251-22-040	AMD	86-08-037	260-13-260	NEW-P	86-09-092	261-02-050	NEW	86-11-041
251-22-240	AMD-P	86-15-028	260-13-260	NEW	86-13-056	261-02-060	NEW-P	86-08-077
251-23-010	NEW	86-06-034	260-13-270	NEW-P	86-09-092	261-02-060	NEW	86-11-041
251-23-020	NEW	86-06-034	260-13-270	NEW	86-13-056	261-10-080	AMD-P	86-08-077
251-23-030	NEW	86-06-034	260-13-280	NEW-P	86-09-092	261-10-080	AMD	86-11-041
251-23-040	NEW	86-06-034	260-13-280	NEW	86-13-056	261-12-090	NEW-P	86-08-077
251-23-050	NEW	86-06-034	260-13-290	NEW-P	86-09-092	261-12-090	NEW	86-11-041
251-23-060	NEW	86-06-034	260-13-290	NEW	86-13-056	261-14-090	NEW-P	86-08-077
251-25-010	NEW-P	86-10-066	260-13-300	NEW-P	86-09-092	261-14-090	NEW	86-11-041
251-25-010	NEW-E	86-12-037	260-13-300	NEW	86-13-056	261-20-040	AMD-P	86-08-077
251-25-010	NEW	86-14-041	260-13-310	NEW-P	86-09-092	261-20-040	AMD	86-11-041
251-25-020	NEW-P	86-10-066	260-13-310	NEW	86-13-056	261-20-045	AMD-P	86-08-077
251-25-020	NEW-E	86-12-037	260-13-320	NEW-P	86-09-092	261-20-045	AMD-C	86-11-040
251-25-020	NEW	86-14-041	260-13-320	NEW	86-13-056	261-20-045	AMD	86-13-052
251-25-030	NEW-P	86-10-066	260-13-330	NEW-P	86-09-092	261-20-090	AMD-P	86-08-077

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
261-20-090	AMD	86-11-041	275-26-020	AMD-E	86-04-074	296-14	AMD-P	86-13-026
261-40-135	AMD-P	86-08-077	275-26-020	AMD-P	86-04-075	296-14-100	NEW-E	86-13-025
261-40-135	AMD	86-11-041	275-26-020	AMD	86-08-003	296-14-100	NEW-P	86-13-026
261-40-140	AMD-P	86-08-077	275-27	AMD-E	86-14-046	296-14-150	NEW-E	86-13-025
261-40-140	AMD	86-11-041	275-27	AMD-P	86-14-060	296-14-150	NEW-P	86-13-026
261-40-145	AMD-P	86-08-077	275-27-050	AMD-E	86-14-046	296-14-200	NEW-E	86-13-025
261-40-145	AMD	86-11-041	275-27-050	AMD-P	86-14-060	296-14-200	NEW-P	86-13-026
261-40-150	AMD-P	86-10-060	275-27-060	AMD-E	86-14-046	296-15-010	AMD-P	86-09-094
261-40-150	AMD	86-15-018	275-27-060	AMD-P	86-14-060	296-15-010	AMD	86-14-079
261-40-170	AMD-P	86-08-077	275-27-210	REP-E	86-14-046	296-15-020	AMD-P	86-09-094
261-40-170	AMD	86-11-041	275-27-210	REP-P	86-14-060	296-15-020	AMD	86-14-079
261-40-200	AMD-P	86-08-077	275-27-220	NEW-E	86-14-046	296-15-023	AMD-P	86-09-094
261-40-200	AMD	86-11-041	275-27-220	NEW-P	86-14-060	296-15-023	AMD	86-14-079
261-40-201	AMD-P	86-08-077	275-27-230	AMD-E	86-14-046	296-15-025	AMD-P	86-09-094
261-40-201	AMD-C	86-11-040	275-27-230	AMD-P	86-14-060	296-15-025	AMD	86-14-079
261-40-201	AMD	86-13-052	275-27-400	AMD-E	86-14-046	296-15-030	AMD-P	86-09-094
261-40-220	AMD-P	86-08-077	275-27-400	AMD-P	86-14-060	296-15-030	AMD-P	86-14-004
261-40-220	AMD	86-11-041	275-27-500	AMD-E	86-14-046	296-15-030	AMD	86-14-079
261-40-250	NEW-P	86-08-077	275-27-500	AMD-P	86-14-060	296-15-030	AMD-E	86-14-080
261-40-250	NEW	86-11-041	275-38-555	AMD-P	86-14-059	296-15-060	AMD-P	86-09-094
261-40-315	AMD-P	86-08-077	275-38-555	AMD-E	86-14-073	296-15-060	AMD	86-14-079
261-40-315	AMD	86-11-041	275-38-860	AMD-P	86-14-059	296-15-065	NEW-P	86-14-004
261-40-400	AMD-P	86-08-077	275-38-860	AMD-E	86-14-073	296-15-065	NEW-E	86-14-080
261-40-400	AMD	86-11-041	284-20-100	NEW-P	86-15-085	296-15-070	AMD-P	86-09-094
261-40-405	AMD-P	86-08-077	284-24-060	AMD-P	86-15-085	296-15-070	AMD-P	86-14-004
261-40-405	AMD	86-11-041	284-24-080	AMD-P	86-15-085	296-15-070	AMD-E	86-14-080
261-40-410	AMD-P	86-08-077	284-53-010	NEW-P	86-14-112	296-15-072	NEW-P	86-14-004
261-40-410	AMD	86-11-041	284-78-010	NEW-E	86-14-069	296-15-072	NEW-E	86-14-080
261-40-435	AMD-P	86-08-077	284-78-010	NEW-P	86-15-062	296-15-080	AMD-P	86-09-094
261-40-435	AMD	86-11-041	284-78-020	NEW-E	86-14-069	296-15-080	AMD	86-14-079
261-40-470	AMD-P	86-08-077	284-78-020	NEW-P	86-15-062	296-15-090	AMD-P	86-09-094
261-40-470	AMD	86-11-041	284-78-030	NEW-E	86-14-069	296-15-090	AMD	86-14-079
261-40-480	AMD-P	86-08-077	284-78-030	NEW-P	86-15-062	296-15-100	AMD-P	86-09-094
261-40-480	AMD	86-11-041	284-78-040	NEW-E	86-14-069	296-15-100	AMD	86-14-079
261-40-485	AMD-P	86-08-077	284-78-040	NEW-P	86-15-062	296-15-110	AMD-P	86-09-094
261-40-485	AMD	86-11-041	284-78-050	NEW-E	86-14-069	296-15-110	AMD	86-14-079
261-40-490	AMD-P	86-08-077	284-78-050	NEW-P	86-15-062	296-15-120	AMD-P	86-09-094
261-40-490	AMD	86-11-041	284-78-060	NEW-E	86-14-069	296-15-120	AMD	86-14-079
261-50-030	AMD-P	86-10-046	284-78-060	NEW-P	86-15-062	296-15-135	NEW-P	86-09-094
261-50-030	AMD	86-14-081	284-78-070	NEW-E	86-14-069	296-15-135	NEW	86-14-079
261-50-040	AMD-P	86-10-046	284-78-070	NEW-P	86-15-062	296-15-150	AMD-P	86-09-094
261-50-040	AMD	86-14-081	284-78-080	NEW-E	86-14-069	296-15-150	AMD	86-14-079
261-50-045	AMD-P	86-10-046	284-78-080	NEW-P	86-15-062	296-15-160	AMD-P	86-09-094
261-50-045	AMD	86-14-081	284-78-090	NEW-E	86-14-069	296-15-160	AMD	86-14-079
261-50-090	AMD-P	86-10-046	284-78-090	NEW-P	86-15-062	296-15-180	AMD-P	86-09-094
261-50-090	AMD	86-14-081	284-78-100	NEW-E	86-14-069	296-15-180	AMD	86-14-079
263-12-007	AMD	86-03-021	284-78-100	NEW-P	86-15-062	296-15-200	AMD-P	86-09-094
263-12-015	AMD	86-03-021	284-78-110	NEW-E	86-14-069	296-15-200	AMD	86-14-079
263-12-016	AMD	86-03-021	284-78-110	NEW-P	86-15-062	296-15-21002	AMD-P	86-09-094
263-12-017	NEW	86-03-021	284-78-120	NEW-E	86-14-069	296-15-21002	AMD	86-14-079
263-12-018	AMD	86-03-021	284-78-120	NEW-P	86-15-062	296-15-21003	REP-P	86-14-004
263-12-019	NEW	86-03-021	284-78-130	NEW-E	86-14-069	296-15-21003	REP-E	86-14-080
263-12-050	AMD	86-03-021	284-78-130	NEW-P	86-15-062	296-15-240	AMD-P	86-09-094
263-12-056	AMD	86-03-021	284-78-140	NEW-E	86-14-069	296-15-240	AMD	86-14-079
263-12-060	AMD	86-03-021	284-78-140	NEW-P	86-15-062	296-15-255	NEW-P	86-14-004
263-12-098	NEW-C	86-03-023	284-78-150	NEW-E	86-14-069	296-15-255	NEW-E	86-14-080
263-12-098	NEW-W	86-05-007	284-78-150	NEW-P	86-15-062	296-15-260	AMD-P	86-14-004
263-12-125	AMD	86-03-021	284-78-160	NEW-E	86-14-069	296-15-260	AMD-E	86-14-080
263-12-145	AMD	86-03-021	284-78-160	NEW-P	86-15-062	296-17	AMD-C	86-03-062
263-12-145	AMD-E	86-03-022	284-78-170	NEW-E	86-14-069	296-17-310	AMD-P	86-08-083
263-12-150	AMD	86-03-021	284-78-170	NEW-P	86-15-062	296-17-310	AMD	86-12-041
263-12-150	AMD-E	86-03-022	284-78-180	NEW-E	86-14-069	296-17-320	AMD-P	86-08-083
263-12-170	AMD	86-03-021	284-78-180	NEW-P	86-15-062	296-17-320	AMD	86-12-041
263-12-180	AMD	86-03-021	286-16-080	AMD-E	86-08-074	296-17-420	AMD-P	86-08-083
263-12-190	AMD	86-03-021	289-02-020	AMD-P	86-14-021	296-17-420	AMD	86-12-041
263-16-005	REP	86-03-021	289-10-310	AMD-P	86-14-021	296-17-505	AMD-P	86-08-083
263-16-010	REP	86-03-021	289-10-320	REP-P	86-14-021	296-17-505	AMD	86-12-041
263-16-020	REP	86-03-021	289-10-330	REP-P	86-14-021	296-17-520	AMD-P	86-08-083
263-16-030	REP	86-03-021	289-10-520	AMD-P	86-14-021	296-17-520	AMD	86-12-041
263-16-040	REP	86-03-021	289-10-530	AMD-P	86-14-021	296-17-52103	NEW-P	86-08-083
263-16-050	REP	86-03-021	289-12-030	AMD-P	86-14-021	296-17-52103	NEW	86-12-041
263-16-060	REP	86-03-021	289-12-045	NEW-P	86-14-021	296-17-52104	NEW-P	86-08-083
263-16-070	REP	86-03-021	289-15-225	AMD-P	86-05-038	296-17-52104	NEW	86-12-041
263-16-080	REP	86-03-021	289-15-225	AMD	86-09-070	296-17-536	AMD-P	86-08-083
263-16-090	REP	86-03-021	289-15-225	AMD-P	86-14-022	296-17-536	AMD	86-12-041
275-16-030	AMD-P	86-14-010	289-26-300	AMD-P	86-14-021	296-17-53805	AMD-P	86-08-083
275-16-030	AMD-E	86-14-072	296-14	AMD-E	86-13-025	296-17-53805	AMD	86-12-041

### Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-17-555	AMD-P	86-08-083	296-20-025	AMD-C	86-03-050	296-21-040	AMD-C	86-03-050
296-17-555	AMD	86-12-041	296-20-025	AMD-C	86-04-036	296-21-040	AMD-C	86-04-036
296-17-632	REP-P	86-08-083	296-20-025	AMD	86-06-032	296-21-040	AMD	86-06-032
296-17-632	REP	86-12-041	296-20-030	AMD-C	86-03-050	296-21-045	AMD-C	86-03-050
296-17-64902	AMD-P	86-08-083	296-20-030	AMD-C	86-04-036	296-21-045	AMD-C	86-04-036
296-17-64902	AMD	86-12-041	296-20-030	AMD	86-06-032	296-21-045	AMD	86-06-032
296-17-659	AMD-P	86-08-083	296-20-03001	AMD-C	86-03-050	296-21-046	AMD-C	86-03-050
296-17-659	AMD	86-12-041	296-20-03001	AMD-C	86-04-036	296-21-046	AMD-C	86-04-036
296-17-677	AMD-P	86-08-083	296-20-03001	AMD	86-06-032	296-21-046	AMD	86-06-032
296-17-677	AMD	86-12-041	296-20-03001	AMD-P	86-15-011	296-21-050	AMD-C	86-03-050
296-17-693	AMD-P	86-08-083	296-20-03002	AMD-C	86-03-050	296-21-050	AMD-C	86-04-036
296-17-693	AMD	86-12-041	296-20-03002	AMD-C	86-04-036	296-21-050	AMD	86-06-032
296-17-694	AMD-P	86-08-083	296-20-03002	AMD	86-06-032	296-21-0501	AMD-P	86-15-011
296-17-694	AMD	86-12-041	296-20-03003	AMD-C	86-03-050	296-21-0502	AMD-C	86-03-050
296-17-708	AMD-P	86-08-083	296-20-03003	AMD-C	86-04-036	296-21-0502	AMD-C	86-04-036
296-17-708	AMD	86-12-041	296-20-03003	AMD	86-06-032	296-21-0502	AMD	86-06-032
296-17-710	AMD-P	86-08-083	296-20-03005	NEW-P	86-13-034	296-21-0502	AMD-P	86-15-011
296-17-710	AMD	86-12-041	296-20-03005	NEW-E	86-13-035	296-21-062	AMD-C	86-03-050
296-17-761	AMD-P	86-08-083	296-20-035	AMD-C	86-03-050	296-21-062	AMD-C	86-04-036
296-17-761	AMD	86-12-041	296-20-035	AMD-C	86-04-036	296-21-062	AMD	86-06-032
296-17-850	AMD-P	86-08-083	296-20-035	AMD	86-06-032	296-21-066	AMD-C	86-03-050
296-17-850	AMD	86-12-041	296-20-045	AMD-C	86-03-050	296-21-066	AMD-C	86-04-036
296-17-875	AMD-P	86-08-083	296-20-045	AMD-C	86-04-036	296-21-066	AMD	86-06-032
296-17-875	AMD	86-12-041	296-20-051	AMD-C	86-03-050	296-21-070	AMD-C	86-03-050
296-17-885	AMD-P	86-08-083	296-20-051	AMD-C	86-04-036	296-21-070	AMD-C	86-04-036
296-17-885	AMD	86-12-041	296-20-051	AMD	86-06-032	296-21-070	AMD	86-06-032
296-17-895	AMD-P	86-08-083	296-20-06101	AMD-C	86-03-050	296-21-075	AMD-C	86-03-050
296-17-895	AMD	86-12-041	296-20-06101	AMD-C	86-04-036	296-21-075	AMD-C	86-04-036
296-17-904	AMD	86-06-018	296-20-06101	AMD	86-06-032	296-21-075	AMD	86-06-032
296-17-904	AMD-E	86-07-011	296-20-065	AMD-C	86-03-050	296-21-080	AMD-C	86-03-050
296-17-911	AMD	86-06-018	296-20-065	AMD-C	86-04-036	296-21-080	AMD-C	86-04-036
296-17-911	AMD-E	86-07-011	296-20-065	AMD	86-06-032	296-21-080	AMD	86-06-032
296-17-914	AMD	86-06-018	296-20-071	AMD-C	86-03-050	296-21-080	AMD-C	86-03-050
296-17-914	AMD-E	86-07-011	296-20-071	AMD-C	86-04-036	296-21-085	AMD-C	86-04-036
296-17-916	AMD	86-06-018	296-20-071	AMD	86-06-032	296-21-085	AMD	86-06-032
296-17-916	AMD-E	86-07-011	296-20-075	AMD-C	86-03-050	296-21-086	AMD-C	86-03-050
296-17-917	AMD	86-06-018	296-20-075	AMD-C	86-04-036	296-21-086	AMD-C	86-04-036
296-17-917	AMD-E	86-07-011	296-20-075	AMD	86-06-032	296-21-086	AMD	86-06-032
296-17-919	AMD	86-06-018	296-20-075	AMD-P	86-15-011	296-21-090	AMD-C	86-03-050
296-17-919	AMD-E	86-07-011	296-20-100	AMD-C	86-03-050	296-21-090	AMD-C	86-04-036
296-17-91901	AMD	86-06-018	296-20-100	AMD-C	86-04-036	296-21-090	AMD	86-06-032
296-17-91901	AMD-E	86-07-011	296-20-100	AMD	86-06-032	296-21-095	AMD-C	86-03-050
296-17-91901	AMD-P	86-11-074	296-20-110	AMD-C	86-03-050	296-21-095	AMD-C	86-04-036
296-17-91902	AMD	86-06-018	296-20-110	AMD-C	86-04-036	296-21-095	AMD	86-06-032
296-17-91902	AMD-E	86-07-011	296-20-110	AMD	86-06-032	296-21-125	AMD-C	86-03-050
296-17-91902	AMD-P	86-11-074	296-20-1102	AMD-C	86-03-050	296-21-125	AMD-C	86-04-036
296-17-91903	NEW	86-06-018	296-20-1102	AMD-C	86-04-036	296-21-125	AMD	86-06-032
296-17-91903	NEW-E	86-07-011	296-20-1102	AMD	86-06-032	296-21-128	AMD-C	86-03-050
296-17-91903	AMD-P	86-11-074	296-20-1103	AMD-P	86-15-011	296-21-128	AMD-C	86-04-036
296-17-91904	NEW	86-06-018	296-20-121	AMD-C	86-03-050	296-21-128	AMD	86-06-032
296-17-91904	NEW-E	86-07-011	296-20-121	AMD-C	86-04-036	296-22-010	AMD-C	86-03-050
296-17-91904	AMD-P	86-11-074	296-20-121	AMD	86-06-032	296-22-010	AMD-C	86-04-036
296-17-91905	NEW	86-06-018	296-20-125	AMD-C	86-03-050	296-22-010	AMD	86-06-032
296-17-91905	NEW-E	86-07-011	296-20-125	AMD-C	86-04-036	296-22-010	AMD-P	86-15-011
296-17-91905	AMD-P	86-11-074	296-20-125	AMD	86-06-032	296-22-017	AMD-C	86-03-050
296-17-920	AMD-P	86-08-083	296-20-125	AMD-P	86-15-011	296-22-017	AMD-C	86-04-036
296-17-920	AMD	86-12-041	296-20-170	AMD-C	86-03-050	296-22-017	AMD	86-06-032
296-20-010	AMD-C	86-03-050	296-20-170	AMD-C	86-04-036	296-22-020	AMD-C	86-03-050
296-20-010	AMD-C	86-04-036	296-20-170	AMD	86-06-032	296-22-020	AMD-C	86-04-036
296-20-010	AMD	86-06-032	296-20-17001	AMD-C	86-03-050	296-22-020	AMD	86-06-032
296-20-010	AMD-P	86-15-011	296-20-17001	AMD-C	86-04-036	296-22-021	AMD-C	86-03-050
296-20-01002	AMD-P	86-15-011	296-20-17001	AMD	86-06-032	296-22-021	AMD-C	86-04-036
296-20-015	AMD-C	86-03-050	296-20-17002	AMD-C	86-03-050	296-22-021	AMD	86-06-032
296-20-015	AMD-C	86-04-036	296-20-17002	AMD-C	86-04-036	296-22-022	AMD-C	86-03-050
296-20-015	AMD	86-06-032	296-20-17002	AMD	86-06-032	296-22-022	AMD-C	86-04-036
296-20-015	AMD-P	86-15-011	296-21-011	AMD-C	86-03-050	296-22-022	AMD	86-06-032
296-20-020	AMD-C	86-03-050	296-21-011	AMD-C	86-04-036	296-22-022	AMD-C	86-03-050
296-20-020	AMD-C	86-04-036	296-21-011	AMD	86-06-032	296-22-023	AMD-C	86-04-036
296-20-020	AMD	86-06-032	296-21-013	AMD-C	86-03-050	296-22-023	AMD	86-06-032
296-20-02001	AMD-C	86-03-050	296-21-013	AMD-C	86-04-036	296-22-024	AMD-C	86-03-050
296-20-02001	AMD-C	86-04-036	296-21-013	AMD	86-06-032	296-22-024	AMD-C	86-04-036
296-20-02005	NEW-P	86-15-011	296-21-027	AMD-C	86-03-050	296-22-024	AMD	86-06-032
296-20-02010	NEW-P	86-15-011	296-21-027	AMD-C	86-04-036	296-22-025	AMD-C	86-03-050
296-20-02015	NEW-P	86-15-011	296-21-027	AMD	86-06-032	296-22-025	AMD-C	86-04-036
296-20-023	NEW-C	86-03-050	296-21-030	AMD-C	86-03-050	296-22-025	AMD	86-06-032
296-20-023	NEW-C	86-04-036	296-21-030	AMD-C	86-04-036	296-22-026	AMD-C	86-03-050
296-20-023	NEW	86-06-032	296-21-030	AMD	86-06-032	296-22-026	AMD-C	86-04-036

















## Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
296-155-615	AMD-C 86-03-073	296-155-890	REP-C 86-03-073	296-401-120	AMD-E 86-14-078
296-155-615	AMD 86-03-074	296-155-890	REP 86-03-074	296-401-160	AMD-P 86-14-077
296-155-617	NEW-C 86-03-073	296-155-895	REP-C 86-03-073	296-401-160	AMD-E 86-14-078
296-155-617	NEW 86-03-074	296-155-895	REP 86-03-074	296-401-165	AMD-P 86-14-077
296-155-61701	NEW-C 86-03-073	296-155-900	REP-C 86-03-073	296-401-165	AMD-E 86-14-078
296-155-61701	NEW 86-03-074	296-155-900	REP 86-03-074	296-401-168	NEW-P 86-14-077
296-155-61703	NEW-C 86-03-073	296-155-905	REP-C 86-03-073	296-401-168	NEW-E 86-14-078
296-155-61703	NEW 86-03-074	296-155-905	REP 86-03-074	296-401-170	AMD-P 86-14-077
296-155-61705	NEW-C 86-03-073	296-155-910	REP-C 86-03-073	296-401-170	AMD-E 86-14-078
296-155-61705	NEW 86-03-074	296-155-910	REP 86-03-074	296-401-175	AMD-E 86-10-017
296-155-61707	NEW-C 86-03-073	296-155-915	REP-C 86-03-073	296-401-175	AMD-P 86-14-077
296-155-61707	NEW 86-03-074	296-155-915	REP 86-03-074	296-401-175	AMD-E 86-14-078
296-155-61709	NEW-C 86-03-073	296-155-920	REP-C 86-03-073	296-403-010	NEW-P 86-07-055
296-155-61709	NEW 86-03-074	296-155-920	REP 86-03-074	296-403-010	NEW-E 86-12-018
296-155-61711	NEW-C 86-03-073	296-155-950	AMD-C 86-03-073	296-403-010	NEW 86-12-019
296-155-61711	NEW 86-03-074	296-155-950	AMD 86-03-074	296-403-020	NEW-P 86-07-055
296-155-61713	NEW-C 86-03-073	296-200-015	AMD-P 86-14-035	296-403-020	NEW-E 86-12-018
296-155-61713	NEW 86-03-074	296-200-015	AMD-E 86-14-039	296-403-020	NEW 86-12-019
296-155-625	AMD-C 86-03-073	296-200-080	AMD-P 86-14-035	296-403-030	NEW-P 86-07-055
296-155-625	AMD 86-03-074	296-200-080	AMD-E 86-14-039	296-403-030	NEW-E 86-12-018
296-155-650	AMD-C 86-03-073	296-200-300	AMD-P 86-14-035	296-403-030	NEW 86-12-019
296-155-650	AMD 86-03-074	296-200-300	AMD-E 86-14-039	296-403-040	NEW-P 86-07-055
296-155-655	AMD-C 86-03-073	296-200-320	AMD-P 86-14-035	296-403-040	NEW-E 86-12-018
296-155-655	AMD 86-03-074	296-200-320	AMD-E 86-14-039	296-403-040	NEW 86-12-019
296-155-65505	NEW-C 86-03-073	296-200-330	NEW-P 86-14-035	296-403-050	NEW-P 86-07-055
296-155-65505	NEW 86-03-074	296-200-330	NEW-E 86-14-039	296-403-050	NEW-E 86-12-018
296-155-660	AMD-C 86-03-073	296-200-340	NEW-P 86-14-035	296-403-050	NEW 86-12-019
296-155-660	AMD 86-03-074	296-200-340	NEW-E 86-14-039	296-403-060	NEW-P 86-07-055
296-155-66005	NEW-C 86-03-073	296-200-350	NEW-P 86-14-035	296-403-060	NEW-E 86-12-018
296-155-66005	NEW 86-03-074	296-200-350	NEW-E 86-14-039	296-403-060	NEW 86-12-019
296-155-665	AMD-C 86-03-073	296-200-360	NEW-P 86-14-035	296-403-070	NEW-P 86-07-055
296-155-665	AMD 86-03-074	296-200-360	NEW-E 86-14-039	296-403-070	NEW-E 86-12-018
296-155-66501	AMD-C 86-03-073	296-200-370	NEW-P 86-14-035	296-403-070	NEW 86-12-019
296-155-66501	AMD 86-03-074	296-200-370	NEW-E 86-14-039	304-12-025	AMD-P 86-09-091
296-155-66502	AMD-C 86-03-073	296-200-380	NEW-P 86-14-035	304-12-025	AMD 86-12-067
296-155-680	AMD-C 86-03-073	296-200-380	NEW-E 86-14-039	304-12-040	NEW-P 86-09-091
296-155-680	AMD 86-03-074	296-200-390	NEW-P 86-14-035	304-12-040	NEW 86-12-067
296-155-690	AMD-C 86-03-073	296-200-390	NEW-E 86-14-039	304-12-045	NEW-P 86-09-091
296-155-690	AMD 86-03-074	296-200-400	NEW-P 86-14-035	304-12-045	NEW 86-12-067
296-155-695	AMD-C 86-03-073	296-200-400	NEW-E 86-14-039	304-12-145	NEW-P 86-09-091
296-155-695	AMD 86-03-074	296-350-050	AMD-P 86-11-070	304-12-145	NEW 86-12-067
296-155-700	AMD-C 86-03-073	296-350-080	AMD-P 86-11-070	304-12-290	AMD-P 86-09-091
296-155-700	AMD 86-03-074	296-350-300	NEW 86-06-002	304-12-290	AMD 86-12-067
296-155-705	AMD-C 86-03-073	296-350-400	AMD 86-03-064	304-12-350	AMD-P 86-09-091
296-155-705	AMD 86-03-074	296-400-005	NEW-P 86-14-034	304-12-350	AMD 86-12-067
296-155-720	AMD-C 86-03-073	296-400-005	NEW-E 86-14-038	304-25-030	AMD-P 86-03-048
296-155-720	AMD 86-03-074	296-400-030	AMD-P 86-14-034	304-25-030	AMD 86-08-042
296-155-725	AMD-C 86-03-073	296-400-030	AMD-E 86-14-038	304-25-560	AMD-P 86-03-048
296-155-725	AMD 86-03-074	296-400-035	NEW-P 86-14-034	304-25-560	AMD 86-08-042
296-155-730	AMD-C 86-03-073	296-400-035	NEW-E 86-14-038	308-04-010	AMD-P 86-04-090
296-155-730	AMD 86-03-074	296-400-045	AMD-P 86-14-034	308-04-010	AMD 86-08-069
296-155-750	AMD-C 86-03-073	296-400-045	AMD-E 86-14-038	308-11-050	REP-E 86-14-086
296-155-750	AMD 86-03-074	296-400-050	AMD-P 86-14-034	308-11-130	NEW-E 86-14-017
296-155-760	REP-C 86-03-073	296-400-050	AMD-E 86-14-038	308-11-140	NEW-E 86-14-086
296-155-760	REP 86-03-074	296-400-070	NEW-P 86-14-034	308-12-050	AMD 86-04-088
296-155-765	AMD-C 86-03-073	296-400-070	NEW-E 86-14-038	308-12-081	AMD 86-04-088
296-155-765	AMD 86-03-074	296-400-100	NEW-P 86-14-034	308-12-135	NEW-P 86-06-053
296-155-775	AMD-C 86-03-073	296-400-100	NEW-E 86-14-038	308-12-140	NEW 86-04-088
296-155-775	AMD 86-03-074	296-400-110	NEW-P 86-14-034	308-12-145	NEW 86-04-088
296-155-830	AMD-C 86-03-073	296-400-110	NEW-E 86-14-038	308-12-150	NEW 86-04-088
296-155-830	AMD 86-03-074	296-400-120	NEW-P 86-14-034	308-12-312	AMD-E 86-04-086
296-155-850	REP-C 86-03-073	296-400-120	NEW-E 86-14-038	308-12-312	AMD-E 86-10-037
296-155-850	REP 86-03-074	296-400-130	NEW-P 86-14-034	308-13-015	AMD-P 86-07-058
296-155-855	REP-C 86-03-073	296-400-130	NEW-E 86-14-038	308-13-040	AMD-P 86-07-058
296-155-855	REP 86-03-074	296-400-140	NEW-P 86-14-034	308-13-041	NEW-P 86-07-058
296-155-860	REP-C 86-03-073	296-400-140	NEW-E 86-14-038	308-13-042	NEW-P 86-07-058
296-155-860	REP 86-03-074	296-401-030	AMD-P 86-14-077	308-25-010	AMD-P 86-05-032
296-155-865	REP-C 86-03-073	296-401-030	AMD-E 86-14-078	308-25-015	NEW-P 86-05-032
296-155-865	REP 86-03-074	296-401-060	AMD-P 86-14-077	308-25-015	NEW 86-09-014
296-155-870	REP-C 86-03-073	296-401-060	AMD-E 86-14-078	308-25-025	REP-P 86-05-032
296-155-870	REP 86-03-074	296-401-080	AMD-P 86-14-077	308-25-025	REP 86-09-014
296-155-875	REP-C 86-03-073	296-401-080	AMD-E 86-14-078	308-25-030	REP-P 86-05-032
296-155-875	REP 86-03-074	296-401-090	AMD-P 86-14-077	308-25-030	REP 86-09-014
296-155-880	REP-C 86-03-073	296-401-090	AMD-E 86-14-078	308-25-035	NEW-P 86-05-032
296-155-880	REP 86-03-074	296-401-100	AMD-P 86-14-077	308-25-035	NEW 86-09-014
296-155-885	REP-C 86-03-073	296-401-100	AMD-E 86-14-078	308-29-060	AMD-P 86-10-002
296-155-885	REP 86-03-074	296-401-120	AMD-P 86-14-077	308-29-060	AMD 86-14-051



















## Table of WAC Sections Affected

WAC #		WSR #
490-800-140	NEW-E	86-15-077
490-800-150	NEW-P	86-12-063
490-800-150	NEW	86-15-075
490-800-150	NEW-E	86-15-077
490-800-160	NEW-P	86-12-063
490-800-160	NEW	86-15-075
490-800-160	NEW-E	86-15-077
490-800-170	NEW-P	86-12-063
490-800-170	NEW	86-15-075
490-800-170	NEW-E	86-15-077
490-800-180	NEW-P	86-12-063
490-800-180	NEW	86-15-075
490-800-180	NEW-E	86-15-077
490-800-190	NEW-P	86-12-063
490-800-190	NEW	86-15-075
490-800-190	NEW-E	86-15-077
490-800-200	NEW-P	86-12-063
490-800-200	NEW	86-15-075
490-800-200	NEW-E	86-15-077
490-800-210	NEW-P	86-12-063
490-800-210	NEW	86-15-075
490-800-210	NEW-E	86-15-077
490-800-220	NEW-P	86-12-063
490-800-220	NEW	86-15-075
490-800-220	NEW-E	86-15-077
490-800-230	NEW-P	86-12-063
490-800-230	NEW	86-15-075
490-800-230	NEW-E	86-15-077
490-800-240	NEW-P	86-12-063
490-800-240	NEW	86-15-075
490-800-240	NEW-E	86-15-077
504-17-090	AMD-P	86-13-065
504-17-130	AMD-P	86-13-065
504-17-185	AMD-E	86-07-040
504-17-195	NEW-P	86-13-065
504-17-210	REP-P	86-13-065
504-17-215	NEW-P	86-13-065
504-17-220	AMD-P	86-13-065
504-17-230	REP-P	86-13-065
504-17-235	NEW-P	86-13-065
508-14-025	NEW	86-04-058
508-14-030	AMD	86-04-058
508-60-040	AMD-P	86-08-100
508-60-040	AMD-C	86-12-061
508-60-040	AMD-W	86-15-061
516-52-001	AMD	86-03-020
516-52-010	AMD	86-03-020

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>AGRICULTURE, DEPARTMENT OF</b>		<b>ARCHAEOLOGY AND HISTORIC PRESERVATION, OFFICE OF—cont.</b>	
Apple maggot	86-03-075	Historic preservation grants advisory committee	86-08-082
Apples	86-07-020	SEPA	86-09-038
marketing standards	86-10-057		86-13-002
other brands and grades	86-14-026	<b>ARCHITECTS, BOARD OF REGISTRATION FOR</b>	
Blueberry quarantine	86-08-080	Acceptable work experience	86-04-088
Bruceellosis in cattle	86-10-045	Building designers	86-01-090
	86-14-023		86-06-053
	86-04-050	Examinations	
Bulb commission	86-04-051	candidates	86-01-090
assessment increase	86-08-055		86-04-088
	86-06-045	qualifications	86-01-090
	86-13-057		86-04-088
Chickens		Reciprocity	86-06-053
testing of breeding stock	86-09-001		86-01-090
Diseased material	86-09-090	Seal	86-04-088
Dry pea and lentil commission		Work experience	86-01-090
assessments	86-09-079		86-04-088
	<b>86-15-001</b>	<b>ARTS COMMISSION</b>	
	<b>86-15-002</b>	Public records	86-01-087
Eggs		Purpose, goals, organization	86-01-087
assessment	86-01-075		86-08-072
shell egg seal fees	86-04-027	<b>ASIAN AMERICAN AFFAIRS, COMMISSION ON</b>	
Frozen desserts	86-01-074	Meetings	86-03-009
	86-04-026		86-08-013
Grain fees	86-14-083	<b>ATTORNEY GENERAL OPINIONS</b>	
Grape stock	86-04-070	County board of equalization, appeal to tax appeals board	86-05-042
	86-08-078	County contract to enforce city regulations	86-02-005
Gypsy moth	86-03-075	Gambling tax, use of revenue	<b>86-15-014</b>
	86-07-020	Home rule counties	
Hay crop infestation, Ellensburg	86-13-032	budget conditions	86-03-072
Honey bee tracheal mite	86-03-075	Liens, labor and landlord liens on crops	86-04-037
	86-07-020	Police civil service commission investigations	86-14-029
	86-08-009	Public hospital district, public rates	86-13-060
	86-10-048	School funds, investment of	86-06-023
	86-14-097	Subdivision, boundary line adjustment	86-08-012
Horticulture inspection fees	86-04-029	Tax information, private businesses, authority of department of revenue to require	86-11-012
	86-06-038		
	86-08-081	<b>AVIATION</b>	
Hop grading	86-14-098	Aircraft registration	86-01-066
Milk			86-03-071
bulk milk farm tanks, thermometers	86-13-051	Definitions	
Onion white rot quarantine	86-03-075	local service commuter	86-02-057
	86-07-020	<b>BELLEVUE COMMUNITY COLLEGE (District 8)</b>	
Organic labelling	86-13-050	Board meetings	86-02-008
Potato seed	86-11-063	Liquor implementation	86-01-056
	86-14-096	Student code	86-01-056
	<b>86-15-045</b>		86-13-047
Rapeseed certification	86-09-090	Student comprehensive fee	86-09-045
Rapeseed production and establishment of districts	86-12-065		86-09-046
	86-12-066	<b>BLIND, DEPARTMENT OF SERVICES FOR THE</b>	
	<b>86-15-063</b>	Business enterprise program	86-04-063
Red raspberry commission			86-08-010
assessments	86-06-046	<b>BOARDING HOMES</b>	
	86-13-012	(See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )	
board	86-13-012	<b>BOILER RULES, BOARD OF</b>	
definitions	86-06-046	Board meetings, who may set	86-01-088
	86-13-012	Construction, new, standards	86-01-088
voting	86-06-046	Definitions	
Seed testing fees, certification, etc.	86-09-090	child care centers	86-01-088
	86-13-014		
Tansy ragwort in hay	<b>86-15-054</b>		
Tree fruit research commission	86-07-051		
<b>AMUSEMENT RIDES</b>			
Regulated	86-07-055		
<b>APPLE ADVERTISING COMMISSION</b>			
Delinquent assessments	86-01-082		
<b>APPRENTICESHIP AND TRAINING COUNCIL</b>			
Meetings	<b>86-15-010</b>		
<b>ARCHAEOLOGY AND HISTORIC PRESERVATION, OFFICE OF</b>			
Excavation permits	86-09-039		
	86-13-001		

## Subject/Agency Index

(Citations in bold type refer to material in this issue)

<b>BOILER RULES, BOARD OF—cont.</b>		<b>COLUMBIA BASIN COLLEGE</b>	
Inspection of systems	86-01-088	(District 19)—cont.	
Rules, substantive	86-07-064	promotions	86-10-033
<b>BRUCELLOSIS</b>	86-04-059	salary schedule	86-10-033
(See <b>AGRICULTURE, DEPARTMENT OF</b> )		tenure regulations	86-10-033
<b>BUILDING CODE COUNCIL</b>		<b>COMMUNITY COLLEGE EDUCATION,</b>	
Barrier free facilities	86-14-094	<b>BOARD FOR</b>	
Energy code	86-06-058	Interdistrict program arrangements	86-11-059
	86-06-059	and recruiting	86-12-056
	86-11-013	Meetings	86-01-037
Meetings	86-05-001		86-05-004
	86-12-003	<b>COMMUNITY DEVELOPMENT, DEPARTMENT OF</b>	
<b>BULB COMMISSION</b>		Bonds	
(See <b>AGRICULTURE, DEPARTMENT OF</b> )		nonessential function bond state	
<b>CEMETERY BOARD</b>		ceiling volume cap	86-13-062
Definitions		CSBG	86-14-090
control	86-12-068	Development loan fund committee	
	<b>86-15-036</b>	meetings	86-09-089
ownership	86-12-068		86-12-079
	<b>86-15-036</b>	procedures	86-12-078
sale	86-12-068		<b>86-15-067</b>
	<b>86-15-036</b>	Emergency management (see <b>EMERGENCY MANAGEMENT,</b>	
<b>CENTENNIAL COMMISSION</b>		<b>DEPARTMENT OF</b> )	
Agency administration	86-14-013	Emergency shelter programs	86-03-008
<b>CENTRALIA COLLEGE/SOUTH PUGET SOUND</b>			86-14-089
<b>COMMUNITY COLLEGE</b>		Fire protection policy board meetings	<b>86-15-033</b>
(District 12)		Food banks	<b>86-15-071</b>
Meetings	86-08-050		86-04-046
	86-11-001		86-04-047
	<b>86-15-044</b>		86-08-043
<b>CENTRAL WASHINGTON UNIVERSITY</b>			86-14-088
Meetings	86-09-062		<b>86-15-034</b>
<b>CHILDBIRTH CENTERS</b>		Head start program	86-10-061
Generally	86-01-035	LIHEAP	86-14-090
<b>CHIROPRACTIC DISCIPLINARY BOARD</b>		Municipal bond issuances	86-02-026
Health food store ownership	86-07-057		86-02-027
	86-10-039		86-06-024
Vitamins, minerals, and food		State fire marshal (see <b>FIRE MARSHAL</b> )	
supplements	86-07-057	Transient accommodations, fire standards	86-11-038
	86-10-039	Weatherization assistance program	
<b>CHIROPRACTIC EXAMINERS, BOARD OF</b>		state plan hearing	86-02-002
Continuing education	86-03-082	<b>CONSERVATION COMMISSION</b>	
	86-06-043	Meetings	86-09-073
	86-14-107	<b>CONVENTION AND TRADE CENTER</b>	
Examinations		Meetings	86-03-014
appeal procedure	86-03-082		86-04-064
	86-06-043		86-05-018
national board partial waiver	86-01-040		86-08-062
prior approval not required	86-03-082		86-09-044
	86-06-043	<b>CORRECTIONS, DEPARTMENT OF</b>	
	86-14-107	Definitions	86-02-022
<b>CHORE SERVICES</b>			86-02-023
(See <b>SOCIAL AND HEALTH SERVICES,</b>		Disciplinary actions	86-06-012
<b>DEPARTMENT OF</b> )		Disposition of earnings	86-03-058
<b>CLARK COMMUNITY COLLEGE</b>			86-03-059
(District 14)		Facility review committee	86-06-039
Meetings	86-02-018	Notification	86-06-012
<b>COLLECTION AGENCY BOARD</b>		Offender release dates recalculation	86-02-022
Credit reporting bureau			86-02-023
satisfaction of claim	86-10-002	Petition for promulgation, amendment	
	86-14-051	or repeal of rule or for declaratory	
Rate of interest disclosure	86-10-002	rule	86-02-051
	86-14-051	Public records	86-07-066
Sale of licensed collection agencies	86-10-002		86-10-010
	86-14-051	Reimbursable impact/rates, criminal	
<b>COLUMBIA BASIN COLLEGE</b>		justice costs	86-02-053
(District 19)		Sale of items, products, services by	
Academic employees		vocational education students	86-02-052
annual workload standards	86-10-033	Serious infractions	86-06-012
leaves of absence	86-10-033	Standard rules	86-06-012
		Superintendent's procedures	86-04-015
			86-07-034



## Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

<b>CORRECTIONS, DEPARTMENT OF—cont.</b>		<b>ECOLOGY, DEPARTMENT OF—cont.</b>	
Work release	86-06-012	Ground water management areas and programs	86-02-004 86-04-057 86-04-058 86-11-065 <b>86-15-009</b> <b>86-15-087</b>
<b>CORRECTIONS STANDARDS BOARD</b>		Hazardous waste management for categories of waste meetings	86-09-099 86-10-052
Day room	86-14-021	Instream resources protection program Little Spokane	86-10-062 86-12-048 86-13-066
Living space	86-14-021	Municipal wastewater treatment construction grants Skokomish-Dosewallips	<b>86-15-024</b> 86-01-011 86-05-019 86-01-095
Maximum capacities	86-02-021 86-05-038 86-09-070 86-14-022 86-14-021	NPDES Public water supply Clark County	86-10-072 <b>86-15-030</b> 86-10-071 <b>86-15-029</b> 86-04-057
Physical plant standards		Thurston County	86-09-017 86-10-043 86-11-069 <b>86-15-007</b> <b>86-15-008</b> 86-07-069 86-12-057 <b>86-15-005</b> <b>86-15-083</b>
<b>COUNTY ROAD ADMINISTRATION BOARD</b>		Quincy ground water	86-05-011 86-08-099 86-08-098 86-12-011 86-02-038 86-06-057 86-07-049 86-04-040 86-06-060 86-11-002 86-12-069 86-05-052 86-06-061 86-11-002 86-12-070 86-05-052 86-07-068 86-11-032 86-12-071 86-06-061 86-11-002 86-12-070 86-11-068 86-08-101 86-12-072 86-14-111 86-11-067 86-11-066 86-02-038 86-06-057 86-07-049 86-14-110 86-05-052
RAP projects, regional prioritization	86-02-025 86-06-005	Radioactive waste low-level disposal	
RATA allocation	86-02-025 86-06-005	Recycled wastes	
RATA eligibility	86-02-025 86-06-005	Referendum 39	
<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>		SEA workshops and meetings	
Appeal	86-14-014	Shoreline master program	
Exemption or variance	86-14-014	Anacortes	
Meetings	86-01-055 86-02-017	Clallam County	
Repeal and adoption of all chapters in Title 139 WAC	<b>86-15-072</b>	development permits Edmonds	
<b>DAY CARE</b>		generally Grays Harbor County	
Generally	86-01-025	Kirkland	
Insurance joint underwriting association	86-14-069	Pacific County	
<b>DEFERRED COMPENSATION, COMMITTEE FOR</b>		Skamania County	
Modification of deferral	86-13-005 86-13-024	Snohomish	
<b>DENTAL EXAMINERS</b>		Tacoma	
Examination content	86-04-089 86-08-046	Vancouver	
<b>DENTAL HYGIENE EXAMINING COMMITTEE</b>		Wahkiakum	
Examination	86-05-032 86-09-014	Winthrop wetlands	
<b>DEVELOPMENTALLY DISABLED</b>		Solid wastes, minimum functional standards	
Community training program	86-04-074 86-04-075 86-08-003 86-14-046 86-14-060 86-14-046 86-14-060 86-14-046 86-14-060	Used oil	
Family support services			
Hearings			
Individual service plans			
Institutions			
IMR program and reimbursement system	86-01-008 86-14-059 86-14-073		
Notification and consultation	86-14-046 86-14-060		
Service authorizations	86-14-046 86-14-060		
<b>EASTERN WASHINGTON UNIVERSITY</b>			
Delegation of appointing authority	86-01-042		
Employee financial responsibilities	86-01-042		
<b>ECOLOGY, DEPARTMENT OF</b>			
Air quality			
ambient air quality standards and emission limits for radionuclides	86-04-092 86-07-067 86-10-053 86-07-050 86-04-058 86-07-069 86-12-057 86-08-100 86-12-061 <b>86-15-061</b>		
sulfur dioxide, Weyerhaeuser company			
Columbia basin project			
Dangerous wastes			
Flood control zone permit program			

## Subject/Agency Index

(Citations in bold type refer to material in this issue)

### ECOLOGY, DEPARTMENT OF—cont.

Wastewater discharge  
 permit fees 86-01-095  
 86-06-040  
 state program 86-01-095  
 Water pollution control facilities  
 money **86-15-004**  
**86-15-084**  
 referendum 39 **86-15-005**  
**86-15-083**  
 Wetlands 86-08-098  
 86-12-011

### EDMONDS COMMUNITY COLLEGE (District 23)

Meetings 86-01-032  
 86-05-025  
 86-07-045  
 86-09-065  
 86-11-033  
 86-13-029  
 86-14-044

### EDUCATION, STATE BOARD OF

Certification  
 issuance and retention 86-09-097  
 notice to prospective candidates 86-05-046  
 86-09-011  
 86-09-097  
 professional  
 continuing education requirements 86-09-098  
 86-13-018  
 general provisions 86-09-096  
 86-13-016  
 preparation requirements 86-09-097  
 86-13-017  
 District authority to proceed 86-01-093  
 86-04-066  
 Emergency expulsion **86-15-058**  
 Meetings 86-01-092  
 Project approval 86-04-065  
 Project commitment 86-01-094  
 86-04-060  
 Public schools, certificated personnel 86-09-095  
 86-13-015  
 Support level, insurance receipts 86-01-093  
 86-04-067

### EGGS

(See AGRICULTURE, DEPARTMENT OF)

### EMERGENCY MANAGEMENT, DEPARTMENT OF

Local emergency management/services  
 organizations 86-06-037  
**86-15-068**  
 Local emergency services organizations 86-06-037  
 Local emergency services plans 86-06-037  
 Local emergency services program 86-06-037

### EMPLOYMENT SECURITY DEPARTMENT

Benefit overpayment 86-14-095  
 Corporations, corporate officer coverage 86-11-044  
 86-14-031  
 Job Training Partnership Act 86-05-022  
 86-08-073

### ENERGY FACILITY SITE EVALUATION COUNCIL

Safety, etc., at sites where construction  
 has stopped 86-05-021

### EVERETT COMMUNITY COLLEGE

(District 5)  
 Meetings 86-01-031  
 86-03-036

### EXECUTIVE ORDERS

(See GOVERNOR, OFFICE OF THE)

### FINANCE COMMITTEE

Local government investment pool 86-10-056  
 86-14-002

### FINANCIAL MANAGEMENT, OFFICE OF Paydates 86-14-065

### FIRE MARSHAL

Nursing homes, fire inspection 86-08-063  
 86-08-064  
 86-12-062  
 86-11-038  
 Transient accommodations

### FISHERIES, DEPARTMENT OF

#### Aquaculture

commercial purchasers and receivers **86-15-086**  
 crawfish **86-15-086**  
 definition 86-10-027  
 districts 86-10-027

production report **86-15-086**

registration 86-10-027

shellfish **86-15-086**

#### Commercial

agency procedures  
 fish receiving tickets 86-02-029  
 accountability 86-08-024  
 deadline 86-14-028  
 distribution 86-02-028  
 bottomfish 86-03-044  
 86-08-104  
 86-09-004  
 86-12-027

herring, etc. 86-09-042  
 pacific whiting 86-05-012  
 86-06-025

salmon 86-01-017

Chehalis River

Columbia River

gill net seasons 86-06-013

lawful gear 86-14-012

86-07-035

86-14-012

Yakima, Warm Springs, Umatilla,  
 and Nez Perce 86-14-012

Grays Harbor 86-10-075

**86-15-016**

**86-15-055**

Klickitat River 86-09-015

Pacific Ocean 86-11-016  
 86-11-043  
 86-12-012  
 86-12-032

Puget Sound 86-01-052

86-01-053

**86-15-017**

purse seine nets 86-08-103

86-13-037

86-13-038

Willapa Harbor 86-10-075

**86-15-016**

86-12-013

#### shad

shellfish 86-09-010

razor clams 86-05-002

scallops 86-08-056

sea urchins 86-01-015

86-10-026

#### smelt

lawful gear 86-01-051

86-05-040

86-08-039

#### sturgeon

gear, seasons 86-04-017

Grays Harbor 86-14-084

troll fishery 86-10-007

86-10-015

86-10-075

#### Personal use

bag limits 86-08-065

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>FISHERIES, DEPARTMENT OF—cont.</b>		<b>FOOD STAMPS</b>	
definitions	86-08-065	Generally	86-01-009
	86-14-024		86-01-078
freshwater hook regulations	86-08-065	Voluntary quit	86-05-028
recreation sport fishing			86-05-030
1986-1987 season	86-02-061		
	86-03-089	<b>FOREST PRACTICES BOARD</b>	
	86-09-020	Meetings	86-06-041
Bogachiel River	<b>86-15-056</b>		86-10-034
Calawah River	<b>86-15-056</b>	<b>FOREST PRODUCTS</b>	
Clearwater River	86-13-013	Definitions	86-02-045
Columbia River	86-08-047		86-02-046
	86-14-011		86-10-054
	86-14-024		86-14-063
Cowlitz River	86-08-065		86-14-064
	86-14-024	Harvester adjustments	86-02-045
Entiat River	86-13-039		86-02-046
Icicle River	86-11-017		86-10-054
Klickitat River	86-09-018		86-14-063
	86-14-024		86-14-064
Lakes	86-08-065	Stumpage value	86-02-045
Lewis River	86-08-065		86-02-046
	86-14-024		86-10-054
Little White Salmon River	86-10-028		86-14-063
Pacific Ocean	86-14-024		86-14-064
punch card areas		Timber quality code numbers	86-02-045
bag limit codes	86-06-031		86-02-046
Quillayute River	86-11-051		86-10-054
	86-14-024		86-14-063
	<b>86-15-056</b>		86-14-064
Skagit River	86-14-058		
Soleduck River	86-11-051	<b>FORT STEILACOOM COMMUNITY COLLEGE</b>	
	86-13-013	(See PIERCE COLLEGE)	
	86-14-024	<b>FOSTER CARE</b>	
Wenatchee River	86-12-074	Generally	86-01-006
Wilderness Lake	86-05-039		
	86-08-040	<b>FUNERAL DIRECTORS AND EMBALMERS,</b>	
Wind River	86-09-018	<b>BOARD OF</b>	
	86-14-024	Apprentices, credit for prior employment	<b>86-15-022</b>
Wynoochee Reservoir	86-05-039	Cremation	
	86-08-040	registration fee for endorsement for	
saltwater seasons and bag limits	86-08-065	crematory operations	86-01-083
	86-14-024		86-05-031
shellfish		Definitions	86-09-006
abalone	86-08-065		<b>86-15-022</b>
	86-14-024	Examination	86-09-006
bag limits	86-08-065		<b>86-15-022</b>
	86-14-024	Licenses	
hardshell clams	86-06-026	applicants from other states	86-09-006
	86-08-065		<b>86-15-022</b>
oysters	86-08-065	Training requirements	86-09-006
	86-14-024		<b>86-15-022</b>
razor clams	86-05-024	Unprofessional conduct	
	86-08-065	concealment of crime	86-09-006
shrimp			<b>86-15-022</b>
Hood Canal	86-11-042	<b>GAMBLING COMMISSION</b>	
sturgeon		Applicants	
bag limit	86-02-036	required information	86-09-040
Snake River	86-08-065		86-13-053
unlawful acts	86-08-065		86-13-055
	86-14-024	Bingo	
<u>Subsistence/Ceremonial</u>		conduct of game	86-05-044
Chehalis River	86-11-073		86-09-036
	86-12-007	credit cards	86-01-059
	86-12-033	daily records	86-05-044
	86-12-073		86-09-036
	86-13-013	disclosure of prizes and rules	86-05-044
	86-14-009		86-09-036
	86-14-057	equipment	86-05-044
Columbia River	86-10-005		86-09-036
Klickitat River	86-09-015	expenses	86-07-043
Wanapum Indians	86-11-050		86-13-054
	86-12-014	fees	86-07-043
	86-12-055		86-13-054
Wind River	86-10-005	prizes	86-07-043
Yakima River	86-10-005		86-13-054

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>GAMBLING COMMISSION</b> —cont.		<b>GAME COMMISSION/DEPARTMENT</b> —cont.	
receipts	86-05-044 86-07-043 86-13-054	operating procedures	86-03-053
Card rooms		Bald eagles mediation committee	86-04-012
commercial stimulants	86-11-005 86-13-053 <b>86-15-026</b>	Dogs, destruction of for attacking deer or elk	86-01-043 86-03-017 86-04-021
counter checks	86-09-040 86-13-055	<u>Fishing</u>	
free coffee	86-09-040 86-13-055	1986 seasons and catch limits	86-14-102
games authorized	<b>86-15-059</b>	1987-88 game fish regulations	86-14-102
hours limited	86-11-005 <b>86-15-026</b>	Cedar River	86-05-051
monthly records	<b>86-15-027</b>	Columbia River	86-07-030 86-08-060 86-09-071 86-09-083
tournaments	86-11-005 <b>86-15-026</b>	contests	86-14-102
wager limits	86-11-005 <b>86-15-025</b> <b>86-15-026</b> <b>86-15-027</b>	definitions	86-14-102
Definitions		Elochoman River	86-02-041
Fees		Grays River	86-02-041
optional payment plans	86-09-040 86-13-055	Humptulips River	86-08-061
Licenses		Lake Sammamish	86-05-051
civil or criminal actions, report	86-09-040 86-13-053 86-13-055 86-14-076	Lake Washington	86-05-051
political contributions	86-09-040 86-13-055 <b>86-15-027</b>	Lewis River, North Fork	86-06-029 86-12-047 86-02-042
test for optional payment plan for annual licenses	86-09-040 86-13-055	Mill Creek	86-02-041
Meetings	86-11-005 <b>86-15-025</b> <b>86-15-026</b>	Newaukum River	86-05-051
Political contributions	86-09-040 86-10-042 86-13-055 <b>86-15-027</b>	Nooksack River	86-03-018
Promotional contests	86-03-035 86-07-044 86-08-007	Puyallup River	86-13-041
Punchboards/pull tabs		Rimrock Lake	86-05-051
continuous-play pull tab operation	86-01-058	Salmon Bay	86-05-051
control of prizes	86-01-058	Sammamish River	86-02-041
limitation on pull tab		Skamokawa Creek	86-02-042
dispensing devices	86-01-058 86-07-037 <b>86-15-027</b>	Snake River	86-09-071 86-09-083 86-03-002
monthly records	86-07-037 <b>86-15-027</b>	Snohomish River	86-02-040
reports and records	86-01-058	Snoqualmie River	86-02-042
standards for flares		Touchet River	86-02-042
Raffles		Walla Walla River	86-02-043
firearms as prizes authorized	86-09-040 86-13-055	Wenatchee River	86-09-071
Valuable consideration	86-07-044	wild steelhead release	86-09-083 86-12-046
Video and electronic games	86-05-045 86-06-001 86-07-036 86-11-004	<u>Hunting</u>	
<b>GAME COMMISSION/DEPARTMENT</b>		1985 management units and area descriptions	86-09-084
<u>Agency procedures</u>		1985 seasons and game bag limits	86-09-084
commercial buying and processing of anadromous game fish or roc	86-05-047 86-09-023	1985 seasons and rules	86-02-020
description of organization	86-03-052	1986 management units and area descriptions	86-09-084
eastern and western Washington defined	86-05-049 86-09-024	1986 mountain goat, sheep, and moose seasons	86-05-048 86-12-045
licenses		1986 season rules and unit descriptions	86-05-050 86-06-027 86-09-084
dealer requirements	86-03-055 86-14-103	1986 seasons and game bag limits	86-12-054
duplicates	86-03-054	1986 upland migratory game bird seasons	86-14-106 86-14-102 86-14-105 86-14-105 86-14-105 86-14-105 86-14-104 86-06-028
		contests	
		Harris Lake game reserve	86-14-105
		Lower Crab Creek game reserve	86-14-105
		Quincy Lake game reserve	86-14-105
		Rocky Ford game reserve	86-14-105
		Sprague Lake game reserve	86-14-104
		Spring bear and turkey seasons	86-06-028
		<u>Trapping</u>	
		1986 trapping seasons and regulations	86-12-053
		<b>GENERAL ADMINISTRATION,</b>	
		<b>DEPARTMENT OF</b>	
		Credit unions	
		investments in common trust funds	86-04-068
		<b>GENERAL ASSISTANCE</b>	
		(See <b>SOCIAL AND HEALTH SERVICES,</b>	
		<b>DEPARTMENT OF</b> )	

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>GOVERNOR, OFFICE OF THE</b>		<b>HIGHER EDUCATION PERSONNEL BOARD—cont.</b>	
Affirmative action program	86-02-055	Availability	86-06-052
Bonds, state ceiling	86-11-058		86-09-078
Colville Indians, retrocession of criminal jurisdiction	86-14-114	Board	86-06-052
Cowlitz County flooding	86-07-048		86-09-077
Fire protection services	86-02-054	Certification method	86-09-078
	86-09-063		86-02-047
Flooding	86-04-056		86-06-034
	86-07-016	selective	86-02-047
Hunger, task force established	86-11-057		86-06-034
Low-level radioactive waste, surcharges and penalties	86-06-014	Class	86-06-052
Spokane flood emergency	<b>86-15-035</b>	Collective bargaining	86-09-078
State employee combined charitable contributions program	86-02-015	Corrective employment programs	86-04-078
	86-05-023		86-02-047
	86-08-070	Definitions	86-06-034
			86-02-047
			86-03-081
<b>GREEN RIVER COMMUNITY COLLEGE</b> (District 10)			86-04-076
Meetings	86-02-032		86-06-034
	86-09-029		86-06-052
	86-09-082	Demotion, suspension, reduction, separation, dismissal	86-09-078
Smoking	86-06-044		86-04-011
			86-06-033
<b>HEALTH, BOARD OF</b>		Eligible lists definition	86-03-081
Dead bodies, transportation	86-01-071	Examinations eligibility	86-02-047
	86-10-074		86-06-034
	86-14-008	Exclusive representative, petition for decertification	86-04-077
Funerals	86-01-071		86-04-078
care of bodies, burial	86-10-074		86-08-038
	86-14-008		86-09-076
	86-01-070	Holidays	86-04-079
Tuberculosis testing	86-05-013	Layoff seniority	86-08-037
			86-12-037
<b>HEALTH CARE FACILITIES AUTHORITY</b>		Meetings	86-14-041
Variable rate demand revenue bonds	86-08-048		86-04-032
			86-08-036
<b>HEARING AIDS, COUNCIL ON</b>			86-10-025
Fitting and dispensing	86-05-034		86-14-043
	86-09-064	Notice of unsatisfactory work	86-06-033
		Overtime	86-08-102
<b>HIGHER EDUCATION COORDINATING BOARD</b>			86-12-006
Degree Authorization Act	86-13-067	Recruitment notices	86-02-047
Restrictions on student placement and compensation	86-07-042		86-06-034
	86-10-014	Removal from supervisory positions	86-06-033
	86-09-033	State internship program	86-10-066
State need grant	86-09-034		86-12-037
	86-12-077		86-14-041
	86-04-038	Suspension of operations	<b>86-15-028</b>
Work study program	86-07-041	Unfair labor practices	86-10-064
	86-07-042		86-10-065
	86-10-014		86-14-042
<b>HIGHER EDUCATION FACILITIES AUTHORITY</b>		Withdrawal of notices	86-08-091
Revenue bonds public hearing	86-10-059	Written agreements, contents of	86-08-038
			86-09-076
<b>HIGHER EDUCATION IN SPOKANE, JOINT CENTER FOR</b>		<b>HIGHLINE COMMUNITY COLLEGE</b> (District 9)	
Meetings	86-01-081	Meetings	<b>86-15-057</b>
<b>HIGHER EDUCATION PERSONNEL BOARD</b>		<b>HORSE RACING COMMISSION</b>	
Administrative assistant exemption	86-06-052	Admission to grounds	86-04-042
	86-09-078	Funds	<b>86-15-082</b>
Administrative employees	86-06-052	Horses	86-04-042
	86-09-078	Licenses	86-04-042
Affirmative action plans	86-02-047		86-05-017
	86-06-052	applicant information	86-09-072
	86-09-078	New tracks and transfers of existing tracks	<b>86-15-082</b>
Agricultural employees	86-06-052	licensing	86-09-092
	86-09-078		86-13-056
Allocation	86-06-052	Payoffs on minus pools	86-04-042
	86-09-078		86-09-072
Annual performance evaluation	86-06-052		
	86-09-078		
Application materials, distribution	86-03-081		
Appointing authority	86-06-052		
	86-09-078		

## Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

<b>HORSE RACING COMMISSION—cont.</b>		<b>INDUSTRIAL INSURANCE APPEALS</b>	
Records	86-04-042	Mediation conference	86-05-007
	86-09-072	Practice and procedure	86-03-021
Washington-bred horses	<b>86-15-082</b>		86-03-022
			86-03-023
<b>HORTICULTURE</b>		<b>INSURANCE COMMISSIONER</b>	
(See <b>AGRICULTURE, DEPARTMENT OF</b> )		Alcoholism treatment	86-14-112
<b>HOSPICE CARE CENTERS</b>		Commercial rate filings, prior approval	<b>86-15-085</b>
(See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )		Day care service providers	
<b>HOSPITAL COMMISSION</b>		joint underwriting association	86-14-069
Budget submittal	86-10-060		<b>86-15-062</b>
	86-11-040	Fixed premium universal life insurance	86-02-011
	86-13-052	Marine risks	<b>86-15-085</b>
	<b>86-15-018</b>	Surplus line coverages	<b>86-15-085</b>
Patient discharge information	86-10-046		
	86-14-081	<b>INVESTMENT BOARD</b>	
Rules, schedules, etc.	86-10-060	Meetings	86-01-089
Rules	86-08-077		
	86-11-041	<b>JOINT ADMINISTRATIVE RULES REVIEW COMMITTEE</b>	
		(See <b>RULES REVIEW COMMITTEE</b> )	
<b>HOSPITALS</b>		<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>	
Boarding homes	86-09-031	Amusement rides	86-07-055
	86-12-049		86-12-018
Certificate of need program	86-06-030		86-12-019
Health facility construction fees	86-09-031	Appeals	
	86-12-049	resumption of jurisdiction	86-11-070
Medical facilities	86-09-031	Apprenticeship and training council meetings	<b>86-15-010</b>
	86-12-049	Boiler rules, board of,	
Personnel	86-05-005	sec <b>BOILER RULES, BOARD OF</b>	
	86-08-086	Contractor compliance infractions	86-14-035
Rules	86-03-070		86-14-039
	86-08-002	Crime victims compensation	86-01-003
Schedule of charges	86-14-010		86-01-028
	86-14-072	Discriminatory action against employee based on claim filing, etc.	86-01-016
<b>HUMAN RIGHTS COMMISSION</b>		Electrical contractors, etc., fees	86-10-017
Lottery operations	86-11-039		86-14-077
Meetings	86-02-013		86-14-078
	86-04-004	Electrical construction code	86-11-072
	86-04-006		86-14-077
	86-07-065		86-14-078
	86-08-025	Explosives	86-05-026
	86-09-050		86-10-044
	86-13-036	Factory-built housing, construction standards	86-08-071
Special meetings			86-14-033
budget, officers, advisory council	86-02-014	Farm labor contracting	86-14-037
	86-04-005		86-01-004
	86-13-042		86-01-027
<b>INDIANS</b>		Fire detectors	
Ceremonial		electric eyes	86-03-024
Chehalis River	86-13-013	Hazard communication standard	86-06-051
	86-14-057		86-10-001
Colville Indians, retrocession of criminal jurisdiction	86-14-114		86-10-035
Salmon			86-12-004
Columbia River	86-14-012	Health care provider fees	86-03-050
Puget Sound	86-01-053		86-04-036
	<b>86-15-017</b>	Inoculation or immunological treatment for exposure to infectious occupational disease	86-13-034
	<b>86-15-055</b>		86-13-035
Shad	86-12-013	Labor relations, repeal obsolete rules	86-05-027
Subsistence fishing			86-08-015
Chehalis River	86-11-073	Medical aid rules and maximum fee schedule	86-02-060
	86-12-007		86-04-035
	86-12-033		<b>86-15-011</b>
	86-12-073	Mobile homes	86-14-036
	86-14-009		86-14-040
Columbia River	86-10-005	Occupational health code	86-11-071
Klickitat River	86-09-015	Plumbers	86-14-034
Wanapum Indians	86-11-050		86-14-038
	86-12-014	Prevailing wages	86-02-012
	86-12-055		86-03-063
Wind River	86-10-005		
Yakima River	86-10-005		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**LABOR AND INDUSTRIES, DEPARTMENT OF**

—cont.

Retrospective rating plans and group insurance plans 86-03-062  
86-06-018  
86-07-011

Safety standards  
construction work 86-01-069  
86-03-073  
86-03-074

elevators 86-03-024  
86-03-025  
86-03-026  
86-03-027  
86-03-028  
86-03-029  
86-03-030  
86-03-031  
86-03-032  
86-03-033

Violations  
repeat violations 86-06-002

Wheels, multi-piece and single-piece rim wheels 86-03-064

Workers' compensation  
gainful employment for wages 86-13-025  
86-13-026

group insurance plans 86-01-036  
health care vendors, fee schedule 86-01-054  
86-06-032  
86-11-074

overpayments, waiver of benefits 86-13-025  
86-13-026

retrospective rating plans 86-01-036  
86-11-074

risk classifications 86-08-083  
86-12-041

self-insured employers 86-09-094  
86-14-004  
86-14-079  
86-14-080

voluntary retirement/no longer attached to workforce 86-13-025  
86-13-026

**LANDSCAPE ARCHITECTS, BOARD OF REGISTRATION**

Board duties 86-07-058  
Examinations 86-07-058

**LIBRARY**

Advisory council 86-09-091  
Grant programs 86-09-091

Meetings  
certification of librarians, board for 86-09-009  
86-09-043

commission 86-03-015  
86-08-001  
86-10-008

Western library network 86-03-015  
86-06-006  
86-09-035

Planning and development committee 86-09-091  
86-12-067

Western library network  
operation rules 86-03-048  
86-08-042

**LICENSING, DEPARTMENT OF**

Acupuncture 86-07-061  
86-10-038

Architects, corporate authority 86-04-086  
86-10-037

Auction company licenses 86-14-017  
86-14-086

Aviation  
definitions  
local service commuter 86-02-057

**LICENSING, DEPARTMENT OF—cont.**  
registration

86-03-066  
86-03-071  
86-06-042  
86-10-003

Bad checks 86-04-090  
86-08-069

Collection agencies 86-10-002  
86-14-051

Escrow agents  
cash deposit or securities 86-11-018

Examinations  
monitoring 86-11-010

Marine fuel use study 86-03-057

Midwifery 86-11-036

Migrant workers, public assistance programs criteria 86-09-013  
86-09-100

Motor vehicles  
dealers, salespersons  
license renewal 86-01-039  
financial responsibility 86-07-018  
leased, tax liability 86-02-058  
licensing 86-03-010  
86-03-083  
86-07-018  
86-10-040  
86-14-016

public assistance program criteria  
manufacturers  
license renewal 86-01-039  
migrant workers, resident defined 86-09-013  
86-09-100  
86-14-016

new residents 86-02-056

occupational license 86-03-084  
86-07-018  
86-07-018

open container law  
registration  
resident redefined 86-09-013  
86-09-100  
86-14-016

replacement plates and validation tabs **86-15-069**  
**86-15-070**  
86-02-058

special fuel supplier or dealer  
wreckers, hulk haulers, scrap processors  
license renewal 86-01-039  
86-08-028

Prescription form completion 86-07-062  
86-10-036

Real estate  
broker  
course content 86-11-011  
examinations 86-04-091  
86-11-011

licensure 86-04-091  
records 86-01-038  
86-06-011

commission meetings 86-03-044  
course approval 86-11-011  
fundamentals course content 86-11-011  
management course content 86-11-011  
real estate law course content 86-11-061

salespersons 86-04-091  
examinations 86-11-011  
schools 86-01-038  
86-06-011

Securities 86-11-034  
86-11-035  
86-14-045  
86-14-087  
**86-15-003**  
**86-15-023**

Tow truck operators 86-03-011

Vessel title and registration requirements 86-07-060  
86-10-068

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**LICENSING, DEPARTMENT OF—cont.**

White water river registration 86-11-062  
86-12-016  
**86-15-037**

**LIQUOR CONTROL BOARD**

Advertising 86-12-010  
**86-15-013**  
**86-15-040**  
**86-15-041**

Advertising at less than price 86-04-084  
86-07-021  
86-14-100

Banquet permits 86-07-046  
86-09-075

Beer packages, classification 86-01-026

Beer suppliers and wholesalers 86-04-084  
86-07-021  
86-14-100

Breweries  
out-of-state reporting of samples 86-08-096  
86-11-015

Containers 86-04-083  
86-07-022

Guest and courtesy cards 86-04-034  
86-07-013

Hotels  
by the bottle 86-09-027  
86-09-086  
86-12-022

Licenses  
Class C 86-04-082  
86-07-015

Class H 86-04-082  
86-07-015  
86-09-027  
86-09-028  
86-09-087  
86-12-022  
86-12-023  
86-13-059  
**86-15-066**

true party of interest 86-04-033  
86-07-012

use of premises by private parties 86-12-009  
**86-15-042**

Managers required, exceptions 86-09-085  
86-12-021

Meetings 86-02-007

Minors employed on premises 86-11-046  
**86-15-039**

Minors prohibited, posting requirements 86-07-047  
86-09-074

Outdoor advertising 86-12-010

Prohibited practices 86-04-003  
86-06-021  
86-09-019

Records 86-04-083

Rules review plan 86-02-006

Treating 86-04-044  
86-07-014

Use of insignia or reference to liquor control board prohibited 86-04-002  
86-07-019

Vending appointment 86-04-048  
86-07-023

Wineries  
domestic  
bulk wines 86-11-014  
fruits used 86-11-014  
records 86-08-095  
retail sales 86-09-028  
86-09-087  
86-12-023

out-of-state reporting of samples 86-08-096  
86-11-015

**LIQUOR CONTROL BOARD—cont.**

Wine suppliers and wholesalers 86-04-084  
86-07-021  
86-14-100

**LOTTERY COMMISSION**

Agents 86-01-060

Compensation 86-07-028  
86-08-059  
86-01-060  
86-01-060

Definitions 86-01-060

Hearings 86-01-060

Indian tribes  
licensing of enterprises 86-11-039

Instant game number 19 – Three Cards Up  
criteria 86-03-003  
86-03-079  
86-03-080  
86-07-028  
86-03-003  
86-03-079  
86-07-028  
86-03-003

definitions 86-03-079  
86-07-028  
86-03-003  
86-03-079  
86-07-028

ticket validation 86-03-003  
86-03-079  
86-07-028

Instant game number 20 – Cash Code  
criteria 86-07-029  
86-08-059  
86-12-001  
86-07-029  
86-08-059  
86-12-001  
86-07-029  
86-08-059  
86-12-001

definitions 86-08-079  
86-12-002  
86-08-079  
86-12-002  
86-08-079  
86-12-002  
86-01-060

ticket validation 86-08-079  
86-12-002  
86-01-060

Licenses 86-01-060

Lotto  
end of game 86-08-079  
86-12-002  
86-01-060  
86-07-039  
86-08-079  
86-11-039  
86-12-002  
86-02-037  
86-01-060  
86-01-060  
86-03-079  
86-01-060  
86-01-060  
86-01-060

prizes 86-01-060  
86-07-039  
86-08-079  
86-11-039  
86-12-002  
86-02-037  
86-01-060  
86-01-060  
86-03-079  
86-01-060  
86-01-060  
86-01-060

Meetings 86-01-060

On-line games 86-01-060

Prizes 86-01-060  
86-03-079  
86-01-060  
86-01-060  
86-01-060

Retailers 86-01-060

Slot machines prohibited 86-01-060

Tickets 86-01-060

**MEDICAL ASSISTANCE**  
(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

**MEDICAL EXAMINERS, BOARD OF**

Acupuncture 86-13-069

Examinations waived for reciprocity or waiver 86-03-056  
86-08-093  
86-12-031  
86-13-069  
86-08-092

Physician's assistants 86-08-093  
86-12-031  
86-13-069  
86-08-092

Registration revised 86-08-092

**MEXICAN AMERICAN AFFAIRS, COMMISSION ON**

Meetings 86-01-096  
86-04-016  
86-10-073

**MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF**

Application process 86-14-101



**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF—cont.</b>		<b>OPTOMETRY, BOARD OF—cont.</b>	
Burden of proof	86-14-101	Examination	86-08-092 86-13-008
Definitions	86-14-101	Licenses	
Denial of certification	86-14-101	renewal	86-07-059 86-13-009
Goals for 1986-87	86-13-046	Optical prescriptions	86-08-092 86-13-008
Resubmission of applications	86-14-101	Postgraduate education programs	86-08-092 86-13-008
Revocation of certification	86-14-101		
<b>NATURAL RESOURCES, DEPARTMENT OF</b>		<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>	
Board meetings	86-02-003 86-08-087 86-10-009 86-11-008 86-13-021	Grant-in-aid policies	86-08-074
Fire protection rules		Meetings	86-01-033 86-05-016 86-13-031
Fire restrictions			
closed season on DNR forest lands	86-09-041 <b>86-15-031</b> <b>86-15-053</b>	<b>PARKS AND RECREATION COMMISSION</b>	
Fire season, industrial fire tool requirements	86-10-011	Alcohol	86-02-062 86-06-020 86-10-058 86-14-025
Forest fire advisory board	86-04-028 86-12-030	Camping	86-02-062 86-06-020
Mineral prospecting leases and mining contracts		Firearms	86-02-062 86-06-020
royalties	86-09-068 86-09-080 86-12-017 86-14-015	Games	86-02-062
Oil and gas leasing	86-04-081 86-07-027 86-14-070	Lakes	
Outdoor burning		combustion engines on Cascade Lake, Moran State Park	86-08-097 86-11-052 86-11-053
Timber sales		Meetings	86-02-016 86-08-014 86-02-062 86-06-020 86-02-062 86-06-020
initial deposits	86-12-008	Park capacities	86-02-062
WDPSC user's meeting	86-03-005 86-09-008	Park periods	86-02-062 86-06-020
<b>NOXIOUS WEED CONTROL BOARD</b>		Peace and quiet	86-02-062 86-06-020
List	86-04-062 86-07-024	Picnicking	86-02-062 86-06-020
<b>NUCLEAR WASTE BOARD</b>		Public assemblies	86-04-085 86-08-014 86-02-062 86-06-020
Meetings	86-10-051	Swimming	
<b>NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS</b>		<b>PENINSULA COLLEGE (District 1)</b>	
Registration of licenses	86-01-086	Meetings	86-02-010 86-06-009
<b>NURSING HOMES</b>		<b>PERSONNEL BOARD/DEPARTMENT</b>	
Accounting and reimbursement system	86-07-054 86-10-055 86-09-049 86-12-044	Affirmative action	86-14-092
Bed needs	86-07-053 86-10-021	Application	
Discharge allowance		disqualification	86-04-043 86-08-035
<b>OCCUPATIONAL THERAPY PRACTICE BOARD</b>		Board	
Code of ethics and conduct standards	86-14-018	powers and duties	86-08-090 86-12-036
Definitions	86-06-054 86-10-004 86-14-018	Call-back provisions and compensation for work preceding or following a scheduled workshift	86-01-049 86-02-044 86-06-016 86-06-017 86-08-089 86-09-057
Exams	86-06-054 86-10-004	for work on scheduled days off or holidays	86-08-089 86-09-057
Foreign trained applicants	86-06-054 86-10-004 86-14-018	Career executive program	86-03-041 86-06-015 86-06-055 86-09-055
Licensure exemption	86-06-054 86-10-004 86-14-018 86-14-018	Compensation plan	86-12-035 86-14-082 86-14-091 86-14-071
Mandatory reporting			
Unprofessional conduct or gross incompetency	86-14-018		
<b>OFF-ROAD VEHICLES (ORVS)</b>			
Hearings	86-05-016		
<b>OPTOMETRY, BOARD OF</b>			
Continuing education	86-08-092 86-13-008		
Eligibility	86-08-092 86-13-008		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>PERSONNEL BOARD/DEPARTMENT—cont.</b>		<b>PRACTICAL NURSING, BOARD OF</b>	
Disciplinary action	86-04-044	Discipline, standards of conduct	86-01-084
	86-08-035		86-14-085
Employee advisory service	86-10-070	<b>PREVAILING WAGES</b>	
Fair Labor Standards Act	86-06-056	(See <b>LABOR AND INDUSTRIES,</b>	
	86-09-054	<b>DEPARTMENT OF</b> )	
	86-09-056	<b>PRISON TERMS AND PAROLES, BOARD OF</b>	
Hours of work	86-12-025	Policies and procedures	86-14-032
	86-08-088	<b>PRODUCTIVITY BOARD</b>	
	86-09-057	Employee suggestion program	86-04-039
Miscellaneous leave	86-14-071	<b>PSYCHOLOGY, EXAMINING BOARD OF</b>	
Overtime provisions and compensation	86-01-014	Administrative rules	86-09-012
Overtime rate	86-08-089		86-13-058
	86-09-057	Auxiliary staff	86-04-087
Pay		Continuing education	86-04-087
period	86-08-089	Licensing	
	86-09-057	experience prerequisite	86-04-087
special pay ranges	86-02-044	Moral and legal standards	86-04-087
Predissmissal process	86-01-048	Professional relationships	86-04-087
Reduction in force	86-08-090	Public statements	86-04-087
	86-11-007		
	86-13-048	<b>PUBLIC DEPOSITION PROTECTION COMMISSION</b>	
Salary, fringe benefit study	86-10-070	Collateral level	86-10-063
Shift charge	86-10-070	Minimum standards	86-10-063
	86-12-026	Out-of-state demand accounts	86-10-063
	86-14-071	Practice and procedures	86-14-005
Shift premium provisions and compensation	86-01-049	<b>PUBLIC DISCLOSURE COMMISSION</b>	
	86-02-044	Earmarked contributions	86-11-049
	86-06-016		86-12-060
	86-06-017		86-14-056
Shift premium schedule	86-12-052	Fair campaign practices code	86-04-053
	<b>86-15-019</b>		86-08-030
Special pay – employment problems	86-12-052	Financing, funds	86-04-071
	<b>86-15-019</b>	Forms	
State internship programs	86-10-070	earmarked contributions	86-11-049
	86-11-006		86-12-060
	86-13-049		86-14-056
Travel time	86-08-089	financial affairs reporting	86-05-041
	86-09-057		<b>86-15-065</b>
Vacation leave		summary of contribution and expenditures	86-05-041
accrual	86-08-090		86-08-030
	86-11-007	Lobbyists	
	86-13-048	hire of other lobbyists	86-06-050
	<b>86-15-019</b>		86-10-013
Work period designations	86-01-014		86-12-058
Y-rates	86-10-070		86-14-056
	86-13-048	Nonreimbursed public office related expense	86-13-006
	<b>86-15-019</b>		86-14-055
<b>PHARMACY, BOARD OF</b>		Ratings and endorsements	86-04-052
Capsules	86-14-052		86-06-049
	86-14-108		86-08-030
Controlled substances or legend drugs	86-07-063	Terms, use of	86-04-053
Cyanide protection	86-14-052		86-08-029
	86-14-108		86-10-012
Marinol	86-13-011		86-12-059
	86-13-068	<b>PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>	
Sample drugs	86-14-109	Unfair labor practice case rules	86-08-041
			86-11-054
<b>PIERCE COLLEGE (District 11)</b>		<b>PUBLIC INSTRUCTION</b>	
Meeting time and place	86-11-047	(See <b>SUPERINTENDENT OF PUBLIC INSTRUCTION</b> )	
	<b>86-15-020</b>	<b>PUBLIC WORKS BOARD</b>	
Meetings	86-09-060	Meetings	86-01-024
	86-09-061	Operating procedures	86-03-051
Name change	86-11-047		86-14-053
	<b>86-15-020</b>		86-14-054
<b>PILOTAGE COMMISSIONERS, BOARD OF</b>		<b>PUGET SOUND WATER QUALITY AUTHORITY</b>	
Licensing of pilots	86-01-047	Meetings	86-10-006
	86-07-010		<b>86-15-060</b>
Rates			
Puget Sound district	<b>86-15-021</b>		
	<b>86-15-047</b>		
<b>PODIATRY, BOARD OF</b>			
Approved schools	<b>86-15-043</b>		
Board officers	86-01-041		

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**PUGET SOUND WATER QUALITY AUTHORITY**

—cont.  
Procedures, operations 86-01-012  
86-04-054  
86-04-055  
SEPA 86-01-012  
86-04-054  
86-04-055

**RADIOACTIVE MATERIALS**  
(See **ECOLOGY, DEPARTMENT OF;**  
**SOCIAL AND HEALTH SERVICES,**  
**DEPARTMENT OF**)

**RED RASPBERRY COMMISSION**

Assessments 86-06-046  
86-13-012  
Board 86-13-012  
Definitions 86-06-046  
86-13-012  
Voting 86-06-046

**RETIREMENT SYSTEMS, DEPARTMENT OF**

Actuarial tables 86-04-080  
86-07-026  
86-09-037  
86-09-052  
86-13-022  
Public employees retirement board  
city managers 86-09-066  
86-09-067  
86-13-023

**REVENUE, DEPARTMENT OF**  
(See also **FOREST PRODUCTS**)

Advertised price, etc. 86-03-016  
Agricultural products 86-07-005  
Air carriers 86-07-005  
Artistic and cultural organizations 86-03-042  
86-07-006  
Automobile dealers/demonstrators and  
executive vehicles 86-05-043  
86-09-002  
Excise tax rules  
bona fide initiation fees and dues  
contributions, donations, and  
endowments 86-02-039  
food products 86-02-039  
real estate excise tax 86-13-010  
religious, charitable, benevolent,  
nonprofit service organizations,  
and sheltered workshops 86-02-039  
Feed, seed, fertilizer, and spray  
materials 86-03-043  
86-06-047  
86-09-058  
86-10-016  
Government contractors 86-07-005  
Imports and exports 86-03-016  
Maintenance agreements 86-09-048  
Manufacturers tax credits 86-10-050  
86-13-061  
86-14-019  
Meals 86-03-016  
Metal bullion 86-03-042  
86-06-048  
86-09-016  
Open space land  
farm and agricultural land 86-06-008  
86-09-088  
homesite valuation 86-01-092  
Property tax  
exemptions  
nonprofit organizations 86-09-003  
86-12-034

**REVENUE, DEPARTMENT OF**  
(See also **FOREST PRODUCTS**)—cont.

Public utility tax  
energy conservation and  
cogeneration deductions 86-01-077  
Refuse collection business 86-12-075  
86-12-076  
86-14-020  
86-14-093  
**86-15-064**  
**86-15-081**  
Sales and use tax deferrals  
manufacturing, research, development 86-10-049  
86-10-050  
86-13-061  
86-14-019  
Service and other business activities **86-15-081**  
Sewerage collection business **86-15-081**  
Tax credits for manufacturers 86-09-048  
86-10-050  
86-13-061  
86-14-019  
86-09-059  
86-12-015  
Tax registration certificates  
Tax returns  
releases 86-09-051  
86-12-024  
Trade-ins, selling price,  
sellers' tax measures 86-01-076  
86-04-024  
**86-15-080**  
Vending machines  
Warranties, maintenance agreements,  
and service contracts 86-03-016  
**RULES REVIEW COMMITTEE**  
Open space farm, residences 86-06-022  
**SEATTLE COMMUNITY COLLEGE**  
(District 6)  
Meetings 86-01-005  
86-01-030  
86-01-057  
86-03-065  
86-07-001  
86-08-034  
**SECRETARY OF STATE**  
Polling accessibility 86-05-053  
86-08-044  
86-08-045  
**SHORELINE MASTER PROGRAMS**  
(See **ECOLOGY, DEPARTMENT OF**)  
**SKAGIT VALLEY COLLEGE**  
(District 4)  
Meetings 86-02-009  
86-08-011  
**SOCIAL AND HEALTH SERVICES,**  
**DEPARTMENT OF**  
Adult family homes 86-01-079  
86-10-029  
86-03-070  
86-08-002  
Boarding homes 86-01-035  
86-04-031  
Childbirth centers  
Children's involuntary mental health  
treatment 86-02-019  
86-02-048  
86-05-006  
86-08-085  
86-09-047  
86-12-040  
Chore services 86-08-053  
86-08-058  
86-11-024  
86-10-029  
Community options program entry system  
Congregate care facilities

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

**SOCIAL AND HEALTH SERVICES,  
DEPARTMENT OF—cont.**

Day care 86-01-025  
86-03-077  
86-03-078  
86-09-032  
86-10-020  
86-12-020  
86-12-051

Developmentally disabled,  
see DEVELOPMENTALLY DISABLED

Employment partnership program 86-13-063

Food stamps 86-01-009  
86-01-078  
86-03-006  
86-05-028  
86-05-030  
86-08-019  
86-08-022  
86-08-032  
86-08-084  
86-11-026  
86-13-004  
**86-15-012**  
**86-15-088**  
**86-15-089**  
**86-15-090**

Foster care 86-01-006  
86-02-049  
86-04-030

General assistance/continuing assistance  
AFDC  
applications 86-11-060  
cost of living need standard 86-13-007  
deprivation due to incapacity 86-13-064  
eligibility  
effect of newly acquired income  
and property 86-04-013  
86-08-008  
mandatory monthly reporting 86-01-010  
86-12-038  
overpayment, repayment 86-04-014  
periodic review 86-04-073  
redetermination 86-04-073  
86-08-004  
spouses, assignment or transfer  
of income 86-14-068  
86-14-075  
WIN program participation 86-01-001  
exclusions 86-08-016  
86-11-021  
funerals 86-08-057  
86-11-023  
incapacity, deprivation due to 86-10-031  
86-10-032  
payment standards raised for  
vocational rehabilitation 86-02-030  
86-02-050  
redirection of warrant 86-03-076  
86-07-002  
suspension, termination, or reduction  
of grant 86-05-008  
86-07-025  
86-09-081  
86-10-023  
86-07-052  
86-10-022

Hearing aids 86-03-070  
86-08-002

Hospice care center

Hospital, see HOSPITALS

IMR, see DEVELOPMENTALLY DISABLED

Labor camp certification 86-05-029

Medical assistance  
allocation of excess income 86-12-042  
86-12-043

**SOCIAL AND HEALTH SERVICES,  
DEPARTMENT OF—cont.**

application 86-01-002  
86-08-017  
86-08-018  
86-08-020  
86-08-021  
86-11-022  
86-11-060  
86-12-042  
86-12-043

drugs 86-01-080

eligibility 86-04-019  
86-04-020  
86-04-019  
86-04-020  
86-08-005  
86-08-031  
86-08-033  
86-11-025  
86-03-045  
86-11-045  
86-14-099

institutions 86-04-007  
86-04-008  
86-09-007

pregnant women

SSI  
inpatient hospital care

limited casualty program  
medically indigent

medically needy  
application process 86-12-042  
86-12-043  
86-04-019  
86-04-020  
86-08-005  
86-03-066  
86-03-069  
86-07-003  
86-02-031

eligibility

income level

payment  
physicians' services  
psychotherapy 86-14-067  
86-14-074  
86-03-046  
86-04-041  
86-13-033  
86-04-007  
86-04-008  
86-09-007  
86-03-047  
86-02-031  
86-02-031

prepaid health plans

prisoners

prosthetic devices  
scope of care  
services provided  
SSI  
denied applicants 86-03-067  
86-03-068  
86-07-004

Mental health  
children's involuntary treatment 86-02-019  
86-02-048  
86-09-013

Migrant workers

Nursing homes, see NURSING HOMES

Pregnancy  
medical facilities for induction/  
termination 86-03-070  
86-08-002

Radiation machine facility registration  
fees 86-04-025  
86-08-054

Radioactive materials  
license fees 86-04-025  
86-08-054  
86-09-093  
86-12-039

Radioactive waste  
low-level  
disposal sites 86-09-025  
86-09-026  
86-11-019  
86-11-020

**Subject/Agency Index**  
(Citations in **bold type** refer to material in this issue)

<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF—cont.</b>		<b>SUPERINTENDENT OF PUBLIC INSTRUCTION</b>	
uranium mill tailing areas	86-11-019	—cont.	
	86-11-020	Special service program	
site surveillance fee	86-14-006	financial assistance to local school districts	86-11-027
	86-14-007		<b>86-15-048</b>
SSI	86-01-007	Student health records	86-11-028
	86-03-045		<b>86-15-050</b>
	86-03-067		
	86-03-068	<b>SUPPORT ENFORCEMENT</b>	
	86-07-004	(See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )	
	86-10-024		
	86-10-030	<b>SUPREME COURT</b>	
Support enforcement	86-14-061	CAR	
	86-02-033	21	86-14-030
	86-02-034	26	86-14-030
	86-05-009	CJC preamble 1(c)	86-08-026
		CrR	
Vocational rehabilitation	86-09-053	2.1	86-14-001
administrative review	86-12-050	2.2	86-14-001
	86-05-010	2.3	86-14-001
economic need	86-09-053	3.1	86-14-001
fair hearing	86-12-050	3.2	86-14-001
	86-02-030	3.3(d)	86-14-001
payment standards raised	86-02-050	3.3(h)	86-14-001
		4.2(f)	86-14-001
WIN		4.2(g)	86-14-001
AFDC eligibility	86-01-001	4.3	86-14-001
		4.7	86-14-001
<b>SPOKANE COMMUNITY COLLEGES (District 17)</b>		6.15(b)	86-14-001
Meetings	86-01-046	6.15(c)	86-14-001
	86-04-018	7.1(b)	86-14-001
	86-07-033	7.2(b)	86-14-001
Trustees	86-04-010	7.8	86-14-001
		GR	
<b>STATE EMPLOYEES INSURANCE BOARD</b>		8.2	86-06-036
Advertising/promotion	86-13-044	JTIR	
	86-13-045	6.2(a)	86-10-041
Eligible employees and retirees	86-13-043	6.2(d)	86-11-056
Employer contribution	86-13-044	RAP	
	86-13-045	5.3(j)	86-14-001
Legislators	86-01-072	RLD	
	86-01-073	2.4	86-06-019
	86-05-020	5.1	86-06-019
	86-06-003	5.5(a)	86-06-019
Self-pay coverage	86-13-044	5.7	86-06-019
	86-13-045	6.7	86-06-019
		<b>TACOMA COMMUNITY COLLEGE (District 22)</b>	
<b>STATE PATROL</b>		Meetings	86-01-045
Private carriers		<b>TAXES</b>	
drivers qualification and hours of service standards	86-05-015	(See <b>REVENUE, DEPARTMENT OF</b> )	
	86-08-067	<b>TOXICOLOGIST, STATE</b>	
<b>SUPERINTENDENT OF PUBLIC INSTRUCTION</b>		BAC verifier infrared breath test instrument	86-01-067
Beginning teachers assistance program	86-11-029		86-01-068
	<b>86-15-049</b>		86-05-003
Finance			86-13-027
apportionment for part-time public school attendance	86-01-020		86-13-028
categorical appointment	86-01-021		<b>86-15-073</b>
emergency school closure	86-05-035		<b>86-15-074</b>
	86-08-076		
	<b>86-15-052</b>		
general apportionment	86-01-022		
salary compensation lid compliance	86-01-023		
special allocation, instruction, and requirements	86-01-019	<b>TRAFFIC SAFETY COMMISSION</b>	
	86-05-036	Meetings	86-10-069
	86-05-037	<b>TRANSPORTATION COMMISSION/DEPARTMENT</b>	
	86-08-075	Aircraft registration	86-01-066
Honors award program	86-01-018	Art work	86-01-065
	86-07-038	Ferry tolls	86-01-044
	86-11-030		86-03-001
	<b>86-15-051</b>		86-03-061
			86-06-010
Special education programs			86-08-094
education of all handicapped children	86-03-060	Meetings	86-11-037
	86-06-007	Motorist information signs	86-03-007
			86-04-069
			86-08-023

## Subject/Agency Index

(Citations in **bold type** refer to material in this issue)

### TRANSPORTATION COMMISSION/DEPARTMENT

—cont.  
 Outdoor advertising control 86-01-063  
 Pilotage rates  
 Puget Sound district 86-02-035  
 Rental of state highway lands and improvements 86-12-005  
 86-14-062  
 Small business and minority contractors 86-01-064

### TREE FRUIT RESEARCH COMMISSION

Assessment rates 86-07-051  
 86-14-066

### UNIVERSITY OF WASHINGTON

Boat moorage facilities 86-11-031  
 86-04-009  
 Small works roster 86-08-027  
 Meetings 86-02-001  
 Parking fees 86-11-031  
 Use of facilities 86-07-007  
**86-15-038**

### URBAN ARTERIAL BOARD

Meetings 86-02-059  
 86-04-061  
 86-06-035  
 86-08-066  
**86-15-006**

### UTILITIES AND TRANSPORTATION COMMISSION

Contested cases, rehearing or reconsideration 86-13-019  
 86-13-020  
 Contract carriers leasing 86-09-021  
 86-12-028  
 86-14-047  
 Deposits held by electric companies 86-03-012  
 86-03-038  
 86-07-032  
 gas companies 86-03-013  
 86-03-039  
 86-07-031  
 86-10-018  
 86-10-019  
 86-13-040  
 86-14-048  
 86-14-113  
 86-07-009  
**86-15-032**  
 telecommunications companies  
 Energy conservation plans  
 Interexchange telecommunications deposit or security 86-04-022  
 86-11-009  
 Leasing 86-09-021  
 86-12-028  
 86-14-047  
 Meetings 86-01-050  
 Motor carriers 86-10-047  
 86-14-050  
 Permit rights transfer 86-09-069  
 86-12-029  
 Political education activities 86-04-023  
 86-04-072  
 Tariffs 86-03-040  
 Telecommunications, accounting and reporting 86-03-037  
 86-07-008  
 86-09-022  
 86-13-003  
 86-14-049  
 86-03-049  
 86-03-085  
 86-03-086  
 86-03-087  
 86-03-088  
 86-08-006

### VETERANS AFFAIRS

Washington veterans home and Washington soldiers home and colony 86-05-014

### VETERINARY BOARD OF GOVERNORS

Code of ethics 86-01-085  
 Continuing education requirements 86-10-067  
 Examination review procedures 86-05-033  
 86-08-068  
 Medical facilities 86-10-067  
 86-13-070  
 Practice management 86-10-067  
 86-13-070

### VOCATIONAL EDUCATION, COMMISSION FOR

Job Training Partnership Act education coordination and grants program 86-14-003  
 Meeting 86-14-003  
 Private vocational schools, registration 86-12-063  
 86-12-064  
 86-14-003  
**86-15-076**  
**86-15-077**  
**86-15-078**

### VOCATIONAL EDUCATION, COUNCIL ON

Meetings 86-07-017  
 86-11-048  
 86-13-030

### VOLUNTEER FIREMEN, BOARD FOR

Meetings 86-01-034  
 86-03-019  
 86-09-005  
**86-15-079**

### WASHINGTON STATE UNIVERSITY

Meetings board of regents 86-09-030  
 86-11-064  
 Motorcycle and moped parking regulations 86-07-040  
 Parking regulations 86-13-065

### WESTERN LIBRARY NETWORK

(See LIBRARY)

### WESTERN WASHINGTON UNIVERSITY

Health and safety 86-03-020  
 Meetings 86-08-051  
 86-08-052

### WHATCOM COMMUNITY COLLEGE

(District 21)

Meetings 86-04-045  
 86-06-004  
 86-08-049  
 86-11-055  
 86-14-027  
**86-15-015**  
**86-15-046**

### YAKIMA VALLEY COMMUNITY COLLEGE

(District 16)

Meetings 86-01-029