

MARCH 4, 1987

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 28B.19 or 34.04 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1987 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 1987 pursuant to RCW 63.14.130(1)(a) is twelve and one-quarter percent (12¼%).

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.

1986 - 1987

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Action Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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
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87-01	Nov 26	Dec 10	Dec 24, 1986	Jan 7, 1987	Jan 27
87-02	Dec 10	Dec 24, 1986	Jan 7, 1987	Jan 21	Feb 10
87-03	Dec 24, 1986	Jan 7, 1987	Jan 21	Feb 4	Feb 24
87-04	Jan 7	Jan 21	Feb 4	Feb 18	Mar 10
87-05	Jan 21	Feb 4	Feb 18	Mar 4	Mar 24
87-06	Feb 4	Feb 18	Mar 4	Mar 18	Apr 7
87-07	Feb 18	Mar 4	Mar 18	Apr 1	Apr 21
87-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5
87-09	Mar 25	Apr 8	Apr 22	May 6	May 26
87-10	Apr 8	Apr 22	May 6	May 20	Jun 9
87-11	Apr 22	May 6	May 20	Jun 3	Jun 23
87-12	May 6	May 20	Jun 3	Jun 17	Jul 7
87-13	May 20	Jun 3	Jun 17	Jul 1	Jul 21
87-14	Jun 3	Jun 17	Jul 1	Jul 15	Aug 4
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87-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1988

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

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

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

WSR 87-04-058

PROPOSED RULES

COMMISSION ON JUDICIAL CONDUCT

[Filed February 4, 1987]

Reviser's note: The following proposal has not been filed in accordance with chapter 34.04 RCW, and its publication in the Register establishes no presumption as to the propriety or impropriety of the procedure being followed by the Commission on Judicial Conduct.

With the voters passage of SJR 136, the renamed Commission on Judicial Conduct has had to review its rules to conform with the provisions of the Constitutional Amendment. These rules are promulgated under the rulemaking authority of the Commission on Judicial Conduct as authorized in Article 4, section 31 of the Washington State Constitution.

Pursuant to RCW 34.08.020 please publish them in the next available State Register for comment by March 27, 1987 to be submitted in writing to the Commission on Judicial Conduct, 12th and Jefferson Building, Suite 9, Olympia, WA 98504.

Esther Garner
Executive Director

((~~JUDICIAL QUALIFICATIONS~~))

COMMISSION ON JUDICIAL CONDUCT RULES

((Revised and Adopted September 1, 1984))

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RULE 1. SCOPE AND TITLE

(a) SCOPE. These rules apply to proceedings before the ~~((Judicial Qualifications))~~ Commission on Judicial Conduct created by Article IV, Section 31, of the Constitution of the State of Washington, ~~((and governed))~~ implemented by RCW 2.64 and ~~delegated in part by Discipline Rules for Judges (DRJ)~~. These rules govern the procedure for considering allegations that a judge has violated a rule of judicial conduct, or has a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.

(b) TITLE. These rules shall be known as the ~~((Judicial Qualifications))~~ Commission on Judicial Conduct Rules and may be abbreviated as ~~((JQC))~~ CJCR.

(c) SUPREME COURT RULES. Supreme Court consideration of ~~((Judicial Qualifications))~~ Commission on Judicial Conduct recommendations is governed by the Discipline Rules for Judges (DRJ) adopted by the Supreme Court.

RULE 2. DEFINITIONS

In these rules,

(a) "Admonishment," when issued by the commission, means a written informal disposition of an allegation consented to by the judge which cautions the judge not to engage in certain proscribed behavior and may contain agreed corrective action to be taken by the judge. (See DRJ 1(d) and 12.)

(b) "Allegation" means a statement or communication alleging facts which may upon investigation lead to a finding of judicial misconduct or disability.

(c) "Chairperson" includes the acting chairperson.

(d) "Commission" means the ~~((Judicial Qualifications))~~ Commission on Judicial Conduct.

(e) "Complaint" means the formal charge of judicial misconduct or disability filed by the commission and forming the basis for a fact-finding hearing.

(f) "Fact-finder" means the commission, or at the discretion of the commission, a three-member subcommittee consisting of any members or alternates of the commission or a master.

(g) "Hearing" means a meeting for the purpose of taking evidence and conducted by a fact-finder.

(h) "Judge" means a judge or justice and includes justices of the supreme court, judges of the court of appeals, judges of the superior court, judges of any court organized under Titles 3, 35, or 35A RCW, and judges pro tempore. The term includes full-time and part-time judges and judges who have been or have not been admitted to the practice of law in Washington. Court commissioners and magistrates are not included within this definition unless included by subsequent legislation.

(i) "Master" means a person appointed by the commission to hear and take evidence with respect to charges against a judge.

(j) "Meeting" means a meeting of the commission for any purpose other than the taking of evidence for fact-finding.

(k) "Member" means a member of the commission and includes alternates acting as members.

(l) "Party" means the judge or the commission.

(m) "Reprimand", when issued by the commission, is an informal action of the commission, consented to by the judge, finding that the judge's conduct is unacceptable but correctable and does not require a formal recommendation for discipline to the Supreme Court. (See DRJ 1(d) and 12.)

RULE 3. ORGANIZATION OF THE COMMISSION

(a) OFFICERS. The commission shall elect from its members a chairperson, a vice-chairperson, and secretary, each of whom shall serve a term of two years or until they cease to be members of the commission, whichever period is shorter. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the members present may select a temporary chairperson.

(b) EXECUTIVE DIRECTOR AND STAFF. The commission will hire an executive director and such other personnel as necessary for the effective performance of the commission's duties and the exercise of its powers.

(c) MEETINGS.

(1) Meetings of the commission shall be held at the call of the chairperson or the written request of ~~((three))~~ four members of the commission.

(2) The commission may conduct meetings by telephone conference call.

(d) QUORUM. ~~((Four))~~ Five members must be present for the transaction of business by the commission. A final decision of the commission, other than a decision recommending discipline or retirement, must be supported by a majority of the members present. A final decision recommending discipline or retirement in any form must be supported by ~~((four))~~ five members of the commission.

(e) ALTERNATES. The chairperson will call upon an alternate member selected by the appropriate appointing authority to serve in the place of a member whenever a member is disabled, disqualified, or unable to serve. The chairperson shall announce when an alternate member is serving in the place of a commission member.

RULE 4. CONFIDENTIALITY OF PROCEEDINGS

~~(a) GENERALLY. ((Except as otherwise provided in this rule, all papers filed with the commission are confidential and all discipline or disability proceedings before the commission, a subcommittee, or a master will be conducted in executive session.)) Except as provided in this rule and Rules 7 and 8, all papers and matters submitted to the commission and proceedings conducted pursuant to these rules, shall be confidential.~~

~~(b) ((PUBLIC INSPECTION OF RECOMMENDATION. A commission recommendation of discipline or retirement, and the findings of fact and conclusions of law supporting the recommendation, shall be available for public inspection in the commission's office during regular business hours after the recommendation is filed with the Supreme Court. The record filed with the Supreme Court shall be made available for inspection in the commission office when the decision of the Supreme Court is final or at such earlier time as the record may be available for public inspection at the Supreme Court.))~~ WAIVER BY JUDGE. After a verified statement is filed with the Commission, the initial proceedings remain confidential unless the judge waives the fact there is a Commission investigation.

~~(c) PUBLIC PROCEEDINGS. The formal complaint alleging judicial misconduct shall be available for public inspection. The fact-finding hearing before the commission, a subcommittee of the commission or a master shall be open to the public.~~

~~((c))~~ (d) RELEASE OF INFORMATION. The commission may, with due consideration for the interests of the judge, make a public statement regarding ((a pending or completed proceeding)) allegations concerning the judge which would otherwise be confidential in the following circumstances:

(1) If public statements that charges are pending before the commission are substantially unfair to a judge.

(2) If a judge is publicly associated with violating a rule of judicial conduct or with having a disability, and the commission, after a preliminary investigation ~~((or a formal hearing))~~ has determined there is no basis for further proceedings or for a recommendation of discipline or retirement.

(3) If the commission, after a preliminary investigation ~~((or a formal hearing))~~ has determined to conclude the proceeding with informal, agreed disposition pursuant to ~~((JQC))~~ CJCR 19.

~~((4))~~ If a formal hearing has been ordered in a proceeding in which the subject matter is generally known to the public or in which there is broad public interest, or in which confidence in the administration of justice is threatened due to misinformation or lack of information.)

~~((d))~~ (e) NOTICE TO COMPLAINANT. After final commission action on an allegation or complaint, the commission will disclose to the person making an allegation that after an investigation of the charges (i) the commission has found no basis for action by the commission against the judge, (ii) the commission has determined that the matter involved legal issues over which it has no jurisdiction, and involves no misconduct or disability, (iii) the commission has taken appropriate corrective action, or (iv) the commission has filed a recommendation with the Supreme Court for the discipline or retirement of the judge. The name of the judge, in the discretion of the commission, shall not be used in written communication to the complainant.

~~((c))~~ JUDGE'S REQUEST FOR RELEASE OF INFORMATION. The commission may, in its discretion, release information concerning a pending or completed proceeding at the request of the judge who is the subject of the proceeding. A person who has been disciplined by commission action may disclose such fact.)

(f) **RELEASE OF INFORMATION TO BAR ASSOCIATION, JUDICIAL APPOINTIVE AUTHORITY OR LAW ENFORCEMENT AGENCIES.** The commission may, in its discretion, release information to the Washington State Bar Association, American Bar Association, a judicial authority, any judicial appointive, selection or confirmation authority, or to law enforcement agencies when required in the interests of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The person to whom the information relates may, in the commission's discretion, be informed of any information released.

~~((g) PUBLIC PROCEEDINGS. If the commission determines that the public interest in maintaining confidence in the judiciary and the integrity of the administration of justice so require, it may order that some or all aspects of the proceeding before the commission may be publicly conducted or otherwise reported or disclosed to the public. The judge will be given notice and an opportunity to be heard on the issue before the commission determines to make a hearing public.))~~

~~((h)) (g) CONTEMPT. (Unless otherwise permitted by these rules, n) No person shall disclose (information obtained by that person during) the existence of a commission proceeding(s), (or from papers filed with the commission) subject matter, or the identity of the judge until the proceeding is no longer confidential as provided by these rules. Any person giving information to the commission or any member or employee of the commission is subject to a proceeding for contempt in superior court for disclosing information in violation of this rule.~~

RULE 5. ((INITIAL PROCEEDINGS)) PRELIMINARY INVESTIGATION

(a) **ALLEGATIONS OF MISCONDUCT OR DISABILITY.** Any organization, association, or person, including a member of the commission, may make an allegation of judicial misconduct or disability to the commission. An allegation may be made orally or in writing.

(b) **DISTINGUISHED FROM APPEAL.** The commission will not recommend the discipline of a judge for the exercise of discretion in making findings of fact, reaching a legal conclusion, or applying the law as the judge understands it.

(c) **SCREENING BY EXECUTIVE DIRECTOR.** Upon receipt of an allegation not obviously unfounded or frivolous, the executive director shall make a prompt, discreet, ~~((and confidential inquiry))~~ preliminary investigation and evaluation. Failure of a person making the allegation to supply requested additional information may result in dismissal of that allegation. On every allegation received, ((F)) the executive director shall make a recommendation to the commission as to whether ((a preliminary investigation should be initiated)) to commence initial proceedings ((on every allegation received)).

(d) **COMMISSION DETERMINATION.** If the commission determines ~~((at a meeting that))~~ to commence ~~((a preliminary investigation should be initiated))~~ initial proceedings, the person making the allegation may be requested to file a verified statement with the commission. If a verified statement is not filed by the person making the allegation, the executive director shall prepare and file a verified statement.

Initial proceedings will begin upon filing of the verified statement.

(e) **CONTENTS OF VERIFIED STATEMENT.** A verified statement ~~((requesting that the commission investigate allegations))~~ must include facts showing that a judge may have violated a rule of judicial conduct or may be suffering a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

RULE 6. ((PRELIMINARY INVESTIGATION)) INITIAL PROCEEDINGS

(a) **CONDUCT OF ((PRELIMINARY INVESTIGATION)) INITIAL PROCEEDINGS.** ~~((If the commission orders a preliminary investigation, t))~~ The executive director will supervise the investigation.

(b) **NOTIFICATION OF INVESTIGATION.** The judge who is the subject of ~~((a preliminary investigation))~~ initial proceedings will be notified by the commission within 7 days after the filing of a verified statement. The judge shall also be advised of the nature of the charge; that these proceedings are confidential; and that the judge has the right to waive the confidentiality of the fact that an investigation is proceeding. ~~((i))~~ In ~~((the))~~ its discretion, ~~((of))~~ the commission ~~((:))~~ may disclose to the judge the name of the individual making the verified statement ~~((, of any, of that the investigation is on the commission's own motion)).~~

(c) **JUDGE'S RESPONSE.** The judge shall be afforded a reasonable opportunity in the course of the ~~((preliminary investigation))~~ initial proceedings to present such matters as he or she may choose.

(d) **ORDER FOR MEDICAL EXAMINATION.** If the ~~((preliminary investigation))~~ initial proceedings concern ~~((s))~~ a judge who may be suffering a possible physical and/or mental disability which may seriously impair the performance of judicial duties, the commission may order a judge to submit to physical and/or mental examinations at commission expense. The failure or refusal of a judge to submit to physical and/or mental examinations ordered by the commission may, in the discretion of the commission, preclude the judge from presenting the results of other physical and/or mental examinations on his or her own behalf. The commission may consider the failure or refusal to submit to physical and/or mental examinations as evidence that the judge has a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

(e) **RESULT OF ((PRELIMINARY INVESTIGATION)) INITIAL PROCEEDINGS.** (1) If the commission determines ~~((at a meeting after a preliminary investigation))~~ that there are insufficient grounds for further commission proceedings, the judge and the person making the allegation will be so notified.

(2) If the commission determines ~~((at a meeting after a preliminary investigation))~~ that probable cause exists ~~((for believing))~~ that the judge has violated a rule of judicial conduct or ~~((that the judge))~~ may be suffering from a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent, the commission shall order the filing of a complaint pursuant to Rule 7 or may informally dispose of the matter pursuant to Rule 19.

(f) **STIPULATIONS.** After ~~((a preliminary investigation))~~ initial proceedings and when prior approval is given by the commission, either the executive director or counsel retained by the commission may enter into a proposed stipulation of facts and/or discipline with the respondent judge. Such a stipulation may contain the imposition of terms and conditions and such other provisions as may appear appropriate. If a stipulation is not adopted by the commission, it shall be of no force and effect.

RULE 7. ((INITIATING)) FORMAL ((PROCEEDINGS)) COMPLAINT

(a) **GENERALLY.** The commission ~~((after a preliminary investigation))~~ may file a formal complaint alleging the violation of a rule of judicial conduct or the disability of a judge that is or is likely to become permanent. The complaint will be served on the judge within 7 days after filing of the complaint in the commission's office and shall thereupon be available to the public.

(b) **DECISION TO FILE COMPLAINT.** When a complaint is filed, no further factual information shall be provided to the commission prior to a fact-finding hearing unless notice is given to both parties. The executive director will continue to assist commission counsel.

(c) **FORM OF COMPLAINT.** The complaint will state in ordinary and concise language the basis for commission action and the facts supporting the complaint. The complaint shall also inform the judge that he or she may file a written answer to the charges as provided in paragraph (d).

(d) **ANSWER.** The judge may file with the commission an answer to the complaint. The answer must be filed within 14 days after service of the complaint on the judge. If the judge does not file a written answer, a general denial will be entered on behalf of the judge. The complaint and the answer shall be the only pleadings required. Once filed, the answer shall be available to the public.

RULE 8. ((SCHEDULING)) FACT-FINDING HEARING

(a) **PUBLIC HEARING.** Upon filing of a formal complaint, a public hearing will be scheduled at a location selected by the commission. All papers, files and records made part of the record at the hearing shall be public.

~~((A fact-finding hearing will be scheduled to take place within 42 days after the time for answer has expired or after the answer is filed.))~~ (b) **SCHEDULING HEARING.** The executive director will set a time and place for the ~~((fact-finding))~~ public hearing to be held no later than 42 days after the time for answer has expired or after the answer is filed. The judge will be given at least 14 days notice of the ~~((fact-finding))~~ hearing ~~((The notice))~~ which will include the name or names of the fact-finder and the presiding officer, if any.

RULE 9. DISQUALIFICATION OF FACT-FINDER

(a) **DISQUALIFICATION OF MEMBER OR MASTER.** A member of the commission or a master must disqualify himself or herself in any proceedings involving his or her own conduct or alleged disability. A member of the commission or a master must disqualify himself or herself if he or she cannot impartially consider the complaint against a judge.

(b) **CHALLENGE FOR CAUSE.** A judge may file an affidavit challenging for cause any member or a master who the judge believes will not impartially consider the complaint. The affidavit must be filed within 7 days after notice of the fact-finding hearing. The commission will decide any challenge for cause if the member does not disqualify himself or herself.

(c) **PEREMPTORY CHALLENGE.** A judge may file one peremptory challenge against one member of the commission. The challenge must be filed within 7 days after notice of a fact-finding hearing. If the judge has unsuccessfully challenged a member for cause, any peremptory challenge against that member must be filed within 3 days after service of notice of the determination of the challenge for cause.

RULE 10. PROCEDURAL RIGHTS OF JUDGE

(a) **GENERALLY.** The judge has a right to notice of the allegations concerning the judge which have been found by the commission to warrant ~~((a preliminary investigation))~~ initial proceedings. The judge shall have the right and reasonable opportunity at a fact-finding hearing to defend against the allegations in the complaint by the introduction of evidence. The judge has the privilege against self-incrimination. The judge may be represented by counsel and may examine and cross-examine witnesses. The judge has the right to testify or not to testify on his or her own behalf. The judge has the right to issuance of subpoenas for the attendance of witnesses to testify or produce evidentiary matters. The judge has the right to a prompt resolution of the allegations in the complaint.

(b) **COMPLIANCE WITH ETHICS ADVISORY OPINION.** A judge's compliance with an opinion by the Ethics Advisory Committee shall be considered by the commission as evidence of good faith.

(c) **TRANSCRIPTS.** The judge will be provided without cost a copy of any report of proceedings prepared by the commission. The judge may, in addition, have all or any portion of the testimony in the proceedings transcribed at his or her own expense.

(d) **WITNESS FEES.** All witnesses shall receive fees and expenses in the amount allowed by law. Expenses of witnesses shall be borne by the party calling them, unless the commission determines that the imposition of costs and expert witness fees would work a financial hardship or injustice upon the judge and orders that those fees be reimbursed.

RULE 11. GUARDIAN(S) AD LITEM

If it appears to the commission at any time during the proceedings that the judge is not competent to act, or if it has been previously judicially determined that the judge is not competent to act, the commission will appoint a guardian ad litem for the judge unless the judge already has a guardian who will represent the judge's interests. In the appointment of a guardian ad litem, consideration may be given to the wishes of the members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge which the judge could have claimed, exercised, or made if competent. Any notice to be served on the judge will also be served on the guardian or guardian ad litem.

RULE 12. DISCOVERY PROCEDURE BEFORE FACT-FINDING

(a) **REQUEST FOR WITNESSES AND DOCUMENTS.** Upon written demand, the opposing party will disclose within 7 days thereof, with a continuing obligation thereafter, the following:

- (1) names and addresses of all witnesses whose testimony that party expects to offer at the hearing,
- (2) a brief summary of the expected testimony of each witness,
- (3) copies of signed or recorded statements of anticipated witnesses, and,
- (4) copies of documents which may be offered. Witnesses or documents not disclosed may be excluded.

(b) **DISCOVERY.** The taking of depositions, the requesting of admissions and all other procedures authorized by Rules 26 through 37 of the Superior Court Civil Rules are available upon stipulation of the parties or upon prior permission of the master or presiding officer. A

request for discovery shall be granted, unless the master or presiding officer determines that the request is frivolous, will create an undue burden on the party, or will result in undue delay.

(c) **DISCLOSURE BY COMMISSION'S COUNSEL.** The commission's counsel shall disclose to the judge any material or information within his or her knowledge which tends to negate the allegations against the judge or mitigate the degree of discipline which may be imposed.

(d) **PREHEARING MOTIONS.** The judge or counsel for either party may make prehearing motions to the designated presiding officer, who may make rulings or defer rulings to the commission. Motions shall be in writing and shall be filed and served on the opposing party. The responding party shall be allowed five days from service to respond, unless the time is shortened by the presiding officer for good cause. Motions will be promptly decided by written order filed in the commission office. Motions will be decided on the written materials submitted unless the presiding officer requests argument, which may be heard by conference telephone call.

RULE 13. AMENDMENTS TO COMPLAINT OR ANSWER

The fact-finder, at any time prior to the conclusion of the hearing, or the commission, at any time prior to its decision, may allow or require amendments to the complaint or the answer. The complaint may be amended to conform to the proof or set forth additional facts, whether occurring before or after the commencement of the hearing. Except for amendments to conform to the proof at a fact-finding hearing, if an amendment substantially affects the nature of the charges, the judge will be given reasonable time to answer the amendment and prepare and present a defense against the new matter raised.

RULE 14. PROCEDURE AT FACT-FINDING HEARING

(a) **ORDER OF PRESENTATION.** The order of presentation shall be in the same manner as in civil cases in superior court.

(b) **COMMISSION REPRESENTED BY COUNSEL.** The case for the commission shall be presented by counsel retained by the commission.

(c) **RULES OF EVIDENCE.** The Rules of Evidence (ER) as applicable in civil proceedings shall govern the fact-finding hearing.

(d) **STANDARD OF PROOF.** Any finding that the judge has violated a rule of judicial conduct or that the judge has a disability which is or is likely to become permanent and which seriously interferes with the performance of judicial duties must be supported by clear, cogent and convincing evidence.

(e) **PRESIDING OFFICER.** Unless the fact-finding hearing is before a master, the chairperson may appoint a member to be presiding officer or to rule on motions and objections made during the hearing. If the hearing is before the commission, a member may appeal a ruling to the commission members present. A majority vote will determine the motion.

(f) **FAILURE TO ANSWER OR APPEAR.** The failure of a judge to answer or to appear at the hearing or to submit to a mental or physical examination required by the commission will not prevent the commission from proceeding.

(g) **VERBATIM RECORD.** Unless the judge and the commission stipulate to a different record, a verbatim record will be made and kept of the fact-finding hearing. The commission shall determine whether the verbatim record will be by court reporter or electronic recording device.

(h) **MEDIA COVERAGE.** Canon 3(A)(7) shall be followed for media participation in public hearings.

RULE 15. REPORT OF FACT-FINDER

(a) **WHEN FACT-FINDER OTHER THAN COMMISSION.** The fact-finder, when other than the entire commission, shall prepare a report containing a brief statement of the procedure followed and the proposed findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The report and verbatim record shall be filed in the commission office within 35 days after the hearing. The report and record shall be served on the parties within 14 days thereafter. The fact-finder may request the prevailing party to prepare the findings of fact and conclusions of law.

(b) **OBJECTIONS.** A party may file with the commission a statement of objections to the report of the fact-finder. The statement shall set forth all objections to the report and state reasons therefor. The objections must be filed with the commission and served on the opposing party within 14 days after service of the report on the party.

(c) **NO OBJECTIONS FILED.** If no statement of objections to the report of the fact-finder is filed within the time provided in paragraph (b), the report may be adopted without argument.

(d) **OBJECTIONS FILED.** If a statement of objections is timely filed, the commission may schedule oral argument, or consider the matter on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

(e) **COMMISSION MODIFICATION.** If the commission proposes to modify or reject the fact-finder's report, the commission shall schedule a time for oral argument on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

RULE 16. COMMISSION DECISION

(a) **COMMISSION SITTING AS FACT-FINDER.** When the commission serves as fact-finder, it will file a decision including findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The prevailing party may be requested to prepare the findings of fact and conclusions of law. The commission's decision will be served upon the judge pursuant to ~~((JQCR))~~ CJCR 16(c). Any motions for reconsideration or objections shall be timely filed in accordance with ~~((JQCR))~~ CJCR 16(d).

(b) **DECISION.** Only upon the affirmative vote of at least ~~((four))~~ five members will the commission recommend discipline or retirement of a judge or effect an informal disposition pursuant to ~~((JQCR))~~ CJCR 19. The commission's decision will include written findings of fact, conclusions of law, a recommendation and any record to be filed with the Supreme Court. The commission may adopt the report of the fact-finder, in whole or in part, by reference. To vote on a matter, a nonsitting member must consider the verbatim record and any report of a fact-finder. Any commission member may file a dissent.

(c) **NOTICE TO JUDGE.** The commission's decision will be served upon the judge and his or her counsel of record within 14 days after the decision is filed in the commission's office.

(d) **MOTION FOR RECONSIDERATION AND OBJECTIONS TO RECORD.** A party may file objections to the record or a motion for reconsideration of the commission decision within 14 days after the decision and record have been served. Objections will be determined by the chairperson or, in his or her discretion, by the commission.

(e) **FINALITY OF DECISION.** The commission decision is final 14 days after service unless a motion for reconsideration or objection is earlier filed. If a motion for reconsideration or objection is denied, the decision is then final. If either the motion for reconsideration or objection is granted, the reconsidered decision is final when filed in the commission's office.

(f) **NOTICE OF COMMISSION DECISION.** When the decision is final, the commission will notify the person making the allegation ~~((of the general nature))~~ of its decision ~~((, in accordance with Rule 4 (d)))~~.

RULE 17. ADDITIONAL EVIDENCE

The commission may order a public hearing for the taking of additional evidence at any time before its decision is final. The order will set the time and place of the hearing and will specify the matters on which the additional evidence is to be taken. A copy of the order shall be served upon the judge at least 14 days prior to the date set for hearing. The hearing will be conducted in the manner provided in Rules 8-16.

RULE 18. SUPREME COURT PROCEDURES

(a) **CERTIFICATION TO SUPREME COURT.** Within 14 days after the decision is final, a commission decision recommending the discipline or retirement of a judge will be filed in the Supreme Court and served on the judge. The notice of the decision served on the judge shall state the date the decision was filed in the Supreme Court and shall specify the period during which the judge may challenge the commission recommendation as provided in DRJ 2.

(b) **TEMPORARY SUSPENSION.** If the commission recommendation is that the judge be removed, the judge shall be suspended, with salary, from that judicial position effective upon filing the recommendation with the Supreme Court; such suspension with pay to remain in effect until a final determination is made by the Supreme Court.

~~((b))~~ (c) **RECORD FOR SUPREME COURT REVIEW.** The chairperson shall certify the record of commission proceedings to the Supreme Court, having transmitted to the judge those portions of the record required by DRJ 4.

~~((c))~~ (d) **REMAND FROM THE SUPREME COURT.** If the Supreme Court remands a case, ~~((to))~~ the commission ~~((, the chairperson shall assign the case to a fact-finder or the commission in accordance with the request of the Supreme Court))~~ will proceed in accordance with the order on remand.

RULE 19. INFORMAL DISPOSITION

~~((An allegation of misconduct))~~ A violation of a rule of judicial conduct which in the view of the commission does not warrant a recommendation to the Supreme Court for discipline, may be disposed of by a proposal to the judge for an admonishment or reprimand. (See DRJ 1(d) and (12)) The proposal will provide whether acceptance of the proposal may be considered as an admission of misconduct by the judge and whether it may be made public. If the judge accepts the proposal in writing within 14 days after service of the proposal, a letter of admonishment or reprimand will be issued and no further action will be taken by the commission. If the judge accepts the proposal, the person making the allegation shall be notified that the matter has been resolved, in accordance with Rule 4 ~~((d))~~ (e). If the judge does not accept or fails to respond to the proposal, proceedings will continue.

RULE 20. REINSTATEMENT OF ELIGIBILITY

A former judge whose eligibility for judicial office had been removed by the Supreme Court may file with the commission a petition for reinstatement of eligibility. Rules 4, 8 through 18 and 20 through 22 apply to commission review of a petition for reinstatement for eligibility. The commission will recommend to the Supreme Court in writing that the former judge should or should not be reinstated to eligibility to hold judicial office as provided in DRJ 11.

RULE 21. EXTENSION OF TIME

Upon a showing of good cause the chairperson or fact-finder may extend the time within which an act must be done under these rules.

RULE 22. SERVICE

(a) **SERVICE ON JUDGE.** A complaint under Rule 7 shall be served on a judge in person, unless the judge cannot be found within the state. If the judge cannot be found, the complaint may be served by mail addressed to the judge's last known business and residence addresses. All other papers in commission proceedings may be served on a judge in person or by mail. If counsel has appeared for a judge, papers, other than a complaint, may be served on counsel in lieu of service upon the judge.

(b) **SERVICE ON COMMISSION.** Service of papers on the commission shall be given by delivering or mailing the papers to the commission's office.

(c) **WHEN SERVICE ACCOMPLISHED.** If service is by mail, a paper is timely served if mailed within the time permitted for service. If a paper is served by mail, a time period dependent on the service beings to run 3 days after the paper is mailed.

RULE 23. RULE ADOPTION, AMENDMENT, OR REPEAL

(a) **GENERALLY.** The commission may adopt, amend, or repeal a rule on its own motion or on a petition of ~~((or))~~ any person ~~((may request such action by petition))~~.

(b) **PETITION.** The petition must set out the proposed rule, or amendments to any existing rule, in full. The petition must also include reasons in support of the request.

(c) **COMMISSION REVIEW.** The executive director shall recommend to the commission whether to adopt, amend, or repeal a rule as requested in a petition. The chairperson may order a public hearing for further consideration of the petition.

(d) **RULE ADOPTION.** The commission will order the publication of any proposed rule modification for written public comment before taking final action to adopt, amend, or repeal a rule in the official advance sheets of the Washington Reports and the Washington State Register. Adopted rules will be submitted to the Code Reviser for publication where other court rules are published in the Revised Code of Washington and to the Reporter of Decisions for publication in the official codification of Washington court rules.

~~((d))~~ (e) **NOTICE TO PETITIONER.** The commission will notify the petitioner of its final action within a reasonable time after disposition of the petition.

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

WSR 87-05-001
ADOPTED RULES
PUBLIC DISCLOSURE COMMISSION
[Order 87-01—Filed February 5, 1987]

Be it resolved by the Public Disclosure Commission, acting at 403 Evergreen Plaza Building, 711 South Capitol Way, Olympia, WA 98504, that it does adopt the annexed rules relating to:

Amd WAC 390-20-0101 Forms for lobbyist registration.
Amd WAC 390-20-110 Forms for lobbyist employers report.

This action is taken pursuant to Notice No. WSR 87-01-079 filed with the code reviser on December 19, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.17.370(1) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 27, 1987.

By Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending Order 85-05, filed 11/26/85)

WAC 390-20-0101 FORMS FOR LOBBYIST REGISTRATION. The official form for lobbyist registration as required by RCW 42.17.150 is designated "L-1," revised ((11/82)) 12/86. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

STATE OF WASHINGTON

LOBBYIST REGISTRATION 1985-86

THIS REGISTRATION IS VALID UNTIL JAN. 12, 1987 UNLESS SOONER TERMINATED

L1

THIS SPACE FOR OFFICE USE

1. LOBBYIST NAME

* PERMANENT BUSINESS ADDRESS

CITY STATE ZIP

2. TEMPORARY THURSTON COUNTY ADDRESS DURING LEGISLATIVE SESSION

3. EMPLOYER'S NAME AND ADDRESS (PERSON OR GROUP FOR WHICH YOU LOBBY)

TELEPHONE PERMANENT: TEMPORARY:

EMPLOYER'S OCCUPATION, BUSINESS OR DESCRIPTION OF PURPOSE OF ORGANIZATION

4. NAME AND ADDRESS OF PERSON HAVING CUSTODY OF ACCOUNTS, RECEIPTS, BOOKS OR OTHER DOCUMENTS WHICH SUBSTANTIATE LOBBYIST REPORTS.

5. WHAT IS YOUR PAY (COMPENSATION) FOR LOBBYING?

\$ _____ PER _____ (Hour, Day, Month, Year)

OTHER: EXPLAIN _____

DESCRIPTION OF EMPLOYMENT (CHECK ONE OR MORE BOXES)

FULL TIME EMPLOYEE SOLE DUTY IS LOBBYING

PART TIME OR TEMPORARY EMPLOYEE LOBBYING IS ONLY A PART OF OTHER DUTIES

CONTRACTOR, RETAINER OR SIMILAR AGREEMENT

UNSALARIED OFFICER OR MEMBER OF GROUP

6. ARE YOU REIMBURSED FOR LOBBYING EXPENSES? EXPLAIN WHICH EXPENSES.

YES: \$ _____ PER _____

YES: I AM REIMBURSED FOR ALL EXPENSES.

NO: I AM NOT REIMBURSED FOR EXPENSES.

DOES EMPLOYER PAY ANY OF YOUR LOBBYING EXPENSES DIRECTLY? IF YES, EXPLAIN WHICH ONES.

7. HOW LONG DO YOU EXPECT TO LOBBY FOR THIS ORGANIZATION?

PERMANENT LOBBYIST ONLY DURING LEGISLATIVE SESSION OTHER, EXPLAIN: _____

8. IF ANY PART OF YOUR COMPENSATION IS CONTINGENT ON THE SUCCESS OF AN ATTEMPT TO INFLUENCE LEGISLATION, ATTACH AN EXPLANATION FULLY DESCRIBING THE AGREEMENT, ARRANGEMENT OR UNDERSTANDING.

NO YES, EXPLANATION ATTACHED

9. IS YOUR EMPLOYER A BUSINESS OR TRADE ASSOCIATION OR SIMILAR ORGANIZATION WHICH LOBBIES ON BEHALF OF ITS MEMBERS? IF "YES": ATTACH A LIST SHOWING THE NAME AND ADDRESS OF EACH MEMBER WHO HAS PAID THE ASSOCIATION FEES, DUES OR OTHER PAYMENTS OVER \$500 DURING EITHER OF THE PAST TWO YEARS OR IS EXPECTED TO PAY OVER \$500 THIS YEAR.

NO YES, THE LIST IS ATTACHED

10. DOES YOUR EMPLOYER HAVE A CONNECTED, RELATED OR CLOSELY AFFILIATED POLITICAL ACTION COMMITTEE WHICH WILL PROVIDE FUNDS FOR YOU TO MAKE POLITICAL CONTRIBUTIONS OR PURCHASE TICKETS TO FUND RAISING EVENTS? IF SO, LIST THE NAME OF THAT POLITICAL ACTION COMMITTEE.

NO YES, NAME OF THE COMMITTEE IS: _____

11. IF LOBBYIST IS A COMPANY, PARTNERSHIP OR SIMILAR BUSINESS ENTITY WHICH EMPLOYS OTHERS TO PERFORM ACTUAL LOBBYING DUTIES, LIST NAME OF EACH PERSON WHO WILL LOBBY. (SEE WAC 390-20-143 AND 144 FOR INSTRUCTIONS.)

12. AREAS OF INTEREST. LOBBYING IS MOST FREQUENT BEFORE LEGISLATIVE COMMITTEE MEMBERS OR STATE AGENCIES CONCERNED WITH FOLLOWING SUBJECTS:

<p>CODE SUBJECT</p> <p>01 <input type="checkbox"/> Agriculture</p> <p>02 <input type="checkbox"/> Business and Consumer Affairs</p> <p>03 <input type="checkbox"/> Constitutions and Elections</p> <p>04 <input type="checkbox"/> Education</p> <p>05 <input type="checkbox"/> Energy and Utilities</p> <p>06 <input type="checkbox"/> Environmental Affairs—Natural Resources—Parks</p> <p>07 <input type="checkbox"/> Financial Institutions and Insurance</p>	<p>CODE SUBJECT</p> <p>08 <input type="checkbox"/> Fiscal</p> <p>09 <input type="checkbox"/> Higher Education</p> <p>10 <input type="checkbox"/> Human Services</p> <p>11 <input type="checkbox"/> Labor</p> <p>12 <input type="checkbox"/> Law and Justice</p> <p>13 <input type="checkbox"/> Local Government</p> <p>14 <input type="checkbox"/> State Government</p> <p>15 <input type="checkbox"/> Transportation</p> <p>16 <input type="checkbox"/> Other—specify _____</p>
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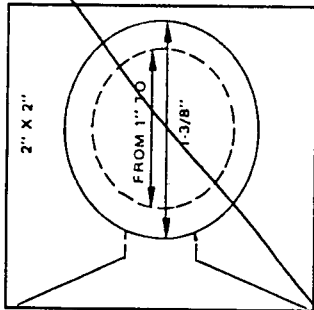
REMARKS

CERTIFICATION: I HEREBY CERTIFY THAT THE ABOVE IS A TRUE, COMPLETE AND CORRECT STATEMENT.

EMPLOYER'S AUTHORIZATION: CONFIRMING THE EMPLOYMENT AUTHORITY TO LOBBY DESCRIBED IN THIS REGISTRATION STATEMENT.

13. LOBBYIST'S SIGNATURE DATE EMPLOYER'S SIGNATURE, NAME TYPED OR PRINTED AND TITLE DATE

LOBBYIST IDENTIFICATION BOOKLET



NAME:
 BUSINESS ADDRESS:

PHONE:

OLYMPIA ADDRESS:

PHONE:

EMPLOYERS' NAMES:

YEAR FIRST EMPLOYED AS A LOBBYIST:
 BIOGRAPHY:

INSTRUCTIONS

ATTACH THIS PAGE TO YOUR L-1 REGISTRATION.

ATTACH 2" x 2" PASSPORT TYPE, BLACK AND WHITE PHOTO. PHOTO SHOULD BE HEAD AND SHOULDERS, FULL FACE, AND TAKEN WITHIN LAST 12 MONTHS.

PLEASE WRITE, LIGHTLY IN PENCIL, NAME ON BACK OF PHOTO BEFORE ATTACHING.

PHOTOS WILL NOT BE RETURNED.

PLEASE SEE INSTRUCTION BOOKLET FOR EXAMPLE OF BIOGRAPHY. LIST ALL EMPLOYERS ON THIS PAGE IF YOU HAVE MORE THAN ONE EMPLOYER. IF YOU LATER ADD ADDITIONAL EMPLOYERS, PDC WILL INCLUDE THEM FOR YOU.

PLEASE USE TYPEWRITER TO COMPLETE THIS PAGE.

STATE OF WASHINGTON

LOBBYIST REGISTRATION 1987-88

THIS REGISTRATION IS VALID UNTIL JAN. 9, 1989 UNLESS SOONER TERMINATED

THIS SPACE FOR OFFICE USE

L1

1. LOBBYIST NAME _____

PERMANENT BUSINESS ADDRESS _____

CITY _____ STATE _____ ZIP _____

2. TEMPORARY THURSTON COUNTY ADDRESS DURING LEGISLATIVE SESSION _____

TELEPHONE PERMANENT: _____ TEMPORARY: _____

3. EMPLOYER'S NAME AND ADDRESS (PERSON OR GROUP FOR WHICH YOU LOBBY) _____

EMPLOYER'S OCCUPATION, BUSINESS OR DESCRIPTION OF PURPOSE OF ORGANIZATION _____

4. NAME AND ADDRESS OF PERSON HAVING CUSTODY OF ACCOUNTS, RECEIPTS, BOOKS OR OTHER DOCUMENTS WHICH SUBSTANTIATE LOBBYIST REPORTS. _____

5. WHAT IS YOUR PAY (COMPENSATION) FOR LOBBYING? \$ _____ PER _____ (Hour, Day, Month, Year)

OTHER: EXPLAIN _____

DESCRIPTION OF EMPLOYMENT (CHECK ONE OR MORE BOXES)

FULL TIME EMPLOYEE SOLE DUTY IS LOBBYING

PART TIME OR TEMPORARY EMPLOYEE LOBBYING IS ONLY A PART OF OTHER DUTIES

CONTRACTOR, RETAINER OR SIMILAR AGREEMENT

UNSALARIED OFFICER OR MEMBER OF GROUP

6. ARE YOU REIMBURSED FOR LOBBYING EXPENSES? EXPLAIN WHICH EXPENSES.

YES: \$ _____ PER _____

YES: I AM REIMBURSED FOR EXPENSES.

NO: I AM NOT REIMBURSED FOR EXPENSES.

DOES EMPLOYER PAY ANY OF YOUR LOBBYING EXPENSES DIRECTLY? IF YES, EXPLAIN WHICH ONES. _____

7. HOW LONG DO YOU EXPECT TO LOBBY FOR THIS ORGANIZATION?

PERMANENT LOBBYIST ONLY DURING LEGISLATIVE SESSION OTHER, EXPLAIN: _____

8. IF ANY PART OF YOUR COMPENSATION IS CONTINGENT ON THE SUCCESS OF AN ATTEMPT TO INFLUENCE LEGISLATION, ATTACH AN EXPLANATION FULLY DESCRIBING THE AGREEMENT, ARRANGEMENT OR UNDERSTANDING.

NO YES. EXPLANATION ATTACHED

9. IS YOUR EMPLOYER A BUSINESS OR TRADE ASSOCIATION OR SIMILAR ORGANIZATION WHICH LOBBIES ON BEHALF OF ITS MEMBERS? IF "YES", ATTACH A LIST SHOWING THE NAME AND ADDRESS OF EACH MEMBER WHO HAS PAID THE ASSOCIATION FEES, DUES OR OTHER PAYMENTS OVER \$500 DURING EITHER OF THE PAST TWO YEARS OR IS EXPECTED TO PAY OVER \$500 THIS YEAR.

NO YES. THE LIST IS ATTACHED

10. DOES YOUR EMPLOYER HAVE A CONNECTED, RELATED OR CLOSELY AFFILIATED POLITICAL ACTION COMMITTEE WHICH WILL PROVIDE FUNDS FOR YOU TO MAKE POLITICAL CONTRIBUTIONS INCLUDING PURCHASE TICKETS TO FUND RAISING EVENTS? IF SO, LIST THE NAME OF THAT POLITICAL ACTION COMMITTEE.

NO YES. NAME OF THE COMMITTEE IS: _____

11. IF LOBBYIST IS A COMPANY, PARTNERSHIP OR SIMILAR BUSINESS ENTITY WHICH EMPLOYS OTHERS TO PERFORM ACTUAL LOBBYING DUTIES, LIST NAME OF EACH PERSON WHO WILL LOBBY. (SEE WAC 390-20-143 AND 144 FOR INSTRUCTIONS.)

12. AREAS OF INTEREST. LOBBYING IS MOST FREQUENT BEFORE LEGISLATIVE COMMITTEE MEMBERS OR STATE AGENCIES CONCERNED WITH FOLLOWING SUBJECTS:

CODE	SUBJECT	CODE	SUBJECT
01	<input type="checkbox"/> Agriculture	08	<input type="checkbox"/> Fiscal
02	<input type="checkbox"/> Business and Consumer Affairs	09	<input type="checkbox"/> Higher Education
03	<input type="checkbox"/> Constitutions and Elections	10	<input type="checkbox"/> Human Services
04	<input type="checkbox"/> Education	11	<input type="checkbox"/> Labor
05	<input type="checkbox"/> Energy and Utilities	12	<input type="checkbox"/> Law and Justice
06	<input type="checkbox"/> Environmental Affairs—Natural Resources—Parks	13	<input type="checkbox"/> Local Government
07	<input type="checkbox"/> Financial Institutions and Insurance	14	<input type="checkbox"/> State Government
		15	<input type="checkbox"/> Transportation
		16	<input type="checkbox"/> Other—specify _____

REMARKS _____

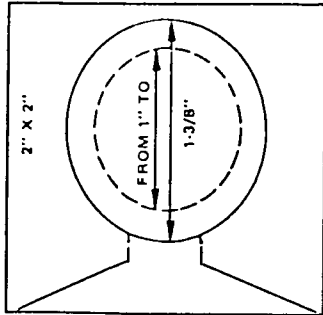
CERTIFICATION: I HEREBY CERTIFY THAT THE ABOVE IS A TRUE, COMPLETE AND CORRECT STATEMENT.

EMPLOYER'S AUTHORIZATION: CONFIRMING THE EMPLOYMENT AUTHORITY TO LOBBY DESCRIBED IN THIS REGISTRATION STATEMENT.

13. LOBBYIST'S SIGNATURE _____ DATE _____

EMPLOYER'S SIGNATURE, NAME TYPED OR PRINTED AND TITLE _____ DATE _____

LOBBYIST IDENTIFICATION BOOKLET



NAME:
BUSINESS ADDRESS:

PHONE:

OLYMPIA ADDRESS:

PHONE:

EMPLOYERS' NAMES:

YEAR FIRST EMPLOYED AS A LOBBYIST:
BIOGRAPHY:

INSTRUCTIONS

ATTACH THIS PAGE TO YOUR L-1 REGISTRATION.

ATTACH 2" x 2" PASSPORT TYPE, BLACK AND WHITE PHOTO. PHOTO SHOULD BE HEAD AND SHOULDERS, FULL FACE, AND TAKEN WITHIN LAST 12 MONTHS.

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PLEASE SEE INSTRUCTION BOOKLET FOR EXAMPLE OF BIOGRAPHY. LIST ALL EMPLOYERS ON THIS PAGE IF YOU HAVE MORE THAN ONE EMPLOYER. IF YOU LATER ADD ADDITIONAL EMPLOYERS, PDC WILL INCLUDE THEM FOR YOU.

PLEASE USE TYPEWRITER TO COMPLETE THIS PAGE.

AMENDATORY SECTION (Amending Order 85-05, filed 11/26/85)

WAC 390-20-110 FORMS FOR LOBBYIST EMPLOYERS REPORT. The official form for statement by employers of registered lobbyists as required by RCW 42.17.180 is designated "L-3," revised ((8/83)) 1/87. Copies of this form are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504. Any attachments shall be on 8-1/2" x 11" white paper.

STATE OF WASHINGTON

EMPLOYER'S LOBBYING EXPENSES

DURING CALENDAR YEAR 1983

L3

P
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E

1. EMPLOYER'S NAME (USE COMPLETE COMPANY, ASSOCIATION, UNION OR ENTITY NAME)

MAILING ADDRESS _____ TELEPHONE _____

CITY _____ STATE _____ ZIP _____

THIS REPORT MUST BE FILED BY MARCH 31, 1984 AND INCLUDES A FINANCIAL REPORT OF STATE LOBBYING ACTIVITIES FOR CALENDAR YEAR 1983. COMPLETE ALL SECTIONS. IF ENTRY IS "NONE" OR "\$0" SO STATE.

2. PAYMENTS DIRECTLY TO LOBBYISTS FOR SALARY, CONTRACT, RETAINER, REIMBURSEMENT OF EXPENSES, ETC.

LOBBYIST NAME (IF TO LOBBY FIRM, LIST FIRM NAME)	AMOUNT	TOTAL AMOUNT
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NAME OF PAC _____

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TOTAL LOBBYING EXPENSES
(Items 2 thru 6 above)

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<p style="text-align: center;">CERTIFICATION</p> <p>I certify that the information contained in this report is a true, correct and complete statement in accordance with RCW 42.17.180.</p>	<p style="text-align: center;">SIGNATURE OF EMPLOYER</p> <p>DATE</p> <hr/> <p style="text-align: center;">NAME TYPED OR PRINTED</p> <p>TITLE</p>
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STATE OF WASHINGTON

EMPLOYER'S LOBBYING EXPENSES

DURING CALENDAR YEAR 1986

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1. EMPLOYER'S NAME (USE COMPLETE COMPANY, ASSOCIATION, UNION OR ENTITY NAME)

MAILING ADDRESS _____ TELEPHONE _____

CITY _____ STATE _____ ZIP _____

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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

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Notice of Objection: The Joint Administrative Rules Review Committee finds that WAC 390-20-110 has not been modified, amended, withdrawn, or repealed by the Public Disclosure Commission so as to conform with the intent of the Legislature as expressed in RCW 42.17.170 and 42.17.180. Therefore, pursuant to its authority under RCW 34.04.240, this notice of objection is filed.

The Joint Committee finds that WAC 390-20-110 requires the disclosure of information from lobbyists' employers which RCW 42.17.170 specifically excludes from reporting by lobbyists. It is the opinion of the Joint Committee that the Commission is attempting to obtain information from lobbyists' employers which the Commission would not otherwise be able to obtain from lobbyists themselves. This would thwart the express intent of the Legislature that such information is inappropriate for reporting. WAC 390-20-110 would effectively neuter the reporting exemptions in RCW 42.17.170—the Commission would have the information. This is not what the Legislature intended. [Joint Administrative Rules Review Committee, Memorandum, August 16, 1984—Filed August 28, 1984, WSR 84-18-014.]

Reviser's note: The above Notice of Objection appeared in the permanent order filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

WSR 87-05-002
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 87-06—Filed February 5, 1987]

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

I, William R. Wilkerson [Joseph R. Blum], 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 harvestable numbers of Pacific whiting are not present. Restriction in Nisqually River repealed as steelhead management needs prevail.

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 February 5, 1987.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-48-01500X PACIFIC WHITING TRAWL CLOSURE. Notwithstanding the provisions of WAC 220-48-015, 220-48-017, and 220-48-019, effective immediately until further notice it is unlawful to fish for or possess Pacific whiting taken for commercial purposes from Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 24B, 24C, or 26A.

REPEALER

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

WAC 220-28-625 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS ORDER NO. 87-107

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

WSR 87-05-003
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
[Memorandum—February 5, 1987]

NOTIFICATION OF MEETING CANCELLATION

Please be notified that the regularly scheduled February 10, 1987, board of trustees meeting is hereby cancelled.

NOTIFICATION OF SPECIAL STUDY SESSION

Board members will meet with members of the Washington state legislature in Olympia, Washington, on February 11, 1987, at the 10:00 a.m. senate session and throughout the day.

The purpose of the gathering is to communicate the interest of the college district with legislators from the region. No action will be taken.

WSR 87-05-004
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
[Memorandum—February 6, 1987]

The March 26-27, 1987, regular meeting of the Interagency Committee for Outdoor Recreation (IAC) will be held in the Coho Annex, Tyee Motor Inn, 500 Tyee

Drive, Tumwater, Washington, beginning at 9:00 a.m., Thursday, March 26. (Note that the Friday, March 27 date is held in reserve should it be necessary to extend discussions on agenda items. For public convenience the IAC attempts to keep its meeting to one day.)

This meeting is a funding session for nonhighway off-road vehicles' projects. There will also be a short Washington Administrative Code hearing beginning at 1:00 p.m. in order to change the submittal time for the traditional local agencies grant-in-aid projects applications from six months to four months. Other agenda items include: Fiscal, planning, administrative, and projects status reports; certain project changes; legislation, modifications to participation manuals (guidelines) for traditional local agencies' grant-in-aid projects, and other matters as may be placed on the agenda.

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided at this regular IAC meeting if necessary. A request for this type of service, however, must be received by the IAC ten days before the meeting (February 29, 1987). Please contact: Robert L. Wilder, Director, IAC, 4800 Capitol Boulevard, KP-11, Olympia, Washington 98504, (206) 753-3610. The meeting site is barrier free.

WSR 87-05-005
ADOPTED RULES
LOTTERY COMMISSION
[Order 99—Filed February 6, 1987]

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

- Amd WAC 315-02-020 Time and place of meetings.
- Amd WAC 315-04-190 Compensation.
- New WAC 315-11-240 Definitions for Instant Game Number 24 ("Tic-Tac-Toe").
- New WAC 315-11-241 Criteria for Instant Game Number 24.
- New WAC 315-11-242 Ticket validation requirements for Instant Game Number 24.

This action is taken pursuant to Notice No. WSR 87-01-117 filed with the code reviser on December 24, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 6, 1987.
By Scott Milne
Deputy Director

AMENDATORY SECTION (Amending Order 71, filed 3/8/85)

WAC 315-02-020 TIME AND PLACE OF MEETINGS. (1) Regular public meetings of the commission shall be held (~~(on the first Friday of March, June, September, and December, or the preceding business day if that Friday is a holiday)~~) pursuant to the schedule published annually in the Washington State Register. Each such regular meeting shall be held (~~(in Olympia, Washington)~~) at a time and place designated by the director and published in the meeting agenda.

(2) Additional public meetings necessary to discharge the business of the commission may be called from time to time by the chairman or by a quorum of the commission.

AMENDATORY SECTION (Amending Order 91, filed 5/22/86)

WAC 315-04-190 COMPENSATION. (1) Lottery retailers shall be entitled to a five percent discount from the retail price of the instant game tickets established by rule for each game.

(2) Lottery retailers authorized to sell on-line tickets shall be entitled to a five percent discount from the total of gross on-line ticket sales less on-line ticket cancellations.

(3) Lottery retailers may receive additional compensation through programs including but not limited to additional discounts, retailer games, retailer awards, and retailer bonuses. The total additional compensation provided through such programs shall not exceed \$200,000 per program.

(a) The commission must approve each such program prior to its implementation.

(b) The director shall establish and publish the procedures necessary to implement any such program approved by the commission prior to initiation of the program.

NEW SECTION

WAC 315-11-240 DEFINITIONS FOR INSTANT GAME NUMBER 24 ("TIC-TAC-TOE").

(1) Play symbols: The following are the "play symbols": "X" and "O". One of these symbols appears under each of the nine rub-off spots on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which corresponds with and verifies that play symbol. The caption contains four characters which are the corresponding play symbol followed by the three-digit ticket number. One and only one caption appears under each play symbol. For Instant Game Number 24, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u> (Example for ticket number 122)
X	X122
O	O122

(3) Prize symbols: The following are the "prize symbols": "FREE", "\$2.00", "\$5.00", "50.00", "\$500", and "5,000". One of these prize symbols appears under the prize box on the front of the ticket which has the word "PRIZE" printed on the latex covering.

(4) Prize symbol caption - The small printed characters appearing below the prize symbol which verifies and corresponds with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 24, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
FREE	TICKET
\$2.00	TWO\$
\$5.00	FIVE
50.00	FIFTY
\$500	FIVEHUN
5,000	5-THOU

(5) Validation number: The unique nine-digit number on the front of the ticket. The number is covered by latex.

(6) Pack-ticket number: The ten-digit number of the form 4000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 24 constitute the "pack number" which starts at 4000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 24, the retailer verification codes is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TIC	FREE TICKET
TWO	\$2.00
FIV	\$5.00

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

NEW SECTION

WAC 315-11-241 CRITERIA FOR INSTANT GAME NUMBER 24. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having 3 "X" play symbols or 3 "0" play symbols in any row, column or diagonal beneath the removable covering on the front of the ticket shall win the prize shown in the prize box.

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 24 set forth in WAC 315-11-242, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There will be a total of five bonus drawings held in conjunction with the Instant Game Number 24, however, these bonus drawings shall not be part of or included in the Instant Game Number 24 prize structure. They will be conducted at times and places and pursuant to procedures to be established and announced by the director. The prizes awarded at each of the five bonus drawings will be: first prize - \$50,000, one winner; second prize - \$25,000, one winner; third prize - \$10,000, five winners; fourth prize - \$5,000, five winners; and fifth prize - \$1,000, fifty winners. In the event that an entry is not included in the bonus drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent bonus drawing process.

(a) To be eligible for entry into the bonus drawings, an entrant must:

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

(ii) Collect five non-winning tickets. Non-winning tickets must be from Instant Game Number 24, Tic-Tac-Toe.

(iii) Write or print legible, the entrant's name, address, and telephone number on the one or more non-winning tickets or on a separate sheet of paper. An entry containing more than one name shall be disqualified.

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

(v) Mail the envelope with proper postage and a legible return address of the entrant to ("TIC-TAC-TOE BONUS DRAWING," P.O. BOX 19007, OLYMPIA, WASHINGTON 98507), or deliver it in person during normal business hours to lottery headquarters or any of the regional offices at the address listed in the player's brochure.

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

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

(d) A non-conforming entry, at the sole discretion of the director, may be disqualified.

(e) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered

to the "TIC-TAC-TOE BONUS DRAWING." All mail not drawn each week will be incinerated unopened.

(f) The lottery shall not be responsible for, nor place in the bonus drawing, any entries mailed or delivered to the wrong address.

(6) The lottery, in conjunction with Instant Game Number 24, shall provide additional compensation for lottery retailers pursuant to WAC 315-04-190(3). The purpose of the program is to increase the sales of lottery tickets by encouraging lottery retailers to actively promote sales by asking customers for the sale. The program will be conducted pursuant to procedures to be established and announced by the director.

(a) The lottery will provide lottery retailers with point-of-sale materials promoting and informing customers of the program.

(b) The program shall be as follows:

(i) Lottery retailers participating in the "Ask for the Sale" program will receive a credit balance for Instant Game Number 24.

(ii) If the lottery retailer does not ask the customer for the sale, upon request of the customer, the lottery retailer shall give the customer a free lottery ticket.

(iii) If the lottery retailer does ask for the sale, the lottery retailer retains the credit balance.

(iv) At the end of the program, after paying for the free tickets issued to customers who were not asked for the sale, the lottery shall distribute the credit balance remaining to participating employees.

(v) The lottery shall audit participating lottery retailers program performance through field checks.

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

(a) Vary the length of Instant Game Number 24; and/or

(b) Vary the number of tickets sold in Instant Game Number 24 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-242 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 24. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 24 all of the following validation requirements apply.

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

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

(c) Exactly one prize symbol must appear under the rub-off material covering the prize box on the front of the ticket.

(d) The prize symbol must have a caption below and it must agree with that caption.

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

Play Symbols	Mead 15 Point Font
Captions	Mead 5 x 11 Archer Font
Prize Symbols	Mead 15 Point Font
Prize Symbol Captions	mead 5 x 11 Archer Font
Pack-Ticket Number	Mead 9 x 12 Matrix Font
Validation Number	Mead 9 x 12 Matrix Font
Retailer Verification Code	mead 7 x 12 Matrix Font

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

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-240(1); each of the captions must be exactly one of those described in WAC 315-11-240(2), the prize symbol must be exactly one of those described in WAC 315-11-240(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-240(4).

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

**WSR 87-05-006
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed February 6, 1987]

Notice is hereby given in accordance with the provisions of chapter 34.04 RCW, that the Washington State Department of Agriculture intends to withdraw WAC 16-231-315 connected to Notice No. WSR 87-04-060 filed with the code reviser's office on February 4, 1987.

Art G. Losey
Assistant Director

**WSR 87-05-007
PROPOSED RULES
HOSPITAL COMMISSION**

[Filed February 9, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning rules for reporting hospital patient discharge information, revising chapter 261-50 WAC.

Amd	WAC 261-50-030	Add "181" type of bill to conform with Medicare requirements, add 1-5 "source of admission" for newborns, and change the effective date for reporting of attending and operating physician ID to July 1, 1987.
New	WAC 261-50-035	New section requiring reporting of E codes.
Amd	WAC 261-50-040,	261-50-050 and 261-50-060, add new section WAC 261-50-035.
New	WAC 261-50-070	New section requiring certification of data.
Amd	WAC 261-50-090	Add new sections WAC 261-50-035 and 261-50-090;

that the agency will at 10:00 a.m., Thursday, March 26, 1987, in the Vance Airport Inn, Seattle,

Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 70.39.180.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 16, 1987.

Dated: February 9, 1987

By: Maurice A. Click
Executive Director

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend Title 261 WAC.

Purpose of the Amendment: To revise chapter 261-50 WAC to conform more closely with Medicare requirements; to delay reporting of the attending and operating physician identifier; to provide for the collection of E codes (ICD-9-CM codes) which identify the external cause of an injury or poisoning; and to require certification of the accuracy of quarterly discharge data by the chief executive officer of the hospital.

Statutory Authority: RCW 70.39.180.

Summary of Rule Changes and Statement of Reasons Supporting the Proposed Action: WAC 261-50-030 is amended to include type of bill "181" required by Medicare for swing bed patients, to include source of admissions 1-5 for newborns as provided in the UB-82 procedure manual, and to change the effective date for reporting the attending and operating physician identifier to July 1, 1987; 261-50-035 is a new section requiring the reporting of E codes; 261-50-040, 261-50-050 and 261-50-060 are amended to include reference to new section WAC 261-50-035; and 261-50-070 is a new section requiring certification of data accuracy by the chief executive officer of a hospital.

The Hospital Commission believes it is necessary to make the above changes to conform more closely with Medicare requirements and to respond to needs of the Department of Social and Health Services in gathering health statistics as mandated in RCW 70.39.100(5). The certification of discharge data is necessary to assure the commission and public users of the data of the accuracy of the discharge data system.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of These Rules: Maurice A. Click, Executive Director, and David B. Smith, Deputy Director, Washington State Hospital Commission, 206 Evergreen Plaza Building, 711 South Capitol Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Organization Proposing the Rule Change: Washington State Hospital Commission.

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

Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The proposed amendments to WAC

261-50-030 are to conform more closely with Medicare requirements and should assist smaller hospitals in reporting discharge data to the commission. Under WAC 261-50-040 the commission has provided smaller hospitals with a PC package to assist in the submittal of discharge data. The commission believes this PC package will enable smaller hospitals to report E codes in the least onerous fashion. Hospitals have been certifying the accuracy of their discharge data since 1985. The commission does not believe that inclusion of this requirement in WAC will have an adverse impact on smaller hospitals.

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/22/87 [1/23/87])

WAC 261-50-030 REPORTING OF UB-82 DATA SET INFORMATION. (1) Effective with all hospital patient discharges on or after July 1, 1984, hospitals shall collect and report the following UB-82 data set elements to the commission:

(a) Patient Control Number

Patient's unique alpha-numeric number assigned by the hospital to facilitate retrieval of individual patient records and posting of payments. This number should be constructed to allow prompt hospital access to the patient's discharge record for data verification.

(b) Type of Bill

This three-digit code requires 1 digit each, in the following sequence form: Type of facility, Bill Classification, Frequency.

Digit #1 must be "1" to indicate a hospital.

Digit #2 must be a "1" ((σ)), a "2" or an "8" to indicate an inpatient.

Digit #3 must be one of the following:

1 - Admit through discharge claim

(c) Medicare Provider Number

This is the number assigned to the provider by Medicare.

(d) Patient Identifier

The patient identifier shall be composed of the first two letters of the patient's last name, the first two letters of the patient's first name, or one or two initials if no first name is available, and the patient's birthdate.

(e) Zipcode

Patient's five or nine digit zipcode. In the case of a foreign country, enter the first nine characters of the name.

(f) Birthdate

The patient's date of birth in MMDDYY format. Note: If the patient is over 100 years old at the date of admission, then "17" must be the value in the "Condition Code #1" field.

(g) Sex

Patient's sex in M/F format.

(h) Admission Date

Admission Date in MMDDYY format.

(i) Type of Admission

This field is filled with one of the following codes:

- 1 Emergency
- 2 Urgent
- 3 Elective
- 4 Newborn
- 5 Other

(j) Source of Admission

This field is completed with one of the following codes:

- 1 Physician referral
- 2 Clinic referral
- 3 HMO referral
- 4 Transfer from another hospital
- 5 Transfer from a SNF
- 6 Transfer from another HCF
- 7 Emergency room
- 8 Court/law enforcement
- 9 Other

When Type of Admission is a "4 Newborn", enter one of the following for Source of Admission:

- 1 Normal delivery
- 2 Premature delivery
- 3 Sick baby
- 4 Extramural birth

5 Multiple birth

(k) Patient Status

Patient discharge disposition in one of the following codes:

- 01 Discharged home
- 02 Discharged to another short-term general hospital
- 03 Discharged to SNF
- 04 Discharged to an ICF
- 05 Discharged to another type institution
- 06 Discharged to home under care of HHA
- 07 Left against medical advice
- 20 Expired

(l) Statement Covers Period

This is the beginning and ending dates for which the UB-82 covers.

Chapter 261-50 WAC

(m) Condition Code #1

If a patient is equal to or over 100 years old at the time of admission, the value "17" must be the value of this field.

(n) Revenue Code

The Medicare required revenue code (as defined in the UB-82 Procedures Manual), which identifies a specific accommodation, ancillary service or billing calculation. Effective January 1, 1987.

(o) Units of Service

The Medicare required units of services (as defined in the UB-82 Procedures Manual) which provide a quantitative measure of services rendered by revenue category to or for the patient. Where no units of service are required by Medicare, the units of service may be those used by the hospital. Effective January 1, 1987.

(p) Total Charges by Revenue Code Category

Total charges pertaining to the related revenue code. Effective January 1, 1987.

(q) Payer Identification #1

Enter the three-digit code that identifies the primary payer. The required code options include:

- 001 for Medicare
- 002 for Medicaid
- 004 for health maintenance organizations
- 006 for commercial insurance
- 008 for labor and industries
- 009 for self pay
- 610 for health care service contractors, e.g., Blue Cross, county medical bureaus, Washington Physicians Service
- 625 for other sponsored patients, e.g., CHAMPUS, Indian health
- 630 charity care, as defined in WAC 261-14-020(5)

(r) Payer Identification #2

Same requirements as in Payer Identification #1. This field should only be completed when a secondary payer has been identified.

(s) Principal Diagnosis Code

ICD9-CM Code describing the principal diagnosis (the condition established after study to be chiefly responsible or causing the hospitalization) that exists at time of admission.

(t) Diagnosis #2 Code

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay.

(u) Diagnosis #3 Code

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay.

(v) Diagnosis #4 Code

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay.

(w) Diagnosis #5 Code

ICD9-CM Code of secondary diagnosis corresponding to additional diagnosis that co-exist at the time of admission, or develop subsequently, and which have an effect on the treatment received or the length of stay.

(x) Principal Procedure Code

The ICD9-CM Code that identifies the principal procedure performed during the patient admission.

(y) Procedure #2 Code

Secondary procedure code identifying procedures, other than the principal procedure, performed during the admission.

(z) Procedure #3 Code

Secondary procedure code identifying procedures, other than the principal procedure, performed during the admission.

(aa) Attending Physician ID

The Medicaid assigned number of the licensed physician who would normally be expected to certify and recertify the medical necessity of the services rendered and/or who has primary responsibility for the patient's medical care and treatment. For physicians who do not have a Medicaid number assigned, the state license number should be used. Effective ((January)) July 1, 1987.

(bb) Other Physician ID

The Medicaid assigned number of the licensed physician who performed the principal procedure. For physicians who do not have a Medicaid number, the state license number should be used. If no principal procedure was performed, this field should be left blank. Effective ((January)) July 1, 1987.

(2) It shall be the responsibility of each hospital to ensure that data reported pursuant to WAC 261-50-030(1) is provided for all patient discharges. Each patient discharge must carry a separate, unique patient control number on a separate UB-82 record. For example, a mother and her newborn require separate UB-82s, each with a separate, unique patient control number.

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

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

NEW SECTION

WAC 261-50-035 REPORTING OF E CODES (Supplementary Classification of External Causes of Injury and Poisoning). Effective with hospital patient discharges on or after July 1, 1987, hospitals are to report the ICD-9-CM E Code(s) that identify the external cause of injury, poisoning, and/or other adverse effects which resulted in the inpatient stay.

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

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/22/87 [1/23/87])

WAC 261-50-040 ACCEPTABLE MEDIA FOR SUBMISSION OF DATA. The following is effective January 1, 1987. For purposes of the data collected and reported pursuant to WAC 261-50-030 and WAC 261-50-035, hospitals shall submit such data in such form as prescribed by the commission in the Procedure Manual for Submitting Discharge Data.

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

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/22/87 [1/23/87])

WAC 261-50-050 TIME DEADLINE FOR SUBMISSION OF DATA. Data collected by hospitals pursuant to WAC 261-50-030 and WAC 261-50-035 shall be submitted to the commission or its designee within forty-five days following the end of each calendar month commencing with January 1, 1987.

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

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/22/87 [1/23/87])

WAC 261-50-060 EDITS TO DATA. The commission or its designee shall subject the data submitted to the commission pursuant to WAC 261-50-030 and WAC 261-50-035 to the following set of edits:

(1) Record layout compatibility edits on data submitted in accordance with WAC 261-50-040; and

(2) Verification of the data set elements set forth in WAC 261-50-030 and WAC 261-50-035.

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

NEW SECTION

WAC 261-50-070 CERTIFICATION OF DATA ACCURACY. Following the end of each calendar quarter, the commission shall furnish each hospital a report of its discharge data for that quarter contained in the commission's discharge system. The chief executive officer of the hospital shall, within seven working days of receipt of the report, certify that the information contained in the commission's discharge system is complete and accurate to within ninety-five percent of the total discharges and total charges experienced at the hospital during that quarter, or submit the necessary corrections to the data to permit such certification.

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

AMENDATORY SECTION (Amending Order 87-01, Resolution No. 87-01, filed 1/22/87 [1/23/87])

WAC 261-50-090 PENALTIES FOR VIOLATION. RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform any act which that chapter makes it his/her duty to perform shall be guilty of misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation. Failure to file the information required by WAC 261-50-030, WAC 261-50-035, 261-50-040, ((and)) 261-50-065 and WAC 261-50-070 shall constitute a violation, and the commission may levy a civil penalty not to exceed one hundred dollars per day for each day following official notice of violation by the commission. The executive director of the commission may grant extensions of time to file the information, in which cases failure to file the information shall not constitute a violation until the extension period has expired.

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

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

WSR 87-05-008

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-02—Filed February 9, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington 98504, the annexed rules relating to this order amends a section in chapter 296-15 WAC, rules and regulations for self-insured employers. WAC 296-15-030 posting of security, sets the security requirements for self-insured employers, specifically the change pertains to governmental units that are self-insured.

This action is taken pursuant to Notice No. WSR 86-24-072 filed with the code reviser on December 3, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.04.020 which directs that the director, Department of Labor and Industries, has authority to implement the provisions of Title 51 RCW, industrial insurance laws.

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

APPROVED AND ADOPTED February 9, 1987.

By Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 86-25, filed 7/1/86)

WAC 296-15-030 POSTING OF SECURITY. Subsections (1), (2), (3), and (4) of this section shall apply only to individual self-insurers ((who are not)) except counties, cities, school districts, municipal corporations, and individual accounts participating in a group self-insurance program. Subsection (6) of this section shall apply only to counties, cities, municipal corporations, and school districts not participating in a group self-insurance program. Group self-insurance programs are subject to reserve requirements set forth in WAC 296-15-02601(3) and 296-15-02605, in lieu of application of this section.

(1) Upon receiving a completed application for certification to self-insure, the director shall review the matter and notify the employer of the amount of security which must be deposited to secure the payment of compensation and assessments, pursuant to RCW 51.14.020 as now or hereafter amended. This amount as so established may be satisfied by the employer's supplying of money, corporate or governmental securities approved by the director, or a surety bond, written by a company admitted to transact surety business in this state, in favor of the department. All such securities of a self-insurer shall be deposited with an escrow agent appointed by the director and administered pursuant to a written agreement between the department, the self-insurer and the escrow agent. Securities shall be registered in the name of the escrow agent on behalf of the self-insurer. The original of all surety bonds submitted by self-insurers following approval by the director and the attorney general will be kept on file in the department.

(2) On or after July 1, 1985, the minimum amount of security required for initial certification as a self-insurer shall be the projected average cost of a permanent total pension claim for an injury occurring during the first year after the employer's self-insuring, including medical, time-loss and any other miscellaneous claim costs paid prior to award of the pension. This average cost shall be calculated by the department on an annual basis.

The security required for initial certification as a self-insurer on or after July 1, 1985, may be greater than the minimum amount described above. In establishing such security requirements, the department shall estimate the following amounts:

(a) The estimated amount of accident and medical aid fund premium that the self-insurer would have paid to

the state fund during the first year of self-insurance, if it had remained in the state fund.

(b) The estimated amount of incurred benefits for the first year of self-insurance, based on past experience with the state fund, adjusted for intervening changes in benefit schedules and exposure.

If either or both of the above amounts exceed the minimum security deposit described in this section, the department may require the larger of (a) or (b) of this subsection as a security deposit for initial certification as a self-insurer on or after July 1, 1985.

The security required in accordance with the above procedures may be adjusted by the department if there are other known conditions which may alter the self-insurer's potential claim costs and/or its ability to pay them.

(3) The amount of security required of each self-insurer shall be reviewed periodically by the director to determine if there is need for any increase or decrease thereof. To facilitate this review a self-insurer's annual report (SIF #7) shall be required in the form prescribed by the director and supplied to all self-insurers.

Security requirements in effect on, or initially established after, July 1, 1985, shall not be increased unless and until one or more of the following conditions are met:

(a) An estimate of the self-insurer's outstanding claim liabilities, made by either the self-insured employer or the department, exceeds the amount of security in force; or

(b) The projected average cost of a permanent total pension claim for an injury in the current year, including medical, time-loss and any other miscellaneous claim costs paid prior to award of the pension, exceeds the security in force for the employer by one hundred thousand dollars or more.

(4) The following procedure shall apply for purposes of updating security requirements:

(a) On July 1, 1985, the security requirement for each self-insurer shall be the larger of the following two amounts:

(i) The existing security in force for the self-insurer; or

(ii) The self-insurer's stated estimate of outstanding claim liabilities as shown on the 1984 self-insurer's annual report (SIF #7).

(b) On July 1, 1986, the security requirement for each self-insurer shall be the larger of the following amounts:

(i) The existing security in force for the self-insurer; or

(ii) The average of the self-insurer's stated estimate of outstanding claim liabilities as shown on the 1985 self-insurer's annual report (SIF #7) and the department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1985, made in accordance with provisions of (e) of this subsection; or

(iii) The minimum security requirement.

(c) On July 1, 1987, the security requirement for each self-insurer shall be the larger of the following amounts:

(i) The existing security in force for the self-insurer; or

(ii) The department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1986, made in accordance with provisions of (e) of this subsection; or

(iii) The minimum security requirement.

(d) After July 1, 1987, the security requirement for each self-insurer will be subject to review and increased or decreased at such times as the director deems necessary to maintain the adequacy of those requirements. Such review and adjustment, when made, shall be performed in accordance with provisions of (e) of this subsection.

(e) In establishing or adjusting security requirements for a self-insurer, the department may perform a runoff test of the adequacy of the employer's estimates of liabilities, by tracking the subsequent cost of claims (subsequent payments plus the employer's updated estimates of remaining liabilities). If the subsequent costs do not exceed original liability estimates, the employer's most recent estimates of claim liabilities shall be considered adequate for purposes of setting current security requirements for the employer.

If the runoff test shows that subsequent costs of claims exceed the employer's original estimates of outstanding liabilities, the department may apply a loss development factor to the employer's most recent estimates of claim liabilities to compensate for anticipated repetition of inadequate estimates. The loss development factor shall be based on the self-insured employer's experience.

The following special considerations shall apply in establishing or adjusting security requirements for a self-insurer:

(i) Pension claims - Reserve amounts attributable to death or permanent total disability claims independently secured by means of a surety bond or assignment of account, and which are included in estimates of outstanding claim liabilities as shown on the self-insurer's annual report (SIF #7), shall be deducted from estimates of outstanding claim liabilities made in accordance with other provisions of this section.

(ii) Reinsurance - Anticipated recoveries under reinsurance policies held by a self-insurer must be documented by the self-insurer and reported to the department to qualify for consideration in establishing security requirements. Such anticipated recoveries shall be applied to either the self-insurer's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7) or the department's estimate of the self-insurer's outstanding liabilities made in accordance with (e) of this subsection, whichever is greater. If the resulting estimate of claim liabilities net of reinsurance recoveries is less than the security requirements imposed by this section without adjustment for reinsurance, the security requirement shall be reduced accordingly; provided, that security requirements imposed upon initial certification of a self-insurer or based upon the projected average cost of a permanent total pension claim may be retained by the department regardless of other estimates of claim liabilities for the self-insurer.

(iii) Strict application of loss development factors based upon the runoff test presumes a consistency of reserving methodology and results for the self-insurer. If the department determines that an employer has changed its reserving methodology in such a way as to invalidate loss development factors based upon past experience, then the department shall make such adjustments to the procedure as it may deem appropriate under the circumstances.

(iv) The department will give full consideration to any evaluation of the self-insured employer's outstanding claim liabilities made by an independent qualified actuary. Such independent actuarial evaluations are optional and not required by this rule.

(f) Any changes to existing bonds and/or adjustments to bond amounts made by or required of a self-insurer on or after July 1, 1985, shall provide adequate security for all self-insured workers' compensation liabilities of the employer, regardless of when the claims giving rise to those liabilities were incurred. Changes contemplated by this subsection include, but are not limited to, designation of a new surety carrier, issuance of a replacement bond by a current surety carrier, and/or revision of the face amount of any bond whether by endorsement or issuance of a replacement bond. If a new surety carrier does not assume full responsibility for all past self-insured liabilities regardless of when incurred, the department may require that such liabilities be secured by other means.

(5) A self-insurer's annual report (SIF #7) shall be required of group self-insurance plans, in the form prescribed by the director and supplied to all group self-insurance plans.

(6) On January 1, 1987, the security requirement for counties, cities, school districts, and municipal corporations shall provide for sufficient revenues to satisfy one hundred percent of the estimated claims for the succeeding fiscal year. The county, city, school district, or municipal corporation shall provide a cumulative reserve fund comprised of governmental securities, surety bonds, or any legal source of funding, equal to no less than twenty-five percent of the estimated claims payments for the succeeding fiscal year, to satisfy unforeseen claims obligations: PROVIDED, That the minimum security requirement shall be one hundred thousand dollars. If a jurisdiction's cumulative reserve fund as of the effective date of this section is not at the required level, it shall annually increase the amount of such fund by no less than one-fourth of the difference between the amount of such fund as of January 1, 1987, and the required level of such cumulative reserve fund.

By February 1 of each year, each county, city, school district, or municipal corporation shall certify in writing to the department, the security requirements, specifying the source, or sources, of revenues including securities, bonds, anticipated insurance recoveries, or other moneys. A copy of the officially adopted budget that sets forth the fund or funds, and the accounts as required by the state auditor's budget accounting reporting system to

meet the minimum security requirement, expenses, and liabilities of industrial insurance shall be available to the department. Security requirements for governmental units shall be subject to an annual review by the department.

WSR 87-05-009

NOTICE OF PUBLIC MEETINGS CLEMENCY AND PARDONS BOARD

[Memorandum—February 6, 1987]

Schedule of Regular Meetings for the Washington State Clemency and Pardons Board

Clemency and Pardons Board meetings shall be held on the second Friday of March, June, September and December 1987, at 9:00 a.m. in the Governor's Conference Room.

WSR 87-05-010

NOTICE OF PUBLIC MEETINGS LOTTERY COMMISSION

[Memorandum—February 10, 1987]

REVISED 1987 COMMISSION MEETING SCHEDULE (Revising WSR 87-01-025, filed 12/11/86)

Type Meeting	Month/Day	Location
Regular	February 6, 1987	Olympia
Regular	March 6, 1987	Sea-Tac
Regular	May 1, 1987	Sea-Tac
Regular	August 7, 1987	Spokane
Regular	November 6, 1987	Sea-Tac
Regular	December 4, 1987	Sea-Tac

WSR 87-05-011

ADOPTED RULES INSURANCE COMMISSIONER

[Order R 87-2—Filed February 11, 1987]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the special liability insurance reports required to be included in annual statements by insurers authorized to write property and casualty insurance and the forms to be used for such reports.

This action is taken pursuant to Notice No. WSR 87-02-065 filed with the code reviser on January 7, 1987. 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 48.05.380 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.05.380 and 48.05.390.

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

APPROVED AND ADOPTED February 11, 1987.

Dick Marquardt
Insurance Commissioner
By David H. Rodgers
Chief Deputy Insurance Commissioner

Chapter 284-07 WAC
REQUIREMENTS AS TO COMPANY REPORTS
AND ANNUAL STATEMENTS

WAC

- 284-07-010 Special liability insurance report required as addendum to annual statement.
- 284-07-014 Form A to be used for 1986 annual summary report.
- 284-07-024 Form B to be used for 1986 closed claim reports.

NEW SECTION

WAC 284-07-010 SPECIAL LIABILITY INSURANCE REPORT REQUIRED AS ADDENDUM TO ANNUAL STATEMENT. (1) Pursuant to RCW 48.05.380, each insurer authorized to write property and casualty insurance in the state of Washington shall record and report its Washington state loss and expense experience and other data, as required by RCW 48.05.390, on Form A and Form B, as set forth in WAC 284-07-014 and 284-07-024, respectively.

(2) Form A shall be used with respect to the annual liability insurance summary report and Form B shall be used with respect to the annual liability insurance closed claim report by incurred year. A combination of Form A and Form B shall be used separately for each of the following types of insurance written by an insurer for policies pertaining to:

- (a) Medical malpractice for physicians and surgeons;
- (b) Malpractice for hospitals;
- (c) Malpractice for other health care professions;
- (d) Malpractice for other health care facilities;
- (e) Products liability, which shall include both products and completed operations;
- (f) Attorneys' malpractice;
- (g) Architects' and engineers' malpractice;
- (h) Municipal liability, which shall include all classes of local government entities; and
- (i) Day care center liability.

(3) The report on Forms A and B, as required for each type of insurance written by an insurer, shall be included as an addendum to each annual statement required by RCW 48.05.250, beginning with the year-end report for the reporting period ending December 31, 1986. The due date for the first such report is March 1, 1987.

NEW SECTION

WAC 284-07-014 FORM A TO BE USED FOR 1986 ANNUAL SUMMARY REPORT.

Type of insurance
See WAC 284-07-010(2)

Name of company and CIC number

STATE OF WASHINGTON
LIABILITY INSURANCE SUMMARY REPORT

YEAR 1986

(As required by RCW 48.05.380 and 48.05.390)

Due date is March 1, 1987

Must be filed with annual statement

ALL DATA TO BE REPORTED ON DIRECT BASIS - WASHINGTON EXPERIENCE ONLY

1. Premiums written	\$
2. Premiums earned	
3. Losses incurred* (paid losses plus change in loss reserves including incurred but not reported reserves)	\$
4. Loss adjustment expense incurred (include both allocated and unallocated loss adjustment expenses)	
5. Commission and brokerage incurred	\$
6. Other acquisition, field supervision and collection expense incurred	
7. General expenses incurred	
8. Taxes, licenses and fees incurred	
9. Total expenses incurred (sum of Items 5, 6, 7 and 8)	\$ _____
10. UNDERWRITING GAIN (OR LOSS) (Item 2 less Items 3, 4 and 9)	\$
11. Investment income (less investment expenses including net realized capital gains, and other income)	
12. Dividends to policyholders	
13. NET OPERATING GAIN (OR LOSS) (Item 10 plus Item 11 less Item 12)	\$ _____

* Include only losses chargeable against Washington premiums.

WAC 284-07-024 FORM B TO BE USED FOR 1986 CLOSED CLAIM REPORTS.

Type of insurance
 See WAC 284-07-010(2)

Name of company and CIC number

STATE OF WASHINGTON
 LIABILITY INSURANCE CLOSED CLAIM REPORT - BY INCURRED YEAR
 INCLUDE ALL CLAIMS CLOSED IN 1986
 WASHINGTON EXPERIENCE ONLY

YEAR 1986

Due date is March 1, 1987 - Must be filed with annual statement
 All data to be reported on direct basis - Include only payments to claimants
 As required by RCW 48.05.390 (2)(h) and (i)

INCURRED YEAR*	CLAIMS CLOSED WITH PAYMENT		CLAIMS CLOSED WITHOUT PAYMENT		
	Number	Dollar** Amount	Amount*** Reserved	Number	Amount*** Reserved
1986					
1985					
1984					
1983					
1982					
1981					
1980 and before					
TOTALS		\$	\$		\$

- * The year in which the incident giving rise to a claim occurred (same as "occurrence year" or "accident year").
- ** The total amount of indemnity paid on the given claims. Exclude loss adjustment expense. Include all claims closed in 1986 with payment, whether such payments were made in 1986 or prior years.
- *** The sum of the amounts initially reserved for the given claims. Exclude reserves for loss adjustment expenses.

WSR 87-05-012
ADOPTED RULES
STATE PATROL

[Order 446-87-1—Filed February 11, 1987]

I, George B. Tellevik, chief of the Washington State Patrol, do promulgate and adopt at the General Administration Building, AX-12, Olympia, the annexed rules relating to amendments to Private carriers—Driver qualifications and hours of service standards.

This action is taken pursuant to Notice Nos. WSR 87-01-100 and 87-04-024 filed with the code reviser on December 22, 1986, and January 28, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 46.73.010 and 46.73.020 which directs that the Washington State Patrol has authority to implement the provisions of chapter 46.73 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 February 11, 1987.

By George B. Tellevik
 Chief

NEW SECTION

WAC 446-55-005 PROMULGATION. By authority of RCW 46.73.010 and 46.73.020, the Washington state patrol hereby adopts the following rules establishing standards for qualifications of drivers for private carriers as defined by RCW 81.80.010(6).

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-020 GENERAL EXEMPTIONS. (1) Passenger car operations. The rules in this chapter do not apply to a driver who drives only a motor vehicle that:

- (a) Is a passenger-carrying vehicle with a seating capacity of 10 or less persons, including the driver;
- (b) Is not transporting passengers for hire; and
- (c) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part 177.823 of the Code of Federal Regulations.

(2) Certain farm vehicle drivers. The rules in this chapter do not apply to a farm vehicle driver operating equipment that meets the requirements of RCW 46.16-.090, except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load of more than ((+0,000)) 26,000 pounds. (For limited exemptions for farm vehicle

drivers of heavier articulated vehicles see WAC 446-55-270.)

(3) Farm custom operations. The rules in this chapter do not apply to a driver who drives a motor vehicle that meets the requirements of RCW 46.16.090 controlled and operated by a person engaged in custom-harvesting operations, if the vehicle is used to:

(a) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or

(b) Transport custom-harvested crops to storage or market.

(4) Apiarian industries. The rules in this chapter do not apply to a driver who is operating a motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.

(5) Lightweight vehicle drivers. The rules in this chapter do not apply to a driver who drives only a lightweight vehicle as defined in WAC 446-55-030(5).

(6) Exempt carriers as defined in WAC 446-55-030(8).

(7) Licensed tow truck drivers. The rules in this chapter do not apply to a driver who drives a tow truck for a towing firm that possesses a valid business and tow truck registration(s) as per the requirements of chapter 46.55 RCW.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-030 DEFINITIONS. (1) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith. The term "private carrier" includes a private carrier and the agents, officers, representatives, and employees of a private carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(2) The term "chief" means the chief of the Washington state patrol.

(3) A private carrier "employs" a person as a driver within the meaning of this chapter whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the private carrier) in furtherance of the business of the private carrier.

(4) The term "farm vehicle driver" means a person who drives only a motor vehicle that is:

(a) Controlled and operated by a farmer;

(b) Being used to transport either:

(i) Agricultural products; or

(ii) Farm machinery, farm supplies, or both, to or from a farm;

(c) Not being used in the operations of a common or contract carrier;

(d) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part 177.823 of the Code of Federal Regulations; and

(e) Either:

(i) A vehicle having a gross weight, including its load, of ~~((10,000))~~ twenty-six thousand pounds or less; or

(ii) A vehicle being used within 150 miles of the farmer's farm.

(5) The term "lightweight vehicle" as used in this chapter or used in rules adopted by reference, shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a ~~((manufacturer's))~~ gross vehicle weight rating including its load of ~~((ten))~~ twenty-six thousand pounds or less, in the case of a single vehicle, or a ~~((manufacturer's))~~ gross combination weight rating including its load of ~~((ten))~~ twenty-six thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ~~((ten))~~ twenty-six thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

(d) The term "lightweight vehicle" does not include private carrier buses as defined in RCW 46.04.416.

(6) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(7) "Contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in subsections (1) and (6) of this section, and further shall include any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(8) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(9) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(10) "Motor vehicle" means any truck, trailer, semi-trailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail and express transported on the vehicles of auto transportation companies carrying passengers.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-060 QUALIFICATIONS OF DRIVERS. (1) A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. Except as provided in chapter 46.20 RCW and WAC 446-55-250, a private carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle.

(2) Except as provided in WAC 446-55-220 through 446-55-280, a person is qualified to drive a motor vehicle if he is qualified according to chapter 46.20 RCW and:

- (a) Is at least 18 years old;
- (b) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;
- (c) Can, by reason of experience, training, or both, safely operate the type of motor vehicle he drives;
- (d) Can, by reason of experience, training, or both, determine whether the cargo he transports has been properly located, distributed, and secured in or on the motor vehicle he drives;
- (e) Is familiar with methods and procedures for securing cargo in or on the motor vehicle he drives;
- (f) Is physically qualified to drive a motor vehicle in accordance with WAC 446-55-170 through ~~((446-55-210))~~ 446-55-190;
- (g) Has been issued a currently valid motor vehicle operator's license or permit;
- (h) Has prepared and furnished the private carrier that employs him with the list of violations or the certificate as required by WAC 446-55-110;
- (i) Is not disqualified to drive a motor vehicle under chapter 46.20 RCW and the rules in WAC 446-55-070;
- (j) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with WAC 446-55-120, or has presented an operator's license or a certificate of road test which the private carrier that employs him has accepted as equivalent to a road test in accordance with WAC 446-55-130;
- (k) Has taken a written examination and has been issued a certificate of written examination in accordance with WAC 446-55-140, or has presented a certificate of written examination which the private carrier that employs him has accepted as equivalent to a written examination in accordance with WAC 446-55-160; and
- (l) Has completed and furnished the private carrier that employs him with an application for employment in accordance with WAC 446-55-080.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-170 PHYSICAL QUALIFICATIONS FOR DRIVERS. (1) A person shall not drive a motor vehicle unless he is physically qualified to do so and, except as provided in WAC 446-55-270, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a motor vehicle.

(2) A person is physically qualified to drive a motor vehicle if that person:

- (a) Has no loss of a foot, a leg, a hand, or an arm, or has ~~((been granted a waiver pursuant to WAC 446-55-210))~~ obtained from the department of licensing the proper drivers license, endorsement, and restrictions (if any) for the operation of the class of motor vehicle the person is driving;

(b) Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has ~~((been granted a waiver pursuant to WAC 446-55-210))~~ obtained from the department of licensing the proper license, endorsement, and restrictions (if any) for the class of motor vehicle the person is driving;

(c) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control, or if diagnosed as having diabetes mellitus requiring insulin for control, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(d) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure, or if diagnosed as having any of these medical complications, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(e) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a motor vehicle safely, or if diagnosed as having a respiratory dysfunction which could interfere with his ability to control and drive a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(f) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a motor vehicle safely, or if diagnosed as having high blood pressure likely to interfere with his ability to operate a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(g) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a motor vehicle safely, or if diagnosed as having any of these medical complications which might interfere with his ability to control and operate a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(h) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle, or if diagnosed as having epilepsy or any other condition likely to cause loss of consciousness or any loss of ability to control a motor vehicle, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(i) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a motor vehicle safely, or if diagnosed as

having any of these complications likely to interfere with his ability to drive a motor vehicle safely, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(j) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber, or if not meeting these standards, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(k) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951, or if not meeting these standards, has been cleared by the department of licensing for the operation of the class of motor vehicle the person is driving;

(l) Does not use ((am)) any unprescribed amphetamine, narcotic, or ((any)) habit-forming drug and if using a prescribed amphetamine, narcotic, or habit-forming drug, it must be used according to the directions regarding dosage and the operation of motor vehicles or heavy equipment; and

(m) Has no current clinical diagnosis of untreated alcoholism.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-180 MEDICAL EXAMINATION—CERTIFICATE OF PHYSICAL EXAMINATION. (1) Except as provided in subsection (2) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy.

(2) A licensed optometrist may perform so much of the medical examination as pertains to visual acuity, field of vision, and the ability to recognize colors as specified in WAC 446-55-170 (2)(j).

(3) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form:

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a private motor vehicle. In the interest of public safety the examining physician is required to certify that the driver does not have

any physical, mental, or organic defect of such a nature as to affect the driver's ability to operate safely a private motor vehicle.

General information. The purpose of this history and physical examination is to detect the presence of physical, mental, or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as complete as indicated by the attached form. History of certain defects may be cause for rejection or indicate the need for making certain laboratory tests or a further, and more stringent, examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he should be advised to take the necessary steps to insure correction, particularly of those which, if neglected, might lead to a condition likely to affect his ability to drive safely.

General appearance and development. Note marked overweight. Note any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illnesses. ((WAC 446-55-070(2) provides that no driver shall use a narcotic or other habit-forming drugs.))

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If appropriate, indicate on the Medical Examiner's Certificate by checking the box, "Qualified only when wearing corrective lenses." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exopthalmos, or strabismus, uncorrected by corrective lenses. ((~~Monocular drivers are not qualified to operate commercial motor vehicles under WAC 446-55-170 (2)(j).~~)) If the driver habitually wears contact lenses, or intends to do so while driving, there should be sufficient evidence to indicate that he has good tolerance and is well adapted to their use. The use of contact lenses should be noted on the record.

Ears. Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz.

Throat. Note evidence of disease, irremediable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a motor vehicle.

Thorax-heart. Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

Blood pressure. Record with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a motor vehicle.

Lungs. If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

Gastrointestinal system. Note any diseases of the gastrointestinal system.

Abdomen. Note wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by truss.

Abnormal masses. If present, note location, if tender, and whether or nor applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Tenderness. When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

Genito-urinary. Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and state public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumin-urea in the urine, or other findings indicative of health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant from operating a motor vehicle.

Neurological. If positive Romberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

Extremities. Carefully examine upper and lower extremities. Record the loss of impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand or finger deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of, any impairment or structural defect which may interfere with the driver's ability to operate a motor vehicle safely.

Spine. Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiologic and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

Recto-genital studies. Diseases or conditions causing discomfort should be evaluated carefully to determine

the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

Laboratory and other special findings. Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other studies deemed advisable may be ordered by the examining physician.

Diabetes. ((If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle.)) If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemic drug and a diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

The physician must date and sign his findings upon completion of the examination.

EXAMINATION TO DETERMINE PHYSICAL CONDITION OF DRIVERS

Driver's name _____ New Certification
Address _____ Recertification
Social Security No. _____
Date of birth _____ Age _____

Table with 3 columns: Yes, No, Health History. Rows include: Head or spinal injuries, Seizures, fits, convulsions, or fainting, Extensive confinement by illness or injury, Cardiovascular disease, Tuberculosis, Syphilis, Gonorrhea, Diabetes, Gastrointestinal ulcer, Nervous stomach, Rheumatic fever, Asthma, Kidney disease, Muscular disease, Suffering from any other disease, Permanent defect from illness, disease or injury, Psychiatric disorder, Any other nervous disorder.

If answer to any of the above is yes, explain:

Three horizontal lines for providing explanations.

PHYSICAL EXAMINATION

General appearance and development:
Good ___ Fair ___ Poor ___

Vision: For distance:
 Right 20/ ___ Left 20/ ___
 Without corrective lenses.
 With corrective lenses if worn.
 Evidence of disease or injury:
 Right ___ Left ___
 Color Test _____
 Horizontal field of vision:
 Right ___° Left ___°

Hearing:
 Right ear ___ Left ear ___
 Disease or injury _____
 Audiometric Test (complete only if audiometer is used to test hearing) decibel loss as 500 Hz ___, at 1,000 Hz ___, at 2,000 Hz ___

Throat _____
 Thorax:
 Heart _____
 If organic disease is present, is it fully compensated? _____
 Blood pressure:
 Systolic ___ Diastolic ___
 Pulse: Before exercise _____
 Immediately after exercise _____
 Lungs _____

Abdomen:
 Scars ___ Abnormal masses ___
 Tenderness _____
 Hernia: Yes ___ No ___
 If so, where? _____
 Is truss worn? _____

Gastrointestinal:
 Ulceration or other disease:
 Yes ___ No ___

Genito-Urinary:
 Scars _____
 Urethral discharge _____

Reflexes:
 Romberg _____
 Pupillary ___ Light R ___ L ___
 Accommodation Right ___ Left ___

Knee Jerks:
 Right:
 Normal ___ Increased ___ Absent ___
 Left:
 Normal ___ Increased ___ Absent ___
 Remarks _____

Extremities:
 Upper _____
 Lower _____
 Spine _____

Laboratory and other Special Findings:
 Urine: Spec. Gr. ___ Alb. ___
 Sugar ___
 Other laboratory data (Serology, etc.) _____

Radiological data _____
 Electrocardiograph _____
 General comments _____

(Date of examination)

(Address of examining doctor)

(Name of examining doctor (Print))

(Signature of examining doctor)

Note: This section to be completed only when visual test is conducted by a licensed ophthalmologist or optometrist.

(Date of examination)

(Address of ophthalmologist or optometrist)

(Name of ophthalmologist or optometrist (Print))

(Signature of ophthalmologist or optometrist)

If the medical examiner finds any physical condition listed in WAC 446-55-170 (2)(a) through (m) that is likely to interfere with my ability to operate a motor vehicle safely, I consent to the department of licensing using information on this medical examination to arrive at a decision regarding my ability to safely operate a motor vehicle.

(Signature of driver)

(Date)

(4) If the medical examiner finds that the person he examined is physically qualified to drive a motor vehicle in accordance with WAC 446-55-170(2), he shall complete a certificate in the form prescribed in subsection (5) of this section and furnish one copy to the person who was examined and one copy to the private carrier that employs him.

(5) If the medical examiner finds any physical condition listed in WAC 446-55-170 (2)(a) through (m) that is likely to interfere with the drivers ability to operate or control a motor vehicle safely, it shall be the responsibility of the driver to immediately forward a copy of the drivers medical examination to the Drivers Services Medical Section, Department of Licensing, Highways-Licensing Building, Olympia, WA 98504. Upon receipt of the medical examination, the department of licensing will review and evaluate the driver's physical qualifications to operate the class of motor vehicle the person intends to drive.

The department of licensing shall send a notice of determination to the driver. A department of licensing clearance notification shall be sufficient cause for the medical examiner to issue a medical examiner's certificate.

A failure by the driver to furnish a copy of the medical examination to the department of licensing as required above shall result in no clearance action being taken by the department of licensing.

(6) The medical examiner's certificate shall be in accordance with following form:

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ (driver's name (print)) in accordance with WAC 446-55-170 through ((446-55-210)) 446-55-190 and with knowledge of his duties, I find him qualified under ((the regulations)) WAC 446-55-170(2).

Qualified only when wearing corrective lenses.

A completed examination form for this person is on file in my office at _____ (Address)

(Date of examination)

(Name of examining doctor
(Print))

(Signature of examining doctor)

(Signature of driver)

(Address of driver)

If the driver is qualified only when wearing a hearing aid, the following statement must appear on the medical examiner's certificate: "Qualified only when wearing a hearing aid." ~~((If a medical examiner determines a waiver is necessary under WAC 446-55-210, the following statement shall appear on the medical examiner's certificate: "Medically unqualified unless accompanied by a waiver."))~~

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-55-220 DRIVER QUALIFICATION FILES. (1) Each private carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his personnel file.

(2) The qualification file for a driver who has been a regularly employed driver of the private carrier for a continuous three-year period prior to the effective date of this rule, must include:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

~~(b) ((The chief of the Washington state patrol or his designee's letter granting a waiver of a physical disqualification, if a waiver was issued under WAC 446-55-210;~~

~~(c))~~ (c) The note relating to the annual review of his driving record required by WAC 446-55-100;

~~((d))~~ (d) The list or certificate relating to violations of motor vehicle laws and ordinances required by WAC 446-55-110; and

~~((e))~~ (e) Any other matter which relates to the driver's qualifications or ability to drive a motor vehicle safely.

(3) The qualification file for a regularly employed driver who has not been regularly employed by the private carrier for a continuous three-year period prior to the effective date of this rule, must include:

(a) The documents specified in subsection (2) of this section;

(b) The driver's application for employment completed in accordance with WAC 446-55-080;

(c) The responses of state agencies and past employers to the private carrier's inquiries concerning the driver's driving record and employment pursuant to WAC 446-55-090;

(d) The certificate of driver's road test issued to the driver pursuant to WAC 446-55-120(5), or a copy of

the license or certificate which the private carrier accepted as equivalent to the driver's road test pursuant to WAC 446-55-130; and

(e) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to WAC 446-55-140, or a copy of a certificate which the private carrier accepted as equivalent to a written examination pursuant to WAC 446-55-160.

(4) The qualification file for an intermittent, casual, or occasional driver employed under the rules in WAC 446-55-250 must include:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(b) The certificate of driver's road test issued to the driver pursuant to WAC 446-55-120(5), or a copy of the license or certificate which the private carrier accepted as equivalent to the driver's road test pursuant to WAC 446-55-120;

(c) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to WAC 446-55-140, or a copy of a certificate which the private carrier accepted as equivalent to a written examination pursuant to WAC 446-55-160; and

(d) The driver's name, his social security number, and the identification number, type, and issuing state of his motor vehicle operator's license.

(5) A using carrier's qualification file for a driver who is regularly employed by another private carrier, and who is employed by the using carrier in accordance with WAC 446-55-260, shall include a copy of a certificate, as prescribed by WAC 446-55-260 (1)(b), by the regularly employing carrier that the driver is fully qualified to drive a motor vehicle.

(6) Except as provided in subsections (7) and (8) of this section, each driver's qualification file shall be kept at the private carrier's principal place of business for as long as a driver is employed by that private carrier and for 3 years thereafter.

(7) Upon a written request to and with the approval of the chief of the Washington state patrol or his designee, the carrier may retain one or more of its drivers' qualification files at a regional or terminal office.

(8) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(a) The medical examiner's certificate of his physical qualification to drive a motor vehicle or the photographic copy of the certificate as required by WAC 446-55-180(4);

(b) The note relating to the annual review of his driving record as required by WAC 446-55-100;

(c) The list or certificate relating to violations of motor vehicle laws and ordinance as required by WAC 446-55-110(;

~~(d) The letter issued under WAC 446-55-210 granting a waiver of a physical disqualification)).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 446-55-200 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.**WAC 446-55-210 WAIVER OF CERTAIN PHYSICAL DEFECTS.****WAC 446-55-240 DRIVERS OF LIGHT-WEIGHT VEHICLES.****NEW SECTION**

WAC 446-60-005 PROMULGATION. By authority of RCW 46.73.010 and 46.73.020, the Washington state patrol adopts the following rules establishing standards for hours of service of drivers for private carriers as defined by RCW 81.80.010(6).

NEW SECTION**WAC 446-60-015 GENERAL EXEMPTIONS.**

(1) Passenger car operations. The rules in this chapter do not apply to a driver who drives only a motor vehicle that:

- (a) Is a passenger-carrying vehicle with a seating capacity of 10 or less persons, including the driver;
- (b) Is not transporting passengers for hire; and
- (c) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with part 177.823 of the Code of Federal Regulations.

(2) Certain farm vehicle drivers. The rules in this chapter do not apply to a farm vehicle driver operating equipment that meets the requirements of RCW 46.16-.090, except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load of more than 26,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see WAC 446-55-270.)

(3) Farm custom operations. The rules in this chapter do not apply to a driver who drives a motor vehicle that meets the requirements of RCW 46.16.090 controlled and operated by a person engaged in custom-harvesting operations, if the vehicle is used to:

- (a) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or
- (b) Transport custom-harvested crops to storage or market.

(4) Apiarian industries. The rules in this chapter do not apply to a driver who is operating a motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.

(5) Lightweight vehicle drivers. The rules in this chapter do not apply to a driver who drives only a light-weight vehicle as defined in WAC 446-55-030(5).

(6) Exempt carriers as defined in WAC 446-55-030(8).

(7) Licensed tow truck drivers. The rules in this chapter do not apply to a driver who drives a tow truck for a towing firm that possesses a valid business and tow truck registration(s) as per the requirements of chapter 46.55 RCW.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-60-020 DEFINITIONS. As used in this chapter, the following words and terms are construed to mean:

(1) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith. The term "private carrier" includes a private carrier and the agents, officers, representatives, and employees of a private carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(2) A private carrier "employs" a person as a driver within the meaning of this chapter whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the private carrier) in furtherance of the business of the private carrier.

(3) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(4) "Contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in subsections (1) and (3) of this section, and further shall include any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(5) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(6) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(7) The term "chief" means the chief of the Washington state patrol.

(8) On-duty time. All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. The term "on-duty" time shall include:

(a) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the private carrier;

(b) All time inspecting, servicing, or conditioning any motor vehicle at any time;

(c) All driving time as defined in subsection (9) of this section;

(d) All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth as defined in subsection (14) of this section;

(e) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a

vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(f) All time spent performing the driver requirements relating to accidents;

(g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

(h) Performing any other work in the capacity of, or in the employ or service of, a private motor carrier.

(9) Driving time. The terms "drive" and "driving time" shall include all time spent at the driving controls of a motor vehicle in operation.

(10) Seven consecutive days. The term "7 consecutive days" means the period of 7 consecutive days beginning on any day at the time designated by the private carrier for a 24-hour period.

(11) Eight consecutive days. The term "8 consecutive days" means the period of 8 consecutive days beginning on any day at the time designated by the private carrier for a 24-hour period.

(12) Twenty-four hour period. The term "24-hour period" means any 24 consecutive hour period beginning at the time designated by the private carrier for the terminal from which the driver is normally dispatched.

(13) Regularly employed driver. The term "regularly employed driver" means a driver who in any period of 7 consecutive days is employed or used as a driver solely by a single motor carrier.

(14) Sleeper berth. The term "sleeper berth" means a berth conforming to the requirements of 49 CFR part 393.76.

(15) Driver-salesman. The term "driver-salesman" means any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he reports for duty, who devotes not more than 50 percent of his hours on duty to driving time. The term "selling goods" for purposes of this subsection shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

(16) Multiple stops. All stops made in any one village, town, or city may be computed as one.

(17) Principal place of business or main office address. The principal place of business or main office address is the geographic location designated by the private carrier where the records required to be maintained by this chapter will be made available for inspection.

(18) Providers of essential services shall include fire protection services, medical assistance services, sewer services, and public/private service companies regulated under Title 80 RCW.

AMENDATORY SECTION (Amending Order 446-86-1, filed 4/1/86)

WAC 446-60-080 RELIEF FROM REGULATIONS. These regulations shall not apply to any private

carrier subject thereto when transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster, or providers of essential services while providing or restoring those services during an emergency or outage condition.

WSR 87-05-013
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed February 11, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning WAC 480-120-027 and 480-80-041 relating to price lists for telecommunications companies, and WAC 480-80-050 relating to utility tariffs. The proposed rules are shown below as Appendix A, Cause No. U-86-125. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposals on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, April 22, 1987, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive South, Olympia, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 80.01.040 and 80.36.330.

The specific statute these rules are intended to implement is chapter 80.36 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 6, 1987

By: Paul Curl
Acting Secretary

STATEMENT OF PURPOSE

In the matter of adopting WAC 480-120-027 and 480-80-041 relating to price lists for telecommunications companies and amending WAC 480-80-050 relating to utility tariffs.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.36.330 which direct that the commission has authority to implement the provisions of chapter 80.36 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to provide for the filing and maintenance of price lists for telecommunications companies classified as competitive, as well as for services which the commission has classified as competitive. As to telecommunications companies operating

under tariff, it requires that detail of proposed tariff revisions be described in the filing company's letter of transmittal.

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

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

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.36.330.

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 480-120-027 PRICE LISTS. (1) Pursuant to RCW 80.36-.310 telecommunications services classified by the commission as competitive will be offered under price lists. All services of competitive telecommunications companies as classified by the commission under RCW 80.36.310 will be offered under price lists.

(2) All price lists filed with the commission must describe the service being offered and all prices, charges, terms, and conditions pertaining thereto. Each page of every price list shall contain, in general, the company name, the page number, and the effective date. All subsequent revisions of a price list shall bear consecutive revision numbers. Price lists must provide sufficient detail for customers and potential customers reasonably to determine what is being offered and what charges the customer incurs in obtaining the service.

NEW SECTION

WAC 480-80-041 TARIFF. Services which the commission has classified as competitive telecommunications services, including all services offered by companies which the commission has classified as competitive telecommunications companies, are exempted from the requirement to file tariffs. Price lists for services exempted from the requirement to file tariffs shall be filed in accordance with WAC 480-120-027. Price list changes must be provided in triplicate and be accompanied by a letter of transmittal describing the changes proposed.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-80-050 COPIES OF TARIFF TO BE FILED. Three copies of each tariff shall be sent to the commission accompanied by a letter of transmittal. The letter of transmittal must describe any proposed changes to existing tariffs. One copy will then be returned to the utility by the commission, after processing, with the receipt date noted thereon.

WSR 87-05-014

ADOPTED RULES

MILITARY DEPARTMENT

[Order 87-01—Filed February 11, 1987]

I, Keith Eggen, director of the Washington State Military Department, do promulgate and adopt at Tacoma, Washington, the annexed rules relating to the Military Department's policies and procedures for implementing the State Environmental Policy Act.

This action is taken pursuant to Notice No. WSR 86-23-027 filed with the code reviser on November 13, 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 43.21C 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 January 15, 1987.

By Keith Eggen
Major General,
Adjutant General

Chapter 323-12 WAC MILITARY DEPARTMENT STATE ENVIRONMENTAL POLICY ACT PROCEDURES

WAC

323-12-010	Authority.
323-12-020	Additional definitions.
323-12-030	Incorporation of chapter 197-11 WAC.
323-12-040	Purpose—policy.
323-12-050	Designation of responsible official.
323-12-060	Preparation of environmental documentation.
323-12-070	Timing of the SEPA process.
323-12-080	Environmentally sensitive areas.
323-12-090	Threshold levels adopted by local governments.
323-12-100	Coordination of combined state-federal action.
323-12-110	Public notice requirements.
323-12-120	Appeals.

NEW SECTION

WAC 323-12-010 AUTHORITY. These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

NEW SECTION

WAC 323-12-020 ADDITIONAL DEFINITIONS. The following term(s) shall have the listed meaning(s):

"Department" means the military department unless otherwise indicated.

NEW SECTION

WAC 323-12-030 INCORPORATION OF CHAPTER 197-11 WAC. (1) The following sections or subsections of chapter 197-11 WAC (SEPA rules adopted by the department of ecology on January 26, 1984) are hereby adopted by reference.

WAC

197-11-040	Definitions.
197-11-060	Content of environmental review.
197-11-070	Limitations on actions during SEPA process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.
197-11-300	through 390 Part three - Categorical exemptions and threshold determination
197-11-400	through 460 Part four - Environmental impact statement (EIS)
197-11-500	through 570 Part five - Commenting
197-11-600	through 640 Part six - Using existing environmental documents
197-11-655	Implementation.
197-11-800	Categorical exemptions.
197-11-880	Emergencies.
197-11-926	Lead agency for governmental proposals.

NEW SECTION

WAC 323-12-040 PURPOSE—POLICY. (1) The purpose of this chapter is to describe military department policy, assign responsibility, and establish procedures for the integration of environmental considerations into department planning and decision making. This chapter implements the State Environmental Policy Act and SEPA rules as they apply to actions of the military department.

(2) It is the policy of the department that significant adverse economic, social, and environmental effects relating to any proposed department action will be fully considered in planning and implementing such actions, and that final decisions on such action should be made in the best overall public interest, and taking into consideration:

(a) The need for immediate response to state emergencies;

(b) The adverse environmental, social, and economic effects of the proposed action; and

(c) The costs of eliminating or minimizing such adverse effects.

(3) All practicable means consistent with the department's mission should be employed to minimize or avoid adverse environmental consequences.

NEW SECTION

WAC 323-12-050 DESIGNATION OF RESPONSIBLE OFFICIAL. Within the military department, the adjutant general is the person with ultimate responsibility for departmental actions. The responsible official for a specific proposal shall be the Army National Guard facilities management officer or Air National Guard base civil engineers or his/her designees. Significant actions proposed by other coordinating or special staff functions shall be coordinated through the appropriate responsible official.

NEW SECTION

WAC 323-12-060 PREPARATION OF ENVIRONMENTAL DOCUMENTATION. Preparation of environmental documentation is the responsibility of the department's Army and Air National Guard's engineering sections. The responsible official shall be satisfied that all environmental documentation issued by the department is in compliance with these rules and chapter 197-11 WAC.

NEW SECTION

WAC 323-12-070 TIMING OF THE SEPA PROCESS. (1) The SEPA process should be integrated with department activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

(2) The department shall prepare its threshold determination and environmental impact statement, if required, at the earliest possible point in the planning and decision making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(3) Appropriate consideration of environmental information shall be completed before the department commits to a particular course of action.

NEW SECTION

WAC 323-12-080 ENVIRONMENTALLY SENSITIVE AREAS. In its actions the department shall respect "environmentally sensitive area" designations and their modified exemption criteria which have been adopted by local governments under WAC 197-11-908.

NEW SECTION

WAC 323-12-090 THRESHOLD LEVELS ADOPTED BY LOCAL GOVERNMENTS. During threshold determination the department shall respect threshold levels adopted by local governments under WAC 197-11-800.

NEW SECTION

WAC 323-12-100 COORDINATION OF COMBINED STATE—FEDERAL ACTION. When the department considers actions which also involve federal actions, it shall coordinate the two governmental processes so that only one EIS, or other environmental document, need be prepared for that proposal.

NEW SECTION

WAC 323-12-110 PUBLIC NOTICE REQUIREMENTS. When these rules require notice of environmental document preparation or availability, as a lead agency the department shall give public notice by using at least one of the following methods:

(1) Posting the property, for site-specific proposals;

(2) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(3) Notifying the news media;

(4) Directly notifying local jurisdictions affected by a proposed action.

NEW SECTION

WAC 323-12-120 APPEALS. There are no appeals to a local legislative body, nor are there agency administrative appeal procedures. Judicial appeals provisions in SEPA are found in RCW 43.21C.075 and 43.21C.080.

WSR 87-05-015

ADOPTED RULES

DEPARTMENT OF ECOLOGY

[Order DE 86-41—Filed February 11, 1987]

I, Phillip C. Johnson, deputy director of programs for the Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to:

Amd WAC 173-19-390 Snohomish County.
Amd WAC 173-19-2521 Seattle, city of.

This action is taken pursuant to Notice No. WSR 86-24-066 filed with the code reviser on December 3, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and [90.58].200 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 11, 1987.

By Phillip C. Johnson
Deputy Director, Programs

AMENDATORY SECTION (Amending Order DE 83-43 [86-23], filed 1/4/84 [9/12/86])

WAC 173-19-390 SNOHOMISH COUNTY. Snohomish County master program approved December 27, 1974. Revision approved June 16, 1978. Revision approved June 23, 1982. Revision approved August 25, 1983. Revision approved January 4, 1984. Revision approved February 11, 1987.

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

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

AMENDATORY SECTION (Amending Order DE 86-28, filed 10/20/86)

WAC 173-19-2521 SEATTLE, CITY OF. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved

October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. Revision approved October 20, 1986. Revision approved February 11, 1987.

WSR 87-05-016

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

(Noxious Weed Control Board)

[Order 18, Resolution No. 18—Filed February 11, 1987]

Be it resolved by the State Noxious Weed Control Board, acting at Olympia, Washington, that it does adopt the annexed rules relating to proposed noxious weed list, amending WAC 16-750-010.

This action is taken pursuant to Notice No. WSR 87-01-114 filed with the code reviser on December 24, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 17.10.080 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 January 30, 1987.

By Terry Peters
Chairman

AMENDATORY SECTION (Amending Order 17, Resolution No. 17, filed 3/13/86)

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the noxious weed control board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Austrian fieldcress	Rorippa austriaca
Austrian peaweed	Sphaerophysa salsula
Baby's Breath	Gypsophila paniculata
Bindweed, field	Convolvulus arvensis
Bindweed, hedge	Convolvulus sepium
Black Henbane	Hyoscyamus niger
Blue Lettuce	Lactuca pulchella
Blueweed, Texas	Helianthus ciliaris
Bracken, western	Pteridium aquilinum
Camelthorn	Alhagi camelorum
Canada Thistle	Cirsium arvense
Dalmation Toadflax	Linaria dalmatica
Gorse	Ulex europaeus
Hairy whitetop	Cardaria pubescens
Hoary Cress or White Top	Cardaria draba
Hydrilla	Hydrilla verticillata
Johnsongrass	Sorghum halepense
Knapweed, complex	Centaurea spp.

ENGLISH OR COMMON NAME

BOTANICAL OR SCIENTIFIC NAME

Leafy Spurge
Mullein, common
Nightshade, bitter
Nightshade, silverleaf
Nutsedge, yellow
Oxeye Daisy
Pepperweed, perennial
Quackgrass
Rush Skeletonweed
St. Johnswort
Scotch Broom
Sowthistle, perennial
Tansy, common
Waterhemlock, western
Watermilfoil, Eurasian
Wormwood, Absinthe
Yellow Toadflax

Euphorbia esula
Verbascum thapsus
Solanum dulcamara
Solanum elaeagnifolium
Cyperus esculentus
Chrysanthemum leucanthemum
Lepidium latifolium
Agropyron repens
Chondrilla juncea
Hypericum perforatum
Cytisus scoparius
Sonchus arvensis
Tanacetum vulgare
Cicuta douglasii
Myriophyllum spicatum
Artemisia absinthium
Linaria vulgaris

Bull Thistle
Houndstongue
Musk Thistle
Plumeless Thistle
Poison Hemlock
Scotch Thistle
Tansy Ragwort
Wild carrot or Queen
Annes lace

Cirsium vulgare
Cynoglossum officinale
Carduus nutans L.
Carduus acanthoides
Conium maculatum
Onopordum acanthium
Senecio jacobaea

Cocklebur
Dodder
Goatgrass, jointed
Kochia
Medusahead
Puncturevine
Rye
Sandbur, longspine
Orange Hawkweed
Yellow Hawkweed
Dyers woad
Knapweed, black
Knapweed, brown
Knapweed, diffuse
Knapweed, meadow
Knapweed, russian
Knapweed, spotted
Knapweed, short fringed
Yellow Starthistle

Daucus carota
Xanthium spp.
Cuscuta spp.
Aegilops cylindrica
Kochia scoparia
Taeniatherum asperum
Tribulus terrestris
Secale cereale L.
Cenchrus longispinus
Hieracium aurantiacum L.
Hieracium pratense
Isatis tinctoria
Centaurea nigra
Centaurea jacea
Centaurea diffusa
Centaurea pratensis
Centaurea repens
Centaurea maculosa
Centaurea nigrescens
Centaurea solstitialis

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 87-05-017
ADOPTED RULES**

ENERGY FACILITY SITE EVALUATION COUNCIL
[Order 87-1—Filed February 11, 1987]

Be it resolved by the Energy Facility Site Evaluation Council, acting at Lacey, Washington, that it does adopt the annexed rules relating to:

- Amd WAC 463-42-075 General—Assurances.
- Amd WAC 463-42-455 Physical environment—Impact of construction, operation, abandonment, termination, or cessation of operations on vegetation, animal life, and aquatic life.
- Amd WAC 463-42-465 Physical environment—Description of measures taken to protect vegetation, animal life, and aquatic life.
- Amd WAC 463-42-515 Physical environment—Safety where public access allowed.

- New WAC 463-42-655 Physical environment—Initial site restoration plan.
- New WAC 463-42-665 Detailed site restoration plan—Terminated projects.
- New WAC 463-42-675 Site preservation plan—Suspended projects.
- New WAC 463-54-080 Site preservation or restoration plan.

This action is taken pursuant to Notice No. WSR 87-01-115 filed with the code reviser on December 24, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 80.50.040(1) which directs that the Energy Facility Site Evaluation Council has authority to implement the provisions of chapter 80.50 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 February 9, 1987.

By William L. Fitch
Executive Secretary

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-075 GENERAL—ASSURANCES. The application shall set forth insurance, bonding or other arrangements proposed in order to mitigate for damage or loss to the physical or human environment caused by project construction ((or)), operation, abandonment, termination, or when operations cease at the completion of a project's life.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-455 PHYSICAL ENVIRONMENT—IMPACT OF CONSTRUCTION ((AND)), OPERATION, ABANDONMENT, TERMINATION, OR CESSATION OF OPERATIONS ON VEGETATION, ANIMAL LIFE, AND AQUATIC LIFE. The applicant shall describe the projected effect of ((facility)) project construction ((and/or)), operation, abandonment, termination, or cessation of operations upon vegetation, animal life, and aquatic life.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-465 PHYSICAL ENVIRONMENT—DESCRIPTION OF MEASURES TAKEN TO PROTECT VEGETATION, ANIMAL LIFE, AND AQUATIC LIFE. The application shall contain a full description of each measure to be taken by the applicant to protect vegetation, animal life, and aquatic life from the effects of ((facility operation and)) project construction, operation, abandonment, termination, or cessation of operations.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-515 PHYSICAL ENVIRONMENT—SAFETY WHERE PUBLIC ACCESS ALLOWED. The applicant shall describe the means proposed to ~~((insure))~~ ensure safe utilization of those areas under applicant's control ~~((to))~~ on or in which public access will be granted during project construction, operation, abandonment, termination, or when operations cease.

NEW SECTION

WAC 463-42-655 PHYSICAL ENVIRONMENT—INITIAL SITE RESTORATION PLAN. The applicant or certificate holder shall in the application, or within twelve months after the effective date of this section, whichever occurs later, provide an initial plan for site restoration at the conclusion of the plant's operating life. The plan shall parallel a decommissioning plan, if such a plan is prepared for the project. The initial site restoration plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental, and public health and safety issues presently anticipated. It shall describe the process used to evaluate the options and select the measures that will be taken to restore or preserve the site or otherwise protect all segments of the public against risks or danger resulting from the site. The plan shall include a discussion of economic factors regarding the costs and benefits of various restoration options versus the relative public risk and shall address provisions for funding or bonding arrangements to meet the site restoration or management costs. The plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the plan.

NEW SECTION

WAC 463-42-665 DETAILED SITE RESTORATION PLAN—TERMINATED PROJECTS. When a project is terminated, a detailed site restoration plan shall be submitted within twelve months after termination or within twelve months after the effective date of this section, whichever occurs later. An extension of time may be granted for good cause shown. The site restoration plan shall address the elements required to be addressed in WAC 463-42-655, in detail commensurate with the time until site restoration is to begin. The council may take or require action as necessary to deal with extraordinary circumstances.

NEW SECTION

WAC 463-42-675 SITE PRESERVATION PLAN—SUSPENDED PROJECTS. In the event that construction is suspended, a plan for site preservation shall be prepared at the earliest feasible time and the council shall be advised of interim concerns and the measures being taken to remedy those concerns. The site preservation plan shall address environmental, and public health and safety concerns, the scope of proposed monitoring and the provisions for funding or bonding to

meet site preservation costs. It shall describe measures that will be taken to preserve the site or otherwise protect all segments of the public against risks or danger resulting from the site. The preservation plan shall also address options for preservation and the costs and benefits associated with those options. The council may take or require action as necessary to deal with extraordinary circumstances.

NEW SECTION

WAC 463-54-080 SITE PRESERVATION OR RESTORATION PLAN. When a site is subject to preservation or restoration pursuant to a plan as defined in WAC 463-42-655 through 463-42-675, the certificate holder shall conduct operations within terms of the plan; shall advise the council of unforeseen problems and other emergent circumstances at the site; and shall provide site monitoring pursuant to an authorized schedule. After approval of an initial site restoration plan pursuant to WAC 463-42-655, a certificate holder shall review its site restoration plan in light of relevant new conditions, technologies, and knowledge, and report to the council the results of its review, at least every five years or upon any change in project status. The council may direct the submission of a site preservation or restoration plan at any time during the development, construction, or operating life of a project based upon the council's review of the project's status. The council may require such information and take or require such action as is appropriate to protect all segments of the public against risks or dangers resulting from the site.

WSR 87-05-018**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES****(Public Assistance)**

[Filed February 12, 1987]

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 nursing home accounting and reimbursement system, amending chapter 388-96 WAC;

that the agency will at 10:00 a.m., Wednesday, March 25, 1987, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 26, 1987.

The authority under which these rules are proposed is RCW 74.46.800.

The specific statute these rules are intended to implement is chapter 74.46 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1987.

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

Leslie F. James, Director
Administrative Services
Department of Social and Health Services
Mailstop OB 39
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 March 11, 1987. The meeting site is in a location which is barrier free.

Dated: February 10, 1987
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

The rule amendments summarized here are proposed by the Department of Social and Health Services.

Re: Amending chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Purposes of the Rule Amendments: WAC 388-96-217 (new), to establish authority to fine for failure to comply with certain requirements of chapter 388-96 WAC as authorized by RCW 74.46.790; 388-96-366 (amended), to require a written record, adequate for audit, of personal property of nursing home residents deposited with a nursing home for safekeeping; 388-96-565 (amended), to establish minimum lives for various classes of nursing home construction under authority of RCW 74.46.510; 388-96-585 (amended), to establish maximum vehicle depreciation for vehicles primarily for the use of nursing home administrative staff, to make nonallowable insurance or retirement plan expenses relating to plans which do not treat participants equally or fairly, and to eliminate for reimbursement legal and accounting fees above the eighty-fifth percentile for all contractors from the preceding cost report period; 388-96-710 (amended), to establish criteria and procedures [procedures] to be followed for setting rates for new Medicaid contractors; 388-96-722 (amended), to eliminate authority to grant exceptions to the nursing services inflation lid in conformity with RCW 74.46.481; 388-96-745 (amended), to establish per bed reimbursement limits for new nursing home construction as authorized by RCW 74.46.510; 388-96-754 (amended), to clarify procedures for establishing a contractor's return on investment rate; and 388-96-774 (amended), to allow revisions of rates for new contractors for patient characteristic variations of more than ten percent above those used to set the initial rate.

Summaries of the Rule Amendments: WAC 388-96-217 sets maximum fining authority at one thousand dollars per violation for failures to submit a cost report, failure to allow an audit or failure to allow access to documentation. Clarifies "separate violation"; 388-96-366 requires a written record, adequate for audit, of all residents' possessions deposited with a nursing home; 388-96-565 sets the following minimum class lives for

depreciation of new nursing home construction: A or B - forty-five years, C - thirty-five years, and D - thirty years; 388-96-585 sets maximum vehicle depreciation at twenty-five hundred dollars per annum, disallows expenses of insurance and retirement plans which treat employees neither equally nor fairly, establishes 85th percentile lids for legal, accounting and bookkeeping costs and fees, measured by all reporting contractors for the preceding report year, and allows a five-year exception to the lid; 388-96-710 establishes methodologies for establishing rates for new contractors, both when the new contractor is preceded by another contractor in the same nursing facility and when not preceded by another contractor; 388-96-722 eliminates authority to grant exceptions to the nursing services cost lid for unusual circumstances; 388-96-745 sets dollar per bed reimbursable maximums for new nursing home construction and the per square foot maximum methodology for land; 388-96-754 specifies that working capital costs for a full year will be used for establishing the financing allowance for contractors whose most recent report covers less than twelve months; and 388-96-774 clarifies that revision of the initial rate for a new contractor is allowed if there is at least a ten percent variation in actual patient characteristics from those projected when the rate was set.

The rule changes are generally necessary to comply with the provisions of chapter 74.46 RCW.

Statutory Authority: RCW 74.09.120 and 74.46.800.

Person Responsible for Drafting, Implementing and Enforcing the Changes: Kathy Marshall, Manager of the Residential Rates Program, Aging and Adult Services Administration, Department of Social and Health Services, mailstop HB-11, (206) 753-3477, scan 234-3477.

These rules are necessary to comply with legislation referenced above and are not necessary as a result of federal or state court decisions. Emergency adoption of the changes is not sought by the department.

The above-described new rule and amendments are expected to have no significant financial impact in cost of compliance to nursing homes whether classified as small businesses or not and, therefore, a small business impact statement is not required.

NEW SECTION

WAC 388-96-217 CIVIL FINES. (1) The department may fine a contractor or ex-contractor up to one thousand dollars for:

(a) Failure to file a mathematically accurate and complete cost report, including a final cost report, on or prior to the applicable due date established by this chapter or authorized by extension granted in writing by the department; or

(b) Failure to permit an audit authorized by this chapter or to grant access to all records and documents deemed necessary by the department to complete such an audit.

(2) Notice of a fine assessed pursuant to subsection (1) of this section shall be sent certified mail return receipt requested to the contractor, administrator, or ex-contractor and shall become effective unless an acceptable cost report is received by the department or an audit is allowed or access to documentation is allowed, as applicable, within two weeks after notification. Further, each day after the two-week period subsequent to notification has expired that compliance is not forthcoming shall constitute a separate violation subject to a maximum fine of one thousand dollars.

AMENDATORY SECTION (Amending Order 1168, filed 11/3/76)

WAC 388-96-366 (~~THE PROVIDER SHALL ESTABLISH AND MAINTAIN~~) RECORDS FOR RECIPIENT MONEYS. (1)

The provider shall establish and maintain as a service to the ((recipient)) recipients a bookkeeping system, incorporated in the business records((;)) and adequate for audit, for all recipient moneys entrusted to and received by the facility for the recipients.

(2) The bookkeeping system ((will apply to the)) must include any recipient who is:

(a) Incapable of handling his or her own money and whose guardian, relative, department economic and social service office administrator, or physician makes written request of the facility to accept this responsibility; if the social security form SSA-780, "certificate of applicant for benefits on behalf of another," is utilized as documentation, it must be signed by one of the persons designated in this subparagraph.

(b) Capable of handling his or her own money, but requests the facility in writing to accept this responsibility.

(3) It shall be the responsibility of the provider to maintain such written authorization in the recipient's file.

(4) The recipient must be given at least a quarterly reporting of all financial transactions in their trust account. The representative payee, the guardian, and/or other designated agents of the recipient must be sent a copy of the quarterly accounting report.

(5) The contractor shall further maintain, adequate for audit, a written record for each recipient of all personal property deposited with the contractor for safekeeping by or for a recipient and shall issue or obtain written receipts upon taking possession or disposing of such property, retaining copies, and/or originals of such receipts.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-565 LIVES. (1) The contractor shall use lives reflecting the estimated actual useful life of assets, for example, land improvements, buildings, equipment, leasehold improvements, and other assets, and shall be no shorter than guideline lives contained in the Internal Revenue Service class life ADR system or published by the American Hospital Association in computing allowable depreciation. The shortest life which may be used for buildings is thirty years, provided that, in cases of newly constructed buildings containing newly licensed nursing home beds, the shortest lives shall be the following for construction class as defined and described in the marshall valuation service published by the marshall swift publication company: A or B class—forty-five years; C class—thirty-five years; and D class—thirty years.

(2) Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition of the asset, whichever is more recent. Lives shall be extended to reflect periods, if any, during which assets were not used to provide nursing care.

(3) Building improvements shall be depreciated over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-585 UNALLOWABLE COSTS. (1) Costs will be unallowable if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services will be unallowable even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution.

(b) Costs of services and items provided to SNF or ICF recipients which are covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapters 388-86 and 388-88 WAC.

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be nonallowable as

of the date the costs are determined not to be reimbursable under applicable federal regulations.

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained.

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space).

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care.

(g) Costs in excess of limits or violating principles set forth in this chapter.

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system.

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere.

(j) Bad debts. Beginning July 1, 1983, bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established there was no likelihood of recovery at any time in the future. Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery.

(k) Charity and courtesy allowances.

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable.

(m) Vending machine expenses.

(n) Expenses for barber or beautician services not included in routine care.

(o) Funeral and burial expenses.

(p) Costs of gift shop operations and inventory.

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care.

(r) Fund-raising expenses, except expenses directly related to the patient activity program.

(s) Penalties and fines.

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations.

(u) Federal, state, and other income taxes.

(v) Costs of special care services except where authorized by the department.

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs.

(x) Expenses of profit-sharing plans.

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care.

(z) Personal expenses and allowances of owners or relatives.

(aa) All expenses of maintaining professional licenses or membership in professional organizations.

(bb) Costs related to agreements not to compete.

(cc) Goodwill and amortization of goodwill.

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care. The maximum depreciation expense per year for passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff shall be twenty-five hundred dollars.

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where a final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or in connection with a fair hearing where a final administrative decision has not been rendered; or in connection with a fair hearing where related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred (~~(assuming)~~) if no final administrative decision has been rendered at the end of the report period; or in connection with a fair hearing where related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions.

(gg) Lease acquisition costs and other intangibles not related to patient care.

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds.

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs.

(jj) Beginning January 1, 1985, interest costs.

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care.

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year.

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia.

(nn) Costs and fees otherwise allowable for legal services, whether allocated or not and whether purchased or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs reported by all contractors for the cost report period preceding the cost report period being used to set the rate, provided this limit shall not apply if a contractor has not exceeded this percentile in any of the four annual cost report periods preceding the cost report period being used to set the rate.

(oo) Costs and fees otherwise allowable for accounting and book-keeping services, whether purchased or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs reported by all contractors for the cost report period preceding the cost report period being used to set the rate, provided this limit shall not apply if a contractor has not exceeded this percentile in the preceding four annual cost report periods.

(pp) Depreciation expense in excess of twenty-five hundred dollars per year for passenger cars or other vehicles primarily used for the administrator, facility staff, or central office staff.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-710 PROSPECTIVE REIMBURSEMENT RATE FOR NEW CONTRACTORS. (1) A prospective reimbursement rate for a new contractor will be established within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). It will be effective as of the effective date of the contract.

(2) This prospective reimbursement rate will be based on the contractor's projected cost of operations, and on costs and payment rates of the prior contractor, if any, and/or of other contractors in comparable circumstances (~~(, taking into account applicable lids or maximums)~~). This rate shall comply with all the provisions of rate setting contained in this chapter and shall comply with all lids and maximums set forth in this chapter. Subject to such provisions, lids, and maximums, the procedures set forth in this section shall be followed.

(a) For facilities not operated by a Medicaid contractor for the period of operation immediately prior to the effective date of the new contract and for new facilities going into operation for the first time, a sample comprised of all the current contractors in the same county in similar circumstances shall be selected from departmental records. Similar circumstances shall consist of the same bed capacity, plus or

minus twenty-five beds, and whether licensed or not to provide skilled nursing care or intermediate care. Facilities against which the department has assessed a civil penalty for health or safety violations or proposed licensed revocation, stop placement or decertification for health or safety violations within six months preceding the effective date of the new contract shall be excluded from the sample. If the county-wide sample does not include at least six facilities, all facilities in similar circumstances in the adjoining county or counties shall also be included. Based upon the most recent information in its files relating to the topics set forth below, the department shall determine:

(i) The average sample debility score;

(ii) The average sample nursing services wages and hours; and

(iii) The line item average sample costs for nursing services, food, and administration and operations cost centers.

(A) Nursing services. The projected budget shall be followed for rate setting to the extent it does not exceed, on a line item by line item basis, the sample average wages, hours, and costs. The budget shall be allowed above the line item sample averages only to the extent anticipated debility of the patient population to be served exceeds or is likely to exceed the sample average debility as demonstrated and documented by the contractor. In such cases, rate funding shall not exceed predicted staffing of the anticipated debility. The department shall determine actual debility when sufficient data is available and shall recover any overpayment under rules relating to errors and omissions.

(B) Food. The food rate shall be the rate per patient day of other Medicaid contractors established in accordance with this chapter.

(C) Administration and operations. The projected budget shall be followed for rate-setting to the extent it does not exceed, on a line item by line item basis, the sample average costs as determined under subsection (2)(a) of this section for administration and operations. The budget shall be allowed above the line item sample averages only to the extent an item or items are likely to exceed the sample averages for those allowable costs as demonstrated by the contractor; however, budgeted salaries of administrators and assistant administrators shall be allowed if not in excess of maximums set forth in this chapter.

(D) Property. The property rate shall be set in accordance with the provisions of this chapter.

(E) Return on investment. The return on investment rate shall be set in accordance with the provisions of this chapter and budgeted food cost will be used in computing the financing allowance to the extent it does not exceed the sample average food cost. The budget will be allowed above the sample average only to the extent food cost is likely to exceed the sample average as demonstrated and documented by the contractor.

(b) For facilities operated by a Medicaid contractor for the period of operation, if any, immediately prior to the effective date of the new contract, the procedures set forth in subsection (2)(a) of this section shall be followed, except that, unless the department has assessed a civil penalty against the facility for health or safety violations or proposed license revocation, stop-placement or decertification for health or safety violations within six months preceding the effective date of the new contract, data used to set the preceding contractor's rate shall be used rather than data from a sample average.

(c) For existing facilities constructing additions or making renovations after obtaining certificate of need approval, if the operating entity for the period prior to the effective date of the new contract was not a Medicaid contractor, or if the department assessed a civil penalty against the facility for health or safety violations or proposed license revocation, stop-placement, or decertification for health or safety violations within six months prior to the effective date of the new contract, the department shall follow the procedures set forth in subsection (2)(a) of this section. Otherwise, the procedures indicated in subsection (2)(b) of this section shall be followed, except that, data used to set the preceding contractor's rate shall be adjusted to reflect increased bed capacity, if any.

(d) In setting a new contractor's rate, budgeted line items which exceed the same line items from the sample average or prior contractor, as applicable, may be allowed to the extent such excesses are offset by other budgeted line items which are below the same line items from the sample average or prior contractor. If the sample average or prior contractor show zero costs for a line item budgeted by the new contractor, the department shall substitute for comparison the industry-wide average for such line item as shown by the department's exception profile for the most recent cost report period.

(3) If a properly completed projected budget is not received at least sixty days prior to the effective date of the contract, the department will establish a preliminary rate based on the other factors specified in

subsection (2) of this section. This preliminary prospective rate will remain in effect until an initial prospective rate can be set.

(4) Where a change of ownership is involved which is not an arm's-length transaction as defined in WAC 388-96-010, the new contractor's prospective rates in the administration and operation and property cost areas will be no higher than the rates of the old contractor, adjusted if necessary to take into account economic trends.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-722 NURSING SERVICES COST AREA RATE. (1) The nursing services cost area reimbursement rate will reimburse for the necessary and ordinary costs of providing routine nursing and related care to recipients. The cost of one-to-one care provided by qualified therapists and their employees are included only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) Nursing service costs will be subject to two reasonableness tests:

(a) A test for nursing staff hours; and

(b) A test for cost increases between the current and preceding report period.

(i) The test for nursing staff hours will use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' aids, including purchased and allocated nursing and aid staff time, and the average Battelle patient debility score for the corresponding facilities as computed by the department. Data for the regression shall be taken from correctly completed cost reports and from patient assessments completed by the department for the corresponding calendar report year, which are available at the time the regression equation is computed. A limit on nursing and nursing aid staffing hours will be calculated and set for each facility at predicted staffing hours plus 1.75 standard errors utilizing the regression equation calculated by the department. Costs for facilities with reported hours exceeding the limit will be reduced by an amount equivalent to the hours exceeding the limit times the average wage rate for nurses and aids indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. Contractors' reporting hours exceeding the limit shall receive the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

(ii) The test for cost increases shall compare the percentage change between the most recent cost report period and the next prior cost report period allowable nursing service costs for the facility against the percentage change between July of the most recent cost report period and July of the next prior cost report period medical care component of the consumer price index for urban consumers nationwide. Facilities reporting increases greater than the medical care component of the consumer price index shall be limited to a rate determined by their adjusted patient care costs for the period immediately preceding the most recent cost report period inflated by the medical care component of the consumer price index. ((If a facility is affected by this limit due to special or unusual circumstances, such as a decrease in patient days; the department may grant an exception or partial exception to the limit:))

AMENDATORY SECTION (Amending Order 2172, filed 12/4/84)

WAC 388-96-745 PROPERTY COST AREA REIMBURSEMENT RATE. (1) The property cost area rate for each facility shall be determined by dividing the sum of the prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department and the retained savings from the property cost center as provided in WAC 388-96-228, by total patient days for the facility in the prior period. Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. Depreciation of leased office equipment shall not be reimbursable.

(2) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the property cost center rate shall be adjusted to anticipated patient day level.

(3) ((If a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum determined by the department)) When a new facility is constructed after obtaining a certificate of need, the department

shall determine allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4) and (5) of this section. Construction types shall be determined by the department through examination of building plans submitted to the department and/or on-site inspections utilizing definitions and criteria contained in the marshall valuation service published by the marshall swift publication company, provided buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(4) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line; and

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.).

Such construction costs shall be allowed at the lower of actual costs or the maximums shown in the following tables adjusted to the average date of construction for any changes in construction costs shown by relevant cost indexes published by marshall swift. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE COSTS PER BED FOR ALL BEDS IN THE FACILITY BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	0 to 60 Beds	61 to 120 Beds	Over 120 Beds
A-good	\$39,014	\$37,023	\$33,682
A-average	31,902	30,274	27,543
B-good	37,332	35,427	32,231
B-average	30,905	29,329	26,682
C-good	27,592	26,184	23,822
C-average	21,576	20,475	18,628
C-low	17,011	16,143	14,687
D-good	25,051	23,773	21,628
D-average	19,501	18,506	16,836
D-low	15,297	14,516	13,206

ADDITIONS TO BASE COSTS BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	Add to Base Cost for All Facilities	Add for Each Bed from 61 to 120 Beds	Add for Each Bed Over 120 Beds
A-good	\$228,577	\$2,679	\$1,897
A-average	186,900	2,190	1,551
B-good	218,726	2,563	1,816
B-average	181,064	2,122	1,503
C-good	161,649	1,894	1,342
C-average	126,403	1,481	1,049
C-low	99,676	1,168	827
D-good	146,780	1,720	1,218
D-average	114,258	1,339	948
D-low	89,620	1,050	744

(5) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of actual cost per square foot or, at the time of purchase of the land in question, the average per square foot land value of the ten nearest urban or rural nursing homes, depending upon classification of the home in question, assessed for purposes of taxation.

(6) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3) and (4) of this section, they may be increased if the owner or contractor is able to show unusual or unique circumstances which have substantially impacted the costs of construction or land. Actual costs will be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3) and (4) for construction or land. An adjustment under this subsection shall be granted only if

requested by the contractor. Documentation of the unusual circumstances and an analysis of their financial impact must accompany the request.

AMENDATORY SECTION (Amending Order 2372, filed 5/7/86, effective 7/1/86)

WAC 388-96-754 A CONTRACTOR'S RETURN ON INVESTMENT. (1) The department shall establish for individual Medicaid facilities return on investment allowances composed of a financing allowance and a variable return allowance.

(2) (a) The financing allowance shall be determined by multiplying the net invested funds of each facility by eleven percent and dividing by the contractor's total patient days. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less than twelve months, the department will estimate annual patient days ((will be estimated)) and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total patient days used in computing the financing and variable return allowances shall be adjusted to anticipated patient day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration pursuant to this chapter.

(3) The variable return allowance shall be determined according to the following procedure:

(a) The department shall rank all facilities in numerical order from highest to lowest based upon average per diem allowable costs for the sum of the administration and operations and property cost centers for the preceding cost report period. ~~((If the contractor's administration and operations and property rates have been established based on a budget, the variable return allowance shall be calculated based on budgeted costs.))~~ In the case of a new contractor, property and administration and operations cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor.

(b) The variable return allowance shall be computed by multiplying the total prospective rate for each facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. Facilities in the highest quarter will be assigned a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

AMENDATORY SECTION (Amending Order 2270, filed 8/19/85)

WAC 388-96-774 PROSPECTIVE RATE REVISIONS. (1) Each contractor's reimbursement rates will be determined prospectively at least once each calendar year, to be effective July 1st. All prospective reimbursement rates for 1984 and thereafter shall be determined utilizing the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply and revisions may be granted for inflation only as authorized in WAC 388-96-719(3) and for cost increases as authorized in this section. This section shall apply to rate revision requests and periods subsequent to May 20, 1985.

(2) Rates shall be adjusted for any capitalized additions or replacements made as a condition for licensure or certification.

(3) Rates may be adjusted as determined by the department for the following:

(a) Variations of more than ten percent in the distribution of patient classifications or changes in patient characteristics from the prior reporting year or from those used to set the rate for a new contractor or which correspond to the nursing staff funded for a new contractor.

(b) Program changes required by the department.

(c) Changes in staffing levels at a facility required by the department.

(d) Changes required by survey.

(4) Contractors requesting an adjustment must submit:

(a) A financial analysis showing the increased cost and an estimate of the rate increase, computed according to allowable methods, necessary to fund the cost;

(b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation which shows the changes in staffing or other improvements have been commenced or completed.

(5) Contractors receiving prospective rate increases pursuant to this section must submit quarterly reports, beginning the first day of the month following the date the increase is granted, showing how the additional rate funds were spent. If the funds were not spent for changes or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying additional staff to be added and the patient care needs the facility has been unable to meet due to lack of sufficient staff.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider:

- (a) Whether additional staff requested by a contractor is appropriate in meeting patient care needs.
- (b) Comparisons of staffing levels of facilities having similar patient characteristics.
- (c) The physical layout of the facility.
- (d) Supervision and management of current staff.
- (e) Historic trends in underspending of a facility's nursing services component rate.
- (f) Numbers and positions of existing staff.

WSR 87-05-019

NOTICE OF PUBLIC MEETINGS EDMONDS COMMUNITY COLLEGE

[Memorandum—February 12, 1987]

February 19, 1987

Thursday, 4:00 p.m.

Board of Trustees Meeting
Lynnwood Hall, Room 424

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided when adequate notice is given.

WSR 87-05-020

NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY (Library Commission)

[Memorandum—February 11, 1987]

Please be advised that the place and time of the Washington State Library Commission's executive session scheduled for Thursday, February 19, 1987, has been changed to 9:30 a.m. and will be held in the Pacific Room of the Vance Airport Inn, Pacific Highway South, Seattle, WA 98188.

WSR 87-05-021

PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Institutions)

[Filed February 13, 1987]

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 alcoholism treatment facilities, amending chapter 275-19 WAC;

that the agency will at 10:00 a.m., Wednesday, March 25, 1987, in the Auditorium, OB-2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 26, 1987.

The authority under which these rules are proposed is RCW 69.54.040 and 70.96A.090.

The specific statute these rules are intended to implement is chapters 69.54 and 70.96A RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1987.

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

Leslie F. James, Director
Administrative Services
Department of Social and Health Services
Mailstop OB 39
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 March 11, 1987. The meeting site is in a location which is barrier free.

Dated: February 13, 1987
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: Amending WAC 275-19-030, 275-19-040, 275-19-050 and 275-19-110.

Purposes of the Rule Changes: To establish rules which will assist the department in meeting the RCW 70.96A.030 requirement that a "discrete program of alcoholism" be established in the state; to establish a procedure for the department to use in granting exemptions to mental health facilities seeking approval to provide alcoholism treatment services and the criteria these facilities must meet to become eligible for the exemption; and to change existing rules governing the suspension and the revocation of the department's approval to remove ambiguous language and to allow the department to suspend or revoke approval of facilities not in compliance with the requirements of chapter 275-19 WAC.

Reasons These Rules are Necessary: RCW 70.96A.030 mandates that the department establish "A discrete program of alcoholism." The increased emphasis on the state and federal levels on providing alcoholism and drug treatment services to alcoholics and addicts has resulted in an increase in the number of facilities seeking department approval. Current regulations do not allow the department to deny approval to those agencies which do not have a discrete treatment facility. Present policy denies approval for mental health facilities to provide alcoholism treatment services except in small counties where all social services are provided by one agency. In order to enforce that policy and to establish a consistent procedure and criteria for granting exemptions to the policy, the requirements must be adopted as WAC rules. The department has discovered that it is very difficult, and at times impossible, to enforce suspension and revocation of approval orders issued under current regulations. The proposed revisions will delete ambiguous terms and limit the scope of any hearings requested for the purpose of appealing department suspension and revocation orders.

Statutory Authority: RCW 69.54.040 and 70.96A.090.

Summary of the Rule Changes: Deletes obsolete terms and adds definitions for the new terms "certified," "compliance," and "discrete treatment facility"; revises the rules regulating the department's approval process; adds rules which will implement the department's policy on the approval of mental health facilities to provide alcoholism treatment services and rules to provide for exemptions from that policy. These rules also implement the mandate in RCW 70.96A.030 that the department develop a "discrete program of alcoholism"; and revises the rules governing the suspension and revocation of the department's approval.

Person Responsible for Drafting, Implementing and Enforcement of the Rules: Jess McCabe, Program Manager, Bureau of Alcohol and Substance Abuse, phone (206) 753-5866, mailstop OB-44W.

Person or Organization (other than DSHS) who Proposed These Rules: None.

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

Agency Recommendations Concerning Statutory Language: We recommend that RCW 70.96A.090(5) be revised to be consistent with the requirements of the Administrative Procedure Act, chapter 34.04 RCW.

AMENDATORY SECTION (Amending Order 2438, filed 10/29/86)

WAC 275-19-030 DEFINITIONS. For the purpose of these rules and regulations, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

~~((1))~~ ~~"Accredited" means the approval of a treatment facility pursuant to chapters 69.54 and/or 70.96A RCW and these rules and regulations to provide one or more of the treatment services listed in WAC 275-19-020.~~

~~((2))~~ "Acute detoxification" means detoxification service provided to individuals for whom the consequences of withdrawal from alcohol or other drugs are so severe as to merit assistance from medical and/or nursing personnel.

~~((3))~~ (2) "Administrator" means the individual appointed as the chief executive officer by the operators of a facility to act in the facility's behalf in the overall management of the treatment facility.

~~((4))~~ (3) "Alcohol abuse" means use of alcohol in amounts hazardous to individual health or safety.

~~((5))~~ (4) "Alcoholic" means a person with alcoholism.

~~((6))~~ (5) "Alcoholism" means an illness characterized by lack of control as to the consumption of alcoholic beverages or the consumption of alcoholic beverages to the extent a person's health is substantially impaired or endangered or his or her social and economic function is substantially disrupted.

~~((7))~~ (6) "Approved" means having met the standards of the department contained in these rules and regulations and having been ~~((accredited))~~ approved pursuant to chapters 69.54 and/or 70.96A RCW.

~~((8))~~ (7) "Approved treatment facility" means a treatment facility, either public or private, profit or nonprofit, approved by the department pursuant to these rules and regulations and chapters 69.54 and/or 70.96A RCW.

~~((9))~~ (8) "Authenticated" means written verification of any entry in a patient treatment record by means of a signature including minimally first initial and last name, or initials if the file includes an authentication record and the date of the entry.

~~((10))~~ (9) "Authentication record" means a document which is part of each patient treatment record and includes identification of all individuals initialing entries in the treatment record: Full printed name, signature including minimally first initial and last name, and initials that may appear after entries in the treatment record.

~~((11))~~ (10) "Bureau" means the Washington state department of social and health services bureau of alcohol and substance abuse.

~~((12))~~ (11) "Bureau of alcohol and substance abuse" means the Washington state department of social and health services bureau of alcohol and substance abuse.

~~((13))~~ (12) "Cancel" means a termination of the department's approval of a treatment service or facility.

(13) "Certified" means the approval of a treatment facility pursuant to chapters 69.54 and/or 70.96A RCW and these rules and regulations to provide one or more of the treatment services listed in WAC 275-19-020 and the issuing of a certificate of approval for those services by the bureau.

(14) "Chemotherapy" means the use of prescribed medication to assist in client treatment for drug or alcohol dependency.

(15) "Compliance" means being in conformity with the requirements in chapters 69.54 and/or 70.96A RCW and chapter 275-19 WAC applying to the class or classes of treatment services for which a treatment facility is approved and/or has applied for approval.

(16) "Department" means the Washington state department of social and health services.

~~((16))~~ (17) "Department of licensing" means the Washington state department of licensing.

~~((17))~~ (18) "Detoxification" means care and treatment of a person during the period in which the person recovers from the transitory effects of acute intoxication or withdrawal.

~~((18))~~ (19) "Detoxified" means withdrawn from the consumption of alcohol, or other drugs, and recovered from the transitory effects of intoxication, or any associated acute physiological withdrawal reactions.

~~((19))~~ (20) "Discrete treatment facility" means an alcoholism and/or drug treatment facility run by operators who:

(a) Receive their revenue from one or more of the following:

(i) Client fees;

(ii) Federal, state, and county contracts for alcoholism and/or drug treatment services.

(b) Have provided a separate administrative staff and treatment personnel for the facility,

(c) Have separate accounting records and documentation identifying the source and applications of all alcohol and drug treatment funds.

(21) "Drug abuse" means use of a drug in amounts hazardous to individual health or safety.

~~((20))~~ (22) "Drug addiction" means chronic, compulsive, or uncontrollable drug use to the extent a person cannot stop use of the drug. Drug addiction is usually characterized by a process including progressive use, development of tolerance, and a withdrawal syndrome if use of the drug is discontinued.

~~((21))~~ (23) "Face to face" means an individual or group therapeutic contact with a client not including educational sessions.

~~((22))~~ (24) "Facilities" means rooms, areas, and equipment.

~~((23))~~ (25) "Incapacitated by alcohol" means a person, as a result of the use of alcohol, has his or her judgment so impaired he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment and constitutes a danger to himself or herself, to any other person, or to property.

~~((24))~~ "Intensive outpatient treatment" means a concentrated, non-residential program consisting of a combination of education sessions, individual therapy, group therapy, and related activities provided to clients and their families.

~~((25))~~ (26) "Intoxication" means acute alcohol and/or drug poisoning or temporary impairment of a person's mental or physical functioning caused by alcohol and/or other drugs.

~~((26))~~ (27) "Licensed nurse" means either a registered nurse per chapter 18.88 RCW or a licensed practical nurse per chapter 18.78 RCW.

~~((27))~~ (28) "Negative urine" means the results of a urinalysis which do not confirm the presence of any controlled substances, other than drugs medically prescribed for the patient submitting the urine sample.

~~((28))~~ (29) "Operators" means the individual or group legally responsible for the treatment facility.

~~((29))~~ (30) "Physician" means a person duly licensed to practice medicine or osteopathic medicine in the state of Washington per chapter 18.57 or 18.71 RCW.

~~((30))~~ (31) "Positive urine" means the results of a urinalysis which confirm the presence of one or more controlled substances, other than drugs legitimately prescribed for the patient submitting the urine sample.

~~((31))~~ (32) "Probation alcohol assessment facility" means a qualified probation department for a district or municipal court within the

state of Washington meeting the standards contained in these rules and regulations governing the operation of a DWI client assessment service as described in WAC 275-19-020 ((+)(p)).

((+)(32)) (33) "Residential facilities" means facilities providing board and room as part of the treatment program.

((+)(33)) (34) "Revoke" means a termination of the department's approval of a treatment facility.

((+)(34)) (35) "Secretary" means the secretary of the Washington state department of social and health services or his or her designee.

((+)(35)) (36) "Shall" means compliance is mandatory.

((+)(36)) (37) "Sick physical" means an initial diagnostic examination of an applicant for admission to a treatment facility, for the purpose of determining whether the individual is currently physiologically dependent on opiates.

((+)(37)) (38) "Stabilization" means a patient's condition:

(a) Where the program physician has determined that the currently prescribed dose of medication has suppressed physiological withdrawal signs, has not produced sedation, euphoria, or other signs of over-medication, and has provided reasonable comfort for the patient; and

(b) Where the program physician determines no future dose increases should be necessary. Stabilization is evidenced by constant dose levels for fourteen days or by a determination entered into the clinical record by the program physician.

((+)(38)) (39) "Subacute detoxification" means detoxification service provided to individuals in a supportive, homelike environment where a person can recover from the effects of intoxication. Prescription medication is not provided for the management of withdrawal discomfort.

((+)(39) "Substantial compliance" means being in conformity with the requirements of the major components of each section of chapter 275-19 WAC applying to the class or classes of treatment services for which a treatment facility is approved or has applied for approval.)

(40) "Suspend" means termination of the department's approval of a treatment facility for a specified period of less than one calendar year or until specific conditions have been met and the agency has been notified of reinstatement.

(41) "Take-home medication" means methadone dispensed for self-administration off the premises of the treatment facility.

(42) "Transfer patient" means any patient transferring from one methadone program to another methadone program, with a maximum interruption in methadone medication of thirty days.

(43) "Urinalysis" means the qualitative analysis of a patient's urine sample for controlled substances.

AMENDATORY SECTION (Amending Order 2438, filed 10/29/86)

WAC 275-19-040 DEPARTMENT APPROVAL ((AND AC-CREDITING)) PROCEDURES. (1) Treatment facilities seeking department approval ((and accreditation of)) for one or more of the services listed in WAC 275-19-020 shall submit a written application to the bureau of alcohol and substance abuse on a form provided by the bureau.

(a) Such application shall provide evidence that the agency meets the requirements of these rules and regulations, chapters 69.54 and/or 70.96A RCW.

(b) The applicant shall send a copy of the application form to the county coordinator in each county where services are to be provided.

(c) After processing the application, the bureau shall send written notification of approval or denial of approval to the applicant and if approved to the appropriate county coordinator.

(2) The department shall not grant approval to any treatment facility unless the operators meet the requirements of WAC 275-19-110.

(3) The department shall continue to approve mental health facilities approved to provide alcoholism and/or drug addiction services on January 1, 1987. Approval shall be granted to these mental health facilities as long as they remain in compliance with the requirements of chapter 275-19 WAC and have a contract with the department or a county for alcoholism and/or drug addiction services. The department shall not grant approval for these facilities to provide any additional services, except as provided in WAC 275-19-040 (6)(c).

(4) The department may grant provisional approval to treatment facilities when the bureau staff are unable to determine whether the facility, without a period of operation, will comply with chapters 69.54 and/or 70.96A RCW, and these rules and regulations. Provisional approval shall be granted for a maximum period of six months and may not be renewed more than once.

((+)(3)) (5) If an approved treatment facility plans to move to a different location, open a branch office, or change ownership, the facility

shall submit a written application to the bureau ((thirty days in advance of the change, and the bureau shall respond to the application within thirty days)). Such application shall be submitted in accordance with WAC 275-19-040(1).

((+)(4)) (6)(a) The ((secretary)) bureau director or his or her designees may exempt a treatment facility from compliance with parts of these regulations when it has been found, after thorough investigation and consideration, that such exemption may be made in an individual case without jeopardizing the safety, health, or treatment of the clients in the particular treatment facility, or jeopardize the functioning of other service providers.

(b) All exemptions granted shall be in writing and filed with the department and the treatment facility.

((+)(5)) (c) An exemption from the requirements of WAC 275-19-040 (2) and (3) and WAC 275-19-110 (1) and (2) may be granted by the department to a state licensed mental health facility approved by the department prior to July 1, 1986, to provide one or more of the drug treatment services defined in WAC 275-19-020, provided the following requirements are met:

(i) A written request for an exemption as provided in this section is submitted to the department by August 1, 1987. The exemption request must show the facility meets all of the requirements outlined in this section.

(ii) An application for approval for alcoholism treatment services as defined in WAC 275-19-020(1) is submitted to the department in accordance with WAC 275-19-040 prior to August 1, 1987.

(iii) The application shows the treatment service or services will be in compliance with the requirements of chapter 275-19 WAC.

(iv) The agency provides the department with evidence they have maintained an active caseload in an approved facility of not less than an average of thirty-five drug clients per month for the two-year period prior to submitting the application as reflected in the information submitted to the bureau on the washington information system for drug unit management (WISDUM).

(v) The agency provides the department with evidence they have provided treatment services for a minimum of one hundred drug clients per year for the two-year period prior to submitting the application as reflected in the information submitted to the bureau on the washington information system for drug unit management (WISDUM), and a signed statement listing the case numbers of the claimed clients.

(7) The bureau shall issue a certificate of approval, valid for not more than one year, to approved treatment facilities in ((substantial)) compliance with these rules and regulations and chapters 69.54 and/or 70.96A RCW. This certificate shall be displayed in a conspicuous place in the facility.

((+)(6)) (8) Fees shall be set and charged by the bureau of alcohol and substance abuse for inspections and certification of approved treatment facilities. Such fees shall be reasonably based upon the cost to the bureau of the inspections and maintenance of certification and shall not exceed the actual costs. Only one such fee shall be charged to a treatment facility during any twelve-month period, regardless of the number of inspections made.

((+)(7)) (9) Additional methadone facility application materials. In addition to the material submitted in a regular application for approval of a treatment facility, methadone treatment facilities shall submit to the department the following:

(a) A completed copy of the federal food and drug administration application for approval as a methadone program.

(b) A completed copy of the federal drug enforcement agency application for an approval to provide methadone.

(c) A copy of the facility's urinalysis procedures and policies.

(d) A copy of the facility's criteria for establishing and revising planned detoxification dates for patients.

(e) A copy of the facility's dispensary procedures and policies.

((+)(8)) (10) Other required permits, licenses, and approvals for methadone treatment facilities. Prior to being certified by the department, methadone treatment facilities must possess the following:

(a) Approval from the federal drug enforcement administration;

(b) A license to operate a methadone treatment facility from the county in which the facility is (to be) located, unless the county has no such licensure requirement; and

(c) Registration with the Washington state board of pharmacy.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-050 SUSPENSION, CANCELLATION, OR REVOCATION OF APPROVAL. (1) Failure to be in ((substantial))

compliance with the requirements of chapters 69.54 and/or 70.96A RCW or these rules and regulations shall constitute grounds for the suspension or revocation of the department's approval in accordance with chapter 34.04 RCW (~~34.04.170~~).

(2) The department may cancel approval if a facility ceases to provide the services for which the facility has been approved.

(3) The department may cancel approval if a facility fails to pay the required certification fee (~~within thirty days after a certificate of approval is issued~~).

(4) The department may suspend or revoke the approval of a facility if the facility hires a person or persons into counselor or assessment officer job positions not meeting the qualifications in WAC 275-19-145 for qualified counselors and/or assessment officers.

(5) Disqualified applicants.

(a) Each and every individual named in an application for treatment facility approval shall be considered separately and jointly as applicants and, if anyone be deemed unqualified by the department in accordance with the law or these rules and regulations, the approval may be denied, suspended, or revoked.

(b) Approval may be denied, suspended, or revoked for any of the following:

(i) Obtaining or attempting to obtain approval by fraudulent means or misrepresentation;

(ii) Knowingly permitting, aiding, or abetting the commission of any illegal act on the premises of the treatment facility;

(iii) Misappropriation of the property of the patients.

~~((5))~~ (6) When the department intends to suspend, revoke, or cancel approval, the ~~(chief)~~ director of the ~~(office on alcoholism and/or the chief of the office of drug)~~ bureau of alcohol and substance abuse or ~~(their)~~ the bureau director's designees shall have served upon the approved treatment facility a notice of intent to suspend, revoke, or cancel ~~(their)~~ the department's approval. Such notice shall provide for an administrative hearing and meet the requirements of ~~(RCW 34.04.090)~~ chapter 34.04 RCW. The subsequent hearing and judicial review shall follow administrative procedures as specified in the Administrative Procedure Act, chapter 34.04 RCW and the rules and regulations promulgated thereunder.

(7) If a hearing is requested, it shall be limited in scope to a review of the cause for the department's action. If the cause is a result of an inspection of the facility, the hearing shall be limited to a review of the findings in the inspection report issued by the department and the facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC at the time of the inspection. If the cause is not the result of an inspection, the hearing shall be limited in scope to a review of the department's written findings and stated cause for the action and the facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC on the date the findings were issued by the department.

(8) If the department finds that public health, safety, or welfare requires emergency action and incorporates a finding to that effect in the suspension or revocation order, summary suspension of the department's approval may be ordered pending proceedings for suspension, revocation, or other actions deemed necessary by the department.

AMENDATORY SECTION (Amending Order 2171, filed 11/30/84, effective 1/1/85)

WAC 275-19-110 ALL FACILITIES—OPERATORS. (1) Treatment facilities shall be operated by one of the following:

- (a) An Indian tribe or an Indian health board;
- (b) A unit of city, county, state, or federal government;
- (c) A profit ~~(or)~~ corporation, nonprofit corporation, ~~(a)~~ partnership, or an individual proprietor ~~(, an Indian tribe, or a unit of city, county, state, or federal government)~~.

(2) Treatment facilities operated by a profit corporation, nonprofit corporation, partnership or an individual proprietor shall be discrete treatment facilities as defined in WAC 275-19-030.

(3) A facility providing treatment services shall have an operator or operators legally responsible for the conduct of the service or services provided. The legally responsible operator or operators shall as a minimum:

- (a) Obtain all required state, county, and city licenses, permits, and approvals.
- (b) Maintain a current job description for the position of administrator meeting the requirements set forth in WAC 275-19-140(4)(b).

(c) Establish the philosophy and overall objectives for the treatment facility and each distinct part thereof.

(d) Provide for the personnel, facilities, equipment, and supplies necessary for the care of clients and the maintenance and operation of the facility in accordance with applicable laws and regulations.

(e) Review and approve written personnel policies.

(f) Ensure the administration and operation of the facility is in compliance with these rules and applicable federal, state, and local laws and regulations.

~~((3))~~ (4) The owners of a partnership shall have a written partnership agreement outlining all of the business elements of the partnership. The partnership agreement shall be signed and dated by each partner.

WSR 87-05-022

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order PT 87-2—Filed February 13, 1987]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to new chapter 458-15 WAC, historic property, procedures for special valuation of historic properties.

This action is taken pursuant to Notice No. WSR 87-01-041 filed with the code reviser on December 15, 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 84.08.010(2) and 84.08.070.

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 February 13, 1987.

By Trevor W. Thompson
Assistant Director

**Chapter 458-15 WAC
HISTORIC PROPERTY**

WAC	Purpose.
458-15-005	Purpose.
458-15-010	Authority.
458-15-015	Definitions.
458-15-020	Application.
458-15-030	Multiple applications.
458-15-040	Costs and fees.
458-15-050	Qualifications.
458-15-060	Processing of the agreement.
458-15-070	Disqualification or removal.
458-15-080	Disqualification or removal—Effective date.
458-15-090	Additional tax.
458-15-100	Appeals.
458-15-110	Exemption of portion of historic property.
458-15-120	Revaluation and new construction.

NEW SECTION

WAC 458-15-005 PURPOSE. The purpose of these rules is to implement the provisions of chapter 84.26 RCW relating to the administration of the act. These rules are to be used in conjunction with chapter 254-20 WAC as adopted by the advisory council on historic preservation.

NEW SECTION

WAC 458-15-010 AUTHORITY. These rules are promulgated by the department under RCW 84.08.010(2).

NEW SECTION

WAC 458-15-015 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Act" means chapter 84.26 RCW.
- (2) "Additional tax" means those additional taxes, interest, and penalties specified in RCW 84.26.090.
- (3) "Agreement" means an instrument executed by an applicant and the local review board.
- (4) "Applicant" means the owner(s) of record of property who submit(s) an application for special valuation.
- (5) "Assessed value" means the true and fair value of the property for which each special valuation is sought.
- (6) "Board" or "local review board" means any appointed committee designated by local ordinance to make determinations concerning the eligibility of historic properties for special valuation and to approve or deny applications therefor.
- (7) "Cost" means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.

(8) "County recording authority" means the county auditor or the county recording authority which records real property transactions.

- (9) "Department" means the department of revenue.
- (10) "Disqualification" means the loss of eligibility of a property to receive special valuation.
- (11) "Eligible historic property" means a property determined by the board to be:

(a) Within a class approved by the local legislative authority; and

(b) Eligible for special valuation.

(12) "Historic property" means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is:

(a) Listed in a local register of historic places created by comprehensive ordinance, certified by the secretary of the interior as provided in P.L. 96-515; or

(b) Listed in the national register of historic places.

(13) "Special valuation" means the determination of the assessed value of the historic property subtracting, for up to ten years, such cost as is approved by the local review board: PROVIDED, That the special valuation shall not be less than zero.

(14) "Local legislative authority" means the municipal government within incorporated cities and the county government in unincorporated areas.

(15) "Rehabilitation" is the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its architectural and cultural values. (See WAC 458-15-050.)

NEW SECTION

WAC 458-15-020 APPLICATION. (1) The application for special valuation under the act shall be submitted to the assessor of the county where the property is located upon forms prescribed by the department of revenue and supplied by the county assessor.

(2) Applications shall be filed by October 1 of the calendar year preceding the first assessment year for which the special valuation is sought.

(3) Upon receipt of the application the assessor shall verify:

(a) The assessed valuation of the building carried on the assessment roll twenty-four months prior to filing the application;

(b) The owner of the property; and

(c) Legal description and parcel or tax account number.

(4) Within ten days after the filing of the application with the county assessor the application for special valuation shall be forwarded to the board for approval or denial.

NEW SECTION

WAC 458-15-030 MULTIPLE APPLICATIONS. If rehabilitation of a historic property is completed in more than one phase the cost of each phase shall be determined at the time of application.

NEW SECTION

WAC 458-15-040 COSTS AND FEES. The assessor may charge such fees as are necessary for the processing and recording of the certification and agreement for special valuation of historic property. These fees shall be payable to the county recording authority.

NEW SECTION

WAC 458-15-050 QUALIFICATIONS. Four criteria must be met for special valuation under this act. The property must:

(1) Be an historic property;

(2) Fall within a class of historic property determined eligible for special valuation by the local legislative authority under an ordinance or administrative rule;

(3) Be rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) within twenty-four months prior to the application for special valuation; and

(4) Be protected by an agreement between the owner and the board as described in RCW 84.26.050(2).

NEW SECTION

WAC 458-15-060 PROCESSING OF THE AGREEMENT. Upon receipt from the board of documentation that the property is an eligible historic property and the agreement between the applicant and the board, the assessor shall:

- (1) Record the original agreement, the certification and the application with the county recording authority.
- (2) Enter upon the assessment rolls for the subsequent year the special valuation as defined in WAC 458-15-015(13).
- (3) The assessor shall calculate and enter on the assessment rolls a special value each succeeding year. The property shall receive the special valuation until:
 - (a) Ten assessment years have elapsed; or
 - (b) The special valuation is lost through disqualification or removal.
- (4) Retain copies of all documents.

NEW SECTION

WAC 458-15-070 DISQUALIFICATION OR REMOVAL. When property has been granted special valuation as historic property, the special valuation shall continue until the property is disqualified or removed by the assessor upon:

- (1) Expiration of the ten-year special valuation period;
- (2) Notice by the owner to remove the special valuation;
- (3) Sale or transfer to an ownership making it exempt from taxation;
- (4) Sale or transfer of the property through the exercise of the power of eminent domain;
- (5) Sale or transfer to a new owner; and
 - (a) The property no longer qualifies as historic property; or
 - (b) The new owner does not sign the notice of compliance contained on the real estate excise tax affidavit;
- (6) Determination by the board that the property no longer qualifies as historic property; or
- (7) Determination by the board and notice to the assessor that the owner has failed to comply with the conditions established under RCW 84.26.050, chapter 254-20 WAC or the agreement.

NEW SECTION

WAC 458-15-080 DISQUALIFICATION OR REMOVAL—EFFECTIVE DATE. The disqualification from special valuation shall be effective on the date the event that led to the disqualification occurs.

- (1) If the owner gives notice to discontinue the special valuation, the owner shall specify in the notice the effective date of removal.
- (2) In case of sale or transfer, the date of disqualification shall be the date of the instrument of conveyance.
- (3) If removal is based on a board decision, the board shall determine the effective date of disqualification to be the date of any disqualifying change in the property or the owner's noncompliance with conditions established under RCW 84.26.050. If the board does not specify the

date of such an occurrence, then the date of the board order shall be the effective date of disqualification.

(4) After the board has sent notice to the owner that it has determined that property is disqualified or after property has been sold and no notice of compliance has been signed, the owner shall not be deemed able to act in the good faith belief that the property is qualified. Until such time, if the owner was acting in the good faith belief that the property remained qualified, the effective date of the disqualification shall be suspended during the pendency of that good faith belief. When an owner raises a good faith belief at a board proceeding, the board may enter a finding as to when the owner's good faith belief ceased.

NEW SECTION

WAC 458-15-090 ADDITIONAL TAX. An additional tax shall be imposed upon the disqualification or removal from the special valuation provided for by chapter 84.26 RCW as follows:

- (1) No additional tax shall be levied prior to the assessor notifying the owner by mail, return receipt requested, that the property is no longer qualified for special valuation.
- (2) Except as provided for in subsection (3) of this section, an additional tax shall be due which is the sum of the following:
 - (a) The cost shall be multiplied by the levy rate for each year the property received the special valuation.
 - (b) For the year of disqualification or removal, the cost multiplied by the levy rate shall be multiplied by a fraction, the denominator of which is the number of days in the current year and the numerator of which shall be the number of days in the current year the property received the special valuation.
 - (c) Interest at the statutory rate on delinquent property taxes shall be added for each year of special valuation from April 30th of that year to the effective date of disqualification or removal.
 - (d) A penalty in the amount of twelve percent of the sum of (a), (b) and (c) of this subsection.
- (3) No additional tax shall be due if the disqualification or removal resulted solely from:
 - (a) Expiration of the ten-year special valuation period;
 - (b) Sale or transfer of the property to an ownership making it exempt from taxation;
 - (c) Alteration or destruction through no fault of the owner; or
 - (d) A taking through the exercise of the power of eminent domain.
- (4) The additional tax shall become a lien on the property which shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the property may become charged or liable.
- (5) The additional tax shall be due and payable in full within thirty days after the tax statement is rendered by the county treasurer and shall be delinquent and subject to:
 - (a) The delinquent property tax rate after that date; and

(b) Foreclosure as provided for in chapter 84.64 RCW.

Such additional tax when collected shall be distributed by the county treasurer in the same manner in which current taxes applicable to the subject property are distributed.

NEW SECTION

WAC 458-15-100 APPEALS. (1) The owner may appeal a determination of eligibility of special valuation by a local review board to superior court under RCW 34.04.130 or to the legislative authority if local ordinances so provide.

(2) Disqualification or removal of the property from special valuation may be appealed to the county board of equalization within thirty days of being notified of the disqualification or removal, or July 15th of the current year, whichever is later.

NEW SECTION

WAC 458-15-110 EXEMPTION OF PORTION OF HISTORIC PROPERTY. When a portion of a historic property is exempt under chapter 84.36 RCW and rehabilitation was completed on the entire building, only the cost of rehabilitation attributable to that portion of the property that is not exempt shall be used for the special valuation. If the cost of rehabilitation for the nonexempt portion is not readily discernible, the allocation of the cost may be made on a square foot basis.

NEW SECTION

WAC 458-15-120 REVALUATION AND NEW CONSTRUCTION. (1) The assessor shall continue to revalue the historic property on the regular revaluation cycle, deducting the cost from the assessed value to determine the special valuation.

(2) While rehabilitation is being accomplished, the assessor shall assess the property as required by the new construction assessment dates contained in RCW 36.21.080.

WSR 87-05-023

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 13, 1987]

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 agriculture safety standard, chapter 296-306 WAC, being modified to explain WAC formatting; to recognize equipment approved by nonstate agencies; to establish responsibility for work site equipment; to define approved authorized persons; to implement new field sanitation standards improving the protection afforded agricultural field workers. The previous field sanitation requirements are deleted in the amendment to WAC

296-306-025, management's responsibility, to allow establishing new more comprehensive field sanitation standards.

- New WAC 296-306-003 Subsections, subdivisions, items, sub-items, and segments.
- New WAC 296-306-006 Equipment approval by nonstate agency or organization.
- New WAC 296-306-009 Equipment whether or not owned by, or under control of the employer.
- New WAC 296-306-012 Definitions applicable to all sections of this chapter.
- New WAC 296-306-057 Hand tools.
- New WAC 296-306-300 Field sanitation—Scope.
- New WAC 296-306-310 Field sanitation—Definitions.
- New WAC 296-306-320 Field sanitation—Requirements.
- Amd WAC 296-306-025 Management's responsibility.
- Rep WAC 296-306-005 Foreword.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 22, 1987.

The authority under which these rules are proposed is RCW 49.17.040 and 49.17.050.

The specific statute these rules are intended to implement is RCW 49.17.050 (9) and (10) and 49.17.060(1).

This notice is connected to and continues the matter in Notice No. WSR 86-21-134 filed with the code reviser's office on October 22, 1986.

Dated: February 13, 1987

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

WSR 87-05-024

**NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD**

[Memorandum—February 13, 1987]

1987 Meeting Schedule

January 15 and 16	Board retreat (La Conner)	8:30 a.m.
February 11	Board meeting (Sea-Tac)	8:30 a.m.
March 3	Board meeting (Sea-Tac)	8:30 a.m.
March 24	Board meeting (Sea-Tac)	8:30 a.m.
April 7	Board meeting (Sea-Tac)	8:30 a.m.
April 21	Board meeting (Vancouver)	9:30 a.m.
May 5	Board meeting (Sea-Tac)	8:30 a.m.
June	No board meeting	
July	No board meeting	
August 4	Board meeting (Sea-Tac)	8:30 a.m.
September 1	Board meeting (Sea-Tac)	8:30 a.m.
September 15	Board meeting (Sea-Tac)	8:30 a.m.
October 6	Board meeting (Sea-Tac)	8:30 a.m.
November	No board meeting	
December 1	Board meeting (Sea-Tac)	8:30 a.m.

WSR 87-05-025

**NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD**

[Memorandum—February 13, 1987]

The Public Works Board, by motion at its regular meeting on Wednesday, February 11, 1987, has taken the following actions: The next regular meeting of the Public Works Board will begin at 8:30 a.m. on Tuesday, March

3, 1987. The location will be the Red Lion Inn, 18740 Pacific Highway South, Seattle, Washington.

WSR 87-05-026
PROPOSED RULES
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
[Filed February 17, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Interagency Committee for Outdoor Recreation intends to adopt, amend, or repeal rules concerning applications deadlines, WAC 286-16-035. To reduce submittal deadlines for applications for all local agencies' traditional grant-in-aid projects (acquisition, development, redevelopment, renovation) to four months prior to a scheduled funding meeting of the IAC;

that the agency will at 1:00 p.m., Thursday, March 26, 1987, in the Coho Annex, Tyee Motor Inn, 500 Tyee Drive, Tumwater, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 26, 1987.

The authority under which these rules are proposed is RCW 43.99.080.

The specific statute these rules are intended to implement is RCW 43.99.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 17, 1987
By: Robert L. Wilder
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 286-16-035 Applications deadlines.

Description of Purpose: To reduce submittal time deadlines for all local agencies' traditional grant-in-aid projects applications (acquisition, development, redevelopment, renovation) to four months before a scheduled funding meeting.

Statutory Authority: RCW 43.99.080.

Specific Statute Rule is Intended to Implement: RCW 43.99.080.

Summary of Rule: Shortens deadlines to allow submittal of local agencies' traditional project applications to the Interagency Committee for Outdoor Recreation four months prior to a scheduled funding meeting date.

Reasons Supporting Proposed Action: On adoption this rule will provide additional preparation and planning time for local agencies in the submittal of their project applications for consideration by the Interagency Committee for Outdoor Recreation. Both acquisition and development projects will be due on the same date.

Agency Personnel Responsible for Drafting: Gary M. Ogden, Chief, Management Services, Interagency Committee for Outdoor Recreation, 4800 Capitol Boulevard,

KP-11, Olympia, Washington 98504; Implementation and Enforcement: Robert L. Wilder, Director, Interagency Committee for Outdoor Recreation, 4800 Capitol Boulevard, KP-11, Olympia, Washington 98504.

Organization Proposing the Rule: Interagency Committee for Outdoor Recreation (IAC).

Agency Comments or Recommendations Regarding Language, Implementation, Enforcement, Fiscal Matters: Rule is required for the guidance of local agencies submitting grants-in-aid for traditional acquisition, development, redevelopment, and renovation projects to the IAC for funding consideration.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: None, not necessary in order to conform to any federal law.

Small Business Economic Impact Statement: Will assist local contractors, planners, and those involved in preparation of local agencies' projects in allowing additional time for submittal of applications. Applications require considerable technical information in a certain timeframe. Some small contractors and/or planners might be able to qualify in the application process with additional time allowed.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

WAC 286-16-035 APPLICATIONS-DEADLINES. (1) (~~Acquisition project applications from local agencies must be submitted to the interagency committee at least five months prior to a scheduled funding meeting to be considered at that meeting. Development~~) All project applications from local agencies must be submitted at least ~~(six)~~ four months prior to a scheduled funding meeting to be considered at that meeting. Project applications from local agencies that are not completed in the manner required by these rules and the participation manuals will not be considered by the interagency committee unless all of the required material is on file with the interagency committee at least 30 days preceding a funding meeting at which the projects are to be considered for funding.

(2) These deadlines must be complied with unless an agency requests and is granted a waiver by the director.

WSR 87-05-027
ADOPTED RULES
DEPARTMENT OF COMMUNITY DEVELOPMENT
(Office of Archaeology and Historic Preservation)
[Order 87-04-Filed February 17, 1987]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the 9th and Columbia Building, Olympia, Washington, the annexed rules relating to Historic Preservation Grants Advisory Committee, repealing chapter 25-24 WAC.

This action is taken pursuant to Notice No. WSR 87-02-052 filed with the code reviser on January 7, 1987. 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 February 11, 1987.

By Chuck Clarke
Deputy Director

REPEALER

The following chapter of the Washington Administrative Code is repealed in its entirety:

CHAPTER 25-24 WAC HISTORIC PRESERVATION GRANTS ADVISORY COMMITTEE

WSR 87-05-028

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 17, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning adding a new section to chapter 16-101 WAC providing for the imposition of a civil penalty for deviation below the butterfat or solids-not-fat standards set forth in chapter 16-101 WAC;

that the agency will at 9:00 a.m., Wednesday, March 25, 1987, in the Large Conference Room, General Administration Building, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 30, 1987.

The authority under which these rules are proposed is chapter 15.36 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1987.

Dated: February 12, 1987

By: James E. Wommack
Assistant Director

STATEMENT OF PURPOSE

Description of Purpose: To impose a civil penalty for deviation from milk standards as defined in chapter 16-101 WAC.

Agency Personnel to Contact: Dick White, Dairy and Food Division, 406 General Administration Building, Olympia, WA 98504, (206) 753-5042.

This amendment is necessary to comply with SSB 5044.

Agency Comments: None.

These rules are not necessary as a result of federal or state court action.

Small Business Impact: None.

NEW SECTION

WAC 16-101-690 CIVIL PENALTIES—SUBSTANDARD PRODUCTS. (1) Commencing July 1, 1987, a civil penalty may be

imposed by the department against any dairy processing plant for deviation below the butterfat or solids-not-fat standard set forth in chapter 16-101 WAC for those fluid dairy products listed below: Milk, pasteurized milk, homogenized milk, vitamin D milk, vitamin A milk, vitamin A lowfat milk, nonfat milk, vitamin A nonfat milk, reconstituted or recombined milk or milk products, buttermilk or cultured buttermilk, protein fortified fluid milk products and acidified milk and milk products.

(2) For purposes of this section, the following terms have the following meanings:

(a) "Butterfat value" is the value of butterfat in producer milk, as listed in the monthly federal milk order report for the dairy processing plant in question in the month during which the deviation from standards occurs.

(b) "Solids-not-fat value" is the commodity credit corporation purchase price for nonfat dry milk as of the date the deviation from standards occurs.

(3) For purposes of this section, the Roesse-Gottlieb procedure as described in the 14th edition of the Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC) shall be the reference method for determining the milk fat in milk and other fluid dairy products. The test for total solids in milk and other fluid dairy products shall be the final action oven procedure as described by the AOAC. Solids-not-fat shall be determined by subtracting the fat from the total solids.

(4) The department shall take and test samples from dairy processing plants on a regular basis pursuant to RCW 15.36.110. For the purposes of administering this section, all plants in the state to the extent practical, shall be sampled and tested with like frequency.

For each fluid dairy product to be tested, three representative samples shall be taken. If the first sample tested for any product falls below the butterfat or solids-not-fat standard by more than 0.1%, the remaining two samples for that product shall be tested and the average butterfat or solids-not-fat content of the three samples shall be used for purposes of administering this section.

The result of each sampling shall be reported in accordance with RCW 15.32.530. In no event may a sample be taken for purposes of this civil penalty procedure, sooner than three days after the results of the previous sample have been mailed to the plant operator.

If the average butterfat or solids-not-fat content of the fluid dairy product deviates more than one-tenth of one percent (0.1%) below the standard for that product set forth in chapter 16-101 WAC, a violation occurs. Deviations of greater than 0.1% but not more than 0.5% below the applicable standard shall be assigned a violation point value of one. Deviations below the applicable standard by more than 0.5% shall be assigned a violation point value of two.

(5) Finished dairy product test results shall be recorded separately for each type of product sampled from each processing plant and for each component standard (butterfat and solids-not-fat.)

(6) The civil penalty shall be calculated separately for each type of product tested.

On the first occasion that a dairy processing plant receives a violation point for a product, a copy of the laboratory report disclosing the deviation from the applicable standard shall be sent to the concerned processing plant.

If the dairy processing plant incurs two violation points during the last four consecutive tests for a product, the director shall send a warning letter to the concerned processing plant, calling attention to these civil penalty regulations.

If over the course of four consecutive tests, including the most recent (current) test, the dairy processing plant accumulates three violation points for a product, the director shall impose a civil penalty against the processing plant. The amount of the civil penalty shall be equal to the butterfat and/or solids-not-fat value absent from the volume of the sampled product, as represented by the average sample results, multiplied by the number of pounds of that product processed on the day of the violation.

If over the course of four consecutive tests, including the most recent (current) test, the dairy processing plant accumulates four violation points for a product, the director shall impose a civil penalty against the processing plant. The amount of the civil penalty shall be equal to two times the butterfat and/or solids-not-fat value absent from the volume of the sampled product, as represented by the average sample results, multiplied by the number of pounds of that product processed on the day of the violation.

If over the course of four consecutive tests, including the most recent (current) test, the dairy processing plant accumulates five or more violation points for a product, the director shall impose a civil penalty against the dairy processing plant. The amount of the civil penalty shall be equal to three times the butterfat and/or solids-not-fat value absent from the volume of the sampled product, as represented by the average sample results, multiplied by the number of pounds of that product processed on the day of the violation.

Notwithstanding the provisions of this section, no penalty shall be imposed if no violation points are assigned during the most recent (current) test.

(7) All civil penalties which are assessed pursuant to these regulations shall be processed in accordance with RCW 34.04.090.

In no case shall a civil penalty imposed under this section exceed \$10,000 per product, per offense.

A milk plant that refuses to supply the department with adequate records to verify the amount of a civil penalty shall be subject to the maximum penalty.

WSR 87-05-029

**NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE**

[Memorandum—February 13, 1987]

One regular meeting of the board of trustees shall be held each month. This meeting shall be held on the fourth Tuesday of each month and begin at 7:30 p.m. in the Board Room, College Service Center, Olympic College, 16th and Chester, Bremerton, Washington, or at such other time and place as the board may direct from time to time and as published in the state Register. The location of each meeting is available in the Office of the President, Olympic College, 16th and Chester, Bremerton, Washington. The chairman of the board, with the concurrence of a majority of the members of the board, may cancel any regular meeting. All such regular meetings will be conducted in conformance with the laws of the state of Washington governing such meetings.

The regular meeting date schedule for Olympic College for 1987 is as follows:

- January 27
- February 24
- March 24
- April 28
- May 26
- June 23
- July 28
- August 25
- September 22
- October 27
- November 24
- December 22

**WSR 87-05-030
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
[Filed February 17, 1987]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Game Commission intends to adopt, amend, or repeal rules concerning hunting contests, adopting WAC 232-12-169;

that the agency will at 9 a.m., Monday, April 6, 1987, in the Bellingham Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1987.

The authority under which these rules are proposed is RCW 77.12.040 and 77.16.010.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

Dated: January 21, 1987

By: Dave L. Schultz
Assistant Director

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-12-169
Hunting contests.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040 and 77.16.010.

Summary of the Rule: WAC 232-12-169 will provide the rules concerning hunting contests.

Reasons Supporting the Proposed Rule: The new WAC is responsive to increased public interest in hunting contests. It provides control over contest participation, limits and procedures. A provision is included for denial of applications for contests which may adversely affect wildlife resources.

Agency Personnel Responsible for Drafting: Dave Schultz, Assistant Director, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5720; Implementation: Jack Smith, Chief, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5713; and Enforcement: John Gillespie, Acting Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-12-169 HUNTING CONTESTS A person wishing to hold a hunting contest must comply with the following provisions:

- (1) Only organizations filed with the state of Washington as a non-profit corporation may apply for a Hunting Contest Permit.
- (2) Hunting Contest Permit applications shall be submitted to the Department 30 days prior to the date for which the contest is proposed.
- (3) Applications must include the permit fee required by RCW 77-32.211. The fee will be returned if the permit is denied.
- (4) Contests are restricted to the species approved on the permit.
- (5) Total value of prizes per contest shall not exceed \$2000.
- (6) Entry fees or requests for donations are prohibited.
- (7) It is unlawful to fail to comply with the conditions of a Hunting Contest Permit.

Hunting contests which may adversely affect wildlife resources will be denied.

WSR 87-05-031
PROPOSED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Filed February 17, 1987]

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

- | | | |
|-----|----------------|---|
| New | WAC 232-28-809 | 1987 Mountain goat, sheep, and moose hunting seasons. |
| Rep | WAC 232-28-808 | 1986 Mountain goat, sheep, and moose hunting seasons; |

that the agency will at 9:00 a.m., Monday, April 6, 1987, in the Bellingham Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 6, 1987.

The authority under which these rules are proposed is RCW 77.12.040.

The specific statute these rules are intended to implement is RCW 77.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 3, 1987.

Dated: February 12, 1987
 By: Jack L. Smith, Chief
 Wildlife Management Division

STATEMENT OF PURPOSE

Title and Number of Rule Section: WAC 232-28-809 1987 Mountain goat, sheep, and moose hunting seasons.

Statutory Authority: RCW 77.12.040.

Specific Statute that Rule is Intended to Implement: RCW 77.12.040.

Summary of the Rule: Adopts rules and regulations relating to the 1987 Mountain goat, sheep, and moose hunting seasons.

Reasons Supporting the Proposed Rule: Resource management.

Agency Personnel Responsible for Drafting and Implementation: Jack L. Smith, Chief, Wildlife Management Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5728; and

Enforcement: John Gillespie, Acting Chief, Wildlife Enforcement Division, Department of Game, 600 North Capitol Way, Olympia, WA 98504, phone (206) 753-5740.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Game.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: No comments.

The rule is not necessary to comply with a federal law or a federal [or] state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

A small business economic impact statement is not required.

NEW SECTION

WAC 232-28-809 1987 MOUNTAIN GOAT, SHEEP, AND MOOSE HUNTING SEASONS.

Reviser's note: The text and accompanying pamphlet comprising the 1987 Mountain goat, sheep, and moose hunting seasons proposed by the Department of Game have been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the rules may be obtained from the main office of the Department of Game, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-808 1986 MOUNTAIN GOAT, SHEEP, AND MOOSE HUNTING SEASONS

WSR 87-05-032
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
 [Order 87-1—Filed February 17, 1987]

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

The purpose of the rules shown below are to implement RCW 43.200.080.

The rules require that each generator and broker must possess a valid site use permit prior to the shipment of low-level radioactive waste to the disposal site, and the disposal of low-level radioactive waste in the state of Washington; applicants must submit permit fee when filing the application; permit fee for a one-time use permit is \$50.00 and for multiple use permit is \$150.00 per year; and permittees must provide additional information when requested by the Department of Ecology as necessary for the safe management of low-level radioactive waste in the state of Washington.

If you have any questions about these rules please contact Stephanie Ko, Low-Level Nuclear Waste Management Program, (206) 459-6862.

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. State legislation has been passed which changes the rule for disposal of low-level waste. Immediate clarification of Washington's requirements to implement the state laws is necessary to avoid uncertainty which may lead to improper storage or disposal of low-level waste creating a public hazard.

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

This rule is promulgated pursuant to RCW 43.200.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 13, 1987.

By Phillip C. Johnson
Deputy Director

NEW SECTION

WAC 173-326-010 PURPOSE. The purpose of this chapter is to implement RCW 43.200.080. Each generator and each broker of low-level radioactive waste (LLRW) shall have a valid and unencumbered site use permit prior to shipment of such waste to, or disposal of such waste at, any commercial LLRW disposal site located in the State of Washington.

NEW SECTION

WAC 173-326-020 DEFINITIONS. (1) "Low-Level Radioactive Waste" is defined in Public Law 99-240.

(2) "Broker" means a person who performs one or more of the following functions for a low-level radioactive waste generator:

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

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

(c) Processes such low-level radioactive waste in some manner, provided it shall not mean a carrier whose sole function is to transport such low-level radioactive waste.

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

(4) "Generator" means the last person who puts radioactive material to practical use, and who then declares it to be no longer of use or value.

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

(6) "Shipment" means the total low-level radioactive waste material transported in one motor vehicle.

NEW SECTION

WAC 173-326-030 REQUIREMENTS FOR USERS OF THE WASHINGTON COMMERCIAL LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITE. (1) Filing application for site use permit.

(a) Application for a site use permit shall be filed on department form ECY 010-75 (12/86).

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

(2) A site use permit must be obtained prior to:

(a) The shipment of LLRW to any LLRW disposal site.

(b) The disposal of LLRW at any LLRW disposal site.

NEW SECTION

WAC 173-326-040 SITE USE PERMIT FEE. (1) Permit fee must be submitted at the time of filing an application. The fees for a site use permit are:

(a) One time shipment - \$ 50.00 or

(b) Site Use Permit - \$150.00 per year continuous services

(2) One-time shipment: A generator having radioactive waste for disposal for one time only can obtain a site use permit for such a shipment. This permit terminates upon receipt of the shipment for disposal and cannot be reissued to a generator.

(3) A broker who takes possession of waste from a generator and assumes responsibility for that waste must also assume responsibility for assuring the generator has a current, unencumbered site use permit.

(4) Permittees must provide additional information when requested by the Department of Ecology as necessary for the safe management of low-level radioactive waste in the State of Washington.

WSR 87-05-033

PROCLAMATION NO. 87-01

OFFICE OF THE GOVERNOR

TERMINATING AN EMERGENCY

I, Booth Gardner, Governor of the state of Washington, pursuant to RCW 43.06.210, do hereby terminate the proclamation of December 9, 1986 which declared a state of emergency in Washington State.

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

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 87-05-034
ADOPTED RULES
DEPARTMENT OF ECOLOGY
(Water Resources)
[Order 86-40—Filed February 17, 1987]

I, Phillip C. Johnson, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology Headquarters, Abbott Raphael Hall, Room 154, the annexed rules relating to administration of flood control zones, chapter 508-60 WAC.

This action is taken pursuant to Notice No. WSR 86-24-067 filed with the code reviser on December 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 86.16 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 February 17, 1987.

By Phillip C. Johnson
Deputy Director, Programs

NEW SECTION:

WAC 508-60-008 EXEMPTIONS. Certain limited amounts and types of construction associated with existing residential or nonresidential structures within flood control zones is not considered to have an effect upon floodwaters. It is appropriate then that applications for flood control zone permits and flood control zone permits not be necessary in these instances.

Construction work to be performed on existing residential or nonresidential structures within either the floodway or floodway fringe areas of flood control zones is exempted from the provisions of chapter 86.16 RCW and chapter 508-60 WAC if both of the following conditions apply:

(1) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

(2) Repairs, reconstruction, or improvements to a structure the cost of which does not exceed fifty percent of the market value of the structure either, (a) before the repair, reconstruction, or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places is not included in the fifty percent determination.

WSR 87-05-035
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed February 18, 1987]

Please withdraw from public consideration Notice No. WSR 87-04-038.

The subject of that notice will now be associated with a new filing on or before February 18, 1987.

Phillip C. Johnson

WSR 87-05-036
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning miscellaneous agricultural commodity inspection standards, chapter 16-213 WAC;

that the agency will at 9 a.m., Wednesday, March 25, 1987, in the Commodity Inspection Conference Room, 2728 B Westmoor Court S.W., Olympia, WA 98502, 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 22.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 26, 1987.

Dated: February 18, 1987

By: J. Allen Stine
Assistant Director

STATEMENT OF PURPOSE

Title: Chapter 16-213 WAC, Miscellaneous agricultural commodity inspection standards.

Description of Purpose: To specify standards and procedures for certifying the by-products of the transportation and elevation of corn.

Statutory Authority: Chapter 22.09 RCW.

Summary of Rule: To provide qualitative standards for certifying the by-products of the transportation and

elevation of corn as either cracked corn, corn screenings or mixed grain screenings based on the percentages of admixture (foreign material) and provide for certifying other qualitative tests at the request of the applicant for service.

Reasons Supporting Proposed Activities: In response to requests from the industry for means to certify material removed in screening of corn to export standards as an export product itself. The amount of this material will increase when provisions of the Grain Quality Improvement Act restructuring recombination of material once removed are implemented. These standards are designed to meet the needs of the export market. Currently no federal standards or procedures exist.

Agency Personnel Responsible: William E. Brookreson, Grain Inspection Program Manager, Washington State Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, (206) 753-5066.

Person or Organization Proposing Rule Whether Public, Private or Governmental: Washington State Department of Agriculture.

Agency Comments: None.

These rules are 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 will be no economic impact upon small businesses in the state of Washington by the adoption of these new rules.

NEW SECTION

WAC 16-213-260 DEFINITIONS. (1) "Cracked corn" is a byproduct of the elevating, transporting, or cleaning of corn. Cracked corn is the entire corn kernel, broken, ground, or fractured. Cracked corn may contain incidental whole kernels of corn. Cracked corn may be "yellow" or "white" if one color constitutes ninety percent or more of the mixture. Cracked corn may not contain more than four percent of admixture (foreign material).

(2) "Corn screenings" is a byproduct of the elevating, transporting, or cleaning of corn. Corn screenings is the entire corn kernel, broken, ground, or fractured. Corn screenings may contain incidental whole kernels of corn. Corn screenings must consist of seventy percent or more of corn, whole and broken, and may contain not more than thirty percent of admixture.

(3) "Mixed grain screenings" is a byproduct of the elevating, transporting, or cleaning of grain. Grain screenings is the entire grain kernel, broken, ground, or fractured. Mixed grain screenings may contain incidental whole kernels of grain. Mixed grain screenings must consist of seventy percent or more of whole, light, and broken kernels of wheat, barley, oats, corn, rye, flaxseed, sorghum, triticale, soybeans, or wild oats in combination. Mixed grain screenings may contain not more than thirty percent of other foreign material.

(4) "Admixture" in cracked corn or corn screenings means foreign material and standardized grains other than corn.

(5) "Other foreign material" in mixed grain screenings means material other than standardized grains under the United States Grain Standards Act and wild oats.

(6) "Test weight per bushel" means the weight per winchester bushel (35.24 liters) or as determined by any device and method which gives equivalent results.

(7) "Moisture" means a percentage ascertained by the air oven method or by any device and method which gives equivalent results.

NEW SECTION

WAC 16-213-270 PROCEDURES. (1) The determination of cracked corn, yellow or white in cracked corn, corn screenings or mixed grain screenings shall be made on a representative portion of approximately thirty grams cut from the representative sample.

(a) In the case of cracked corn and corn screenings, the percentage of admixture shall be determined and recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(b) In the case of mixed grain screenings, the percentage of other foreign material shall be determined and recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(2) The determination for moisture shall be made on a representative portion of the sample of exactly two hundred fifty grams cut from the work sample. The percentage of moisture is determined by using the procedure prescribed in federal grain inspection service instructions for broken corn and foreign material. The percentage of moisture shall be recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(3) The determination of test weight per bushel shall be made on a representative portion of the sample ranging in size from one and one-eighth to one and one-fourth quarts. The test weight per bushel shall be recorded on the inspection certificate in whole and half pounds. A fraction of a half pound shall be disregarded.

(4) The examination of shiplots and combined lots of cracked corn, corn screenings and mixed grain screenings.

(a) When examining a shiplot or combined lot of cracked corn, corn screenings or mixed grain screenings, an individual subplot sample may exceed the limit for admixture in cracked corn and corn screenings and the limit of other foreign material in mixed grain screenings by up to two percent provided that:

(i) The weighted or mathematical average for the lot as a whole is within the prescribed limits of the applicable definition; and

(ii) The preponderance of the lot by weight meets the applicable definition.

(b) The certificate for a lot must show the following:

(i) The term cracked corn, corn screenings or mixed grain screenings.

(ii) The approximate weight of the lot.

(iii) In the case of cracked corn or corn screenings, the percentage of admixture.

(iv) In the case of mixed grain screenings, the percentage of other foreign material.

(v) The presence of sour, musty, or commercially objectionable foreign odors, an unknown foreign substance, live weevils or other live insects injurious to stored grain, glass, rodent pellets or the presence of other factors likely to adversely affect the quality of the cracked corn, corn screenings, or mixed grain screenings shall be noted in remarks on the certificate.

(c) At the request of the applicant, the certificate for a lot may show the following:

(i) In the case of cracked corn, the terms yellow or white.

(ii) The percentage of moisture.

(iii) The test weight per bushel.

(iv) In remarks, "we certify that cracked corn (or corn screenings) is not residue or waste from food industries. It is corn cracked during transportation or handling."

WSR 87-05-037

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 87-07—Filed February 18, 1987]

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

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

salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact.

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

This rule is promulgated pursuant to RCW 75.08.070 and 75.08.080 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 17, 1987.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-32-03000E COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-030, WAC 220-32-031 and WAC 220-32-032, it is unlawful for a person to take or possess salmon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E, except as provided for in this section:

(a) Open area – Areas 1A, 1B, 1C and that portion of 1D downstream from a line perpendicular to the thread of the river from Kelley Point, east bank of Willamette River.

(b) Legal gear – Drift gill nets with 8 inch minimum mesh.

(c) Open periods –

12:00 noon February 18 to 6:00 p.m. February 20, 1987.

12:00 noon February 22 to 6:00 p.m. February 27, 1987.

12:00 noon March 1 to 6:00 p.m. March 6, 1987.

(2) It is unlawful to fish for salmon with monofilament gill-net webbing or to have on the boat monofilament gill-net webbing while fishing for salmon in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E.

(3) Notwithstanding the provisions of WAC 220-32-036 the closed river mouth areas within Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E are:

(a) All tributaries flowing into the Columbia River.

(b) Cowlitz River – those waters between points one mile below and one-half mile above the mouth of the Cowlitz River and lying within one-quarter mile of the Washington shore.

(c) Kalama River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Kalama River and lying within one-quarter mile of the Washington shore.

(d) Lewis River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Lewis River and lying within one-quarter mile of the Washington shore.

(e) Elokomin River – those waters of Elokomin Slough, Steamboat Slough and the Columbia River lying inside, northerly and easterly of a straight line, from group flashing white light "35" located on Price Island to flashing green light "39" located on Hunting Island, and northly and easterly of a line between flashing light "33" on Price Island to quick flashing green light "31" on the Washington shore.

(f) Washougal River – those waters of the Columbia River Slough lying upstream from a line projected true north from the most western tip of Lady Island to the mainland.

(g) Sandy River – those waters of the Columbia River lying within one-quarter mile from shore between a point one mile below the mouth of the Sandy River and a point at the upper easterly bank at the mouth of the Sandy River.

(h) Big Creek – those waters at the mouth of Big Creek from the Oregon Bank across Knappa Slough to Karlson Island about one-quarter mile above the easterly bank of Big Creek, at the Gnat Creek deadline downstream to the east end of Minaker Island which is about 3/4 mile below the west bank at the mouth of Big Creek.

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

NEW SECTION

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

(a) fish for salmon and steelhead from noon February 1 to noon March 21;

(b) fish for sturgeon immediately to noon April 30.

(2) During the seasons specified in subsection 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between approximately 0.8 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River to 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline.

(4) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

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

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

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

WSR 87-05-038

ADOPTED RULES DEPARTMENT OF FISHERIES [Order 87-08—Filed February 18, 1987]

I, Joseph R. Blum, 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 87-01-107 filed with the code reviser on December 24, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED February 2, 1987.

By Judith Merchant
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 84-214, filed 12/7/84)

WAC 220-52-046 CRAB FISHERY—SEASONS AND AREAS. It is unlawful to ~~((take,))~~ fish for ~~((; land))~~ or possess Dungeness crabs taken for commercial purposes except during the lawful open seasons and areas as follows:

(1) All Puget Sound Marine Fish—Shellfish Management and Catch Reporting Areas except 27A, 27B, ~~((and))~~ 27C, 28A, 28B, 28C, and 28D — open October 1 through April 15, provided that it ~~((shall be))~~ is unlawful to set any crab gear prior to 9:00 a.m. on the opening day of the season.

(2) Coastal, Pacific Ocean, Grays Harbor, Willapa Harbor and Columbia River waters — open December 1 through September 15 except that it ~~((shall be))~~ is lawful to set baited crab gear beginning at 8:00 a.m. November 27.

WSR 87-05-039

PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION [Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Interfund loans—Identification of temporary loans, WAC 392-123-145;

that the agency will at 9:00 a.m., Monday, March 30, 1987, in the Old Capitol Building, Wanamaker Conference Room, SPI, Washington and Legion, 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 28A.65.465.

Dated: February 17, 1987

By: Frank B. Brouillet
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-123 WAC.

Rule Section(s): WAC 392-123-145.

Statutory Authority: RCW 28A.65.465.

Purpose of the Rule(s): To permit interfund loans.

Summary of the New Rule(s) and/or Amendments:
Repeal requirement to pay interfund loans by end of fiscal years.

Reasons Which Support the Proposed Action(s):
Limitations not needed and impedes financial planning by districts.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Melvin D. Collart, SPI, 3-3584; and Enforcement: Perry Keithley, SPI, 3-6742.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 8-76, filed 7/23/76)

WAC 392-123-145 INTERFUND LOANS—IDENTIFICATION OF TEMPORARY LOANS. A temporary loan is considered to be a loan which is completely liquidated in less than one year. ((No interfund loans shall be allowed to extend beyond the end of any fiscal year.))

WSR 87-05-040

ADOPTED RULES

CORRECTIONS STANDARDS BOARD

[Order 87-1—Filed February 18, 1987]

Be it resolved by the Corrections Standards Board, acting at the Tyee Motor Inn, Olympia, Washington, that it does adopt the annexed rules relating to maximum capacities, amending WAC 289-15-225.

This action is taken pursuant to Notice No. WSR 87-01-112 filed with the code reviser on December 24, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 70.48.050 (1)(a) and 70.48.070 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 5, 1987.

By Robert W. Cote
Executive Secretary

AMENDATORY SECTION (Amending Order 86-06, filed 9/9/86)

WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities

- Auburn (22)
- Bremerton (23)
- Issaquah (10)
- Olympia (temporary) (19)
- Stevens County (22)

Correctional Facilities

- Asotin County (16)
- Benton County (109)
- Chelan County (132)
- Clallam County (102)
- Clark County ((~~300~~)) (335)
- Cowlitz County ((~~94~~)) (149)
- Ferry County (22)
- Forks (11)
- Franklin County (76)
- Grant County (85)
- Grays Harbor County (82)
- Island County (50)
- Jefferson County (20)
- Kent (56)
- King County (784)
- Kitsap County (103)
- Kitsap County Work Release (42)
- Kittitas County (45)
- Klickitat County (30)
- Lewis County (68)
- Lincoln County (15)
- Mason County ((~~34~~)) (45)
- Okanogan County (67)
- Pacific County (29)
- Pend Oreille County (18)
- Pierce County (470)
- Skagit County (83)
- Skamania County (17)
- Snohomish County(277)
- Snohomish County Work Release (60)
- Spokane County(461)
- Thurston County(145)
- Walla Walla County (44)
- Whatcom County (82)
- Whitman County (34)
- Yakima County (274)

WSR 87-05-041

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1987]

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 registration during last calendar quarter of the biennial registration period, new WAC 390-20-014;

that the agency will at 9:00, Tuesday, March 24, 1987, in the 2nd Floor Conference Room, Evergreen Plaza Building, 711 South Capitol Way, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 24, 1987.

The authority under which these rules are proposed is RCW 42.17.370.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 18, 1987

By: Graham E. Johnson
Executive Director

STATEMENT OF PURPOSE

Title: WAC 390-20-014 Registration during last calendar quarter of the biennial registration period.

Description of Purpose: Allows lobbyists who register during the last calendar quarter of an even-numbered year to request that the registration be valid until the second Monday of January three years hence.

Statutory Authority: RCW 42.17.370(1).

Summary of Rule: Lobbyists who register during the last calendar quarter of an even-numbered year may request in writing that the registration be continued through the next biennium. The lobbyist/lobbyist employer would be required to file reports as usual.

Reasons Supporting Proposed Action: Relieves the lobbyist of extra paperwork.

Agency Personnel Responsible For Drafting, Implementation and Enforcement: Graham E. Johnson, Executive Director.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: PDC staff.

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.

NEW SECTION

WAC 390-20-014 REGISTRATION DURING LAST CALENDAR QUARTER OF THE BIENNIAL REGISTRATION PERIOD. (1) A lobbyist who registers during the last calendar quarter of an even-numbered year may request in writing that the registration be valid until the second Monday of January three years hence.

(2) The lobbyist will be required to file monthly expense reports (PDC form L-2) for each month in which he/she is registered.

(3) The lobbyist employer shall file the employer's report (PDC form L-3) for each calendar year or portion thereof in which a lobbyist is registered.

WSR 87-05-042

ADOPTED RULES

DEPARTMENT OF REVENUE

[Order 87-1—Filed February 18, 1987]

I, Matthew J. Coyle, deputy director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 458-20-168 Hospitals and medical care facilities.

Amd WAC 458-20-182 Warehouse businesses.
Amd WAC 458-20-18801 Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.

This action is taken pursuant to Notice No. WSR 87-02-061 filed with the code reviser on January 7, 1987. 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 February 18, 1987.

By Matthew J. Coyle
Deputy Director

AMENDATORY SECTION (Amending Order ET 83-16, filed 3/15/83)

WAC 458-20-168 HOSPITALS AND MEDICAL CARE FACILITIES. (1) DEFINITIONS. The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term "nursing home" means only institutions defined as nursing homes in chapter 18.51 RCW.

(2) BUSINESS AND OCCUPATION TAX. The gross income derived from personal and professional services of hospitals ((for medical services)), nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification. The retailing business and occupation tax applies to sales by such persons of tangible personal property ((other than prescription drugs)) sold and billed separately from ((hospital)) services rendered.

((In computing business tax liability of hospitals, there may be deducted from the measure of the tax the following:

(1) ~~Amounts derived as compensation for services rendered or to be rendered to patients or from sales of prescription drugs as defined by RCW 82.08.0281 furnished as an integral part of services rendered to patients by a hospital as defined in chapter 70.41 RCW when such hospital is operated by the United States of America or any of its instrumentalities or by the state of Washington or any of its political subdivisions.~~

(2) ~~Amounts derived as compensation for services rendered to patients or from sales of prescription drugs as defined by RCW 82.08.0281 furnished as an integral part of services rendered to patients by a hospital as defined in chapter 70.41 RCW when such hospital is operated as a nonprofit corporation but only if)~~ (3) DEDUCTIONS. (a) Hospitals operated by the United States or its instrumentalities or the state of Washington or its political subdivisions may deduct amounts derived as compensation for medical services to patients and sales of prescription drugs and medical supplies furnished as an integral part of such services. (See RCW 82.04.4288.)

(b) Other hospitals operated as nonprofit corporations as well as nursing homes and homes for unwed mothers operated as religious or charitable organizations may also deduct the amounts described in subsection (a) above (see RCW 82.04.4289), provided that:

(i) No part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder(-); and

(ii) No deduction will be allowed under ((^{"2"}above)) (a) of this subsection, unless written evidence ((be)) is submitted to the department of revenue showing that the hospital building is entitled to exemption from taxation under the property tax laws of this state.

~~((In computing business tax liability of nursing homes and homes for unwed mothers there may be deducted from the measure of tax the following. Amounts derived as compensation for services rendered to patients by nursing homes and homes for unwed mothers operated as religious or charitable organizations but only if no part of the net earnings received by such nursing homes or homes for unwed mothers inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.~~

~~Persons operating hospitals, nursing homes, convalescent homes, clinics, rest homes, health resorts and similar institutions which are not operated as above provided are taxable under the classification service and other activities upon the gross income received from personal or professional services.))~~

~~(c) In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC 458-20-114.)~~

~~(4) RETAIL SALES TAX. ((Gross)) Retail sales ((by hospitals)) which are subject to retailing business tax, as provided ((above)) earlier, are also subject to retail sales tax.~~

~~((However,)) (5) EXEMPTIONS. Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are ((deductible from gross)) exempt of retail sales tax where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained, and such sales are separately accounted for. ((Also deductible are)) Sales of prosthetic devices, hearing aids as defined in RCW 18.35.010(3), and ostomic items whether or not prescribed are also exempt of sales tax. See WAC ((458-20-188)) 458-20-18801.~~

~~(6) Sales of medical supplies, durable equipment, and consumables ((of the like)), but excluding prosthetic devices and ostomic items, to hospitals and nursing homes for their own use in providing personal or professional services are subject to the retail sales tax, irrespective of whether or not such hospitals or nursing homes are subject to the business tax.~~

~~(For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)~~

AMENDATORY SECTION (Amending Order ET 74-1, filed 5/7/74)

WAC 458-20-182 WAREHOUSE((S)) BUSINESSES. ((The term)) (1) DEFINITIONS. For purposes of this section the following terms and meanings will apply:

(a) "Warehouse" means every structure wherein facilities are offered for the storage of tangible personal property.

(b) "Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW (which are agricultural commodities warehouses), public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini-storage" facilities whereby customers have direct access to individual storage areas by separate access.

(c) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing. This term does not include freezer space or frozen food lockers.

(d) "Automobile storage garage" means any off-street building, structure, or area where vehicles are parked or stored, for any period of time, for a charge.

(2) BUSINESS AND OCCUPATION TAX. Warehouse businesses are taxable according to the nature of their operations and the specific kinds of goods stored, as follows:

(a) Persons engaged in operating any "storage warehouse" or "cold storage warehouse," as defined herein, are subject to tax under the warehousing classification, measured by the gross income of the business. (See RCW 82.04.280.)

(b) Persons engaged in operating any automobile storage garage are subject to tax under the retailing classification, measured by gross proceeds of such operations. (See RCW 82.04.050 (3)(d).)

(c) Persons engaged in operating any warehouse business, other than those of (a) and (b) of this subsection, are subject to tax under the service classification, measured by the gross income of the business. (See RCW 82.04.290.) This includes cold storage and frozen food lockers, field warehouses, fruit warehouses, agricultural commodities warehouses, and freight storage warehouses.

(d) Effective July 1, 1986, no warehouse business or operation of any kind is subject to tax under the public utility tax of chapter 82.16 RCW.

(3) TAX MEASURE. The gross ((operating revenue)) income of the business of operating a warehouse includes all income from the storing, handling, sorting, weighing ((or)), measuring, and loading or unloading for storage of tangible personal property.

(4) Where a grain warehouseman purchases or owns grain stored in such warehouse, there shall be included in taxable gross ((operating revenue)) income:

(a) An amount equal to the charges at the customary rate for all services rendered in connection with such grains up to the time of purchase by the warehouseman(;) and

(b) The amount of any charges for services that are rendered during the period of the warehouseman's ownership thereof billed and stated, as such, separately from the price of the grains on the invoice to the purchaser at the time of the sale by the warehouseman.

~~((BUSINESS AND OCCUPATION TAX~~

~~Persons engaged in the business of operating cold storage warehouses are taxable under the classification cold storage warehousing upon the gross income received from such business. This classification does not include gross income from the rental of cold storage lockers.~~

~~Persons engaged in the business of renting cold storage lockers are taxable under the classification service and other activities upon the gross income received from such business.~~

~~PUBLIC UTILITY TAX~~

~~Persons engaged in the business of operating any type of warehouse other than a cold storage warehouse are taxable under the classification other public service business upon the gross income from such business.~~

~~Revised May 3, 1974:)) (5) RETAIL SALES TAX. Persons operating automobile garage storage businesses must collect and report retail sales tax upon the gross selling price of such parking/storage services.~~

~~(6) CONSUMABLES. Persons engaged in operating any of the business activities covered by this section must pay retail sales tax upon their purchases of consumable supplies, equipment, and materials for their own use as consumers in operating such businesses.~~

~~(7) USE TAX. The use tax is due upon the value of all tangible personal property used as consumers by persons operating warehouse businesses, upon which the retail sales tax has not been paid.~~

~~For specific provisions covering temporary holding of goods in foreign or interstate movement by water, see WAC 458-20-193D respecting stevedoring and associated activities.~~

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

WAC 458-20-18801 PRESCRIPTION DRUGS, PROSTHETIC AND ORTHOTIC DEVICES, ((AND)) OSTOMIC ITEMS, AND MEDICALLY PRESCRIBED OXYGEN. (1) DEFINITIONS. As used in this section:

(a) "Prescription" means a formula or recipe or an order therefor written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(b) "Other substances" means products such as catalytics, hormones, vitamins, and steroids, but the

term does not include devices, instruments, equipment, and similar articles.

(c) "Food" means any substance the chief general use of which is for human nourishment.

(d) "Medical practitioner" means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.

(e) "Licensed dispensary" means a drug store, pharmacy, or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.

(f) "Prosthetic devices" are artificial substitutes which physically replace missing parts of the human body, such as a limb, bone, joint, eye, tooth, or other organ or part thereof, and materials which become ingredients or components of prostheses.

(g) "Orthotic devices" are fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or function. They include braces, collars, casts, splints, and other specially fitted apparatus as well as parts thereof. Orthotic devices do not include durable medical equipment such as wheelchairs, crutches, walkers, and canes nor consumable supplies such as elastic stockings, arch pads, belts, supports, bandages, and the like, whether prescribed or not.

(h) "Ostomic items" are medical supplies used by colostomy, ileostomy, and urostomy patients. These include bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and sundry related supplies.

(2) BUSINESS AND OCCUPATION TAX. The business and occupation tax applies to ((and)) the gross proceeds from sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ((ailment, except that the business tax does not apply to:)) ailments in humans.

(3) DEDUCTIONS. The following may be deducted from gross proceeds for computing business and occupation tax:

(a) Sales of prescription drugs and other medical and healing supplies furnished as an integral part of services rendered by a publicly operated or nonprofit hospital ((or other entity)), nonprofit kidney dialysis facility, nursing home, or home for unwed mothers operated as a religious or charitable organization which meets all the conditions for exemption for services generally under RCW 82.04.4288 or 82.04.4289 (see WAC 458-20-168)((; or

(b) Sales of prescription drugs furnished as an integral part of services rendered by a hospital as defined by chapter 70.41 RCW, when such hospital is operated by the United States government, the state, or a political subdivision of the state)).

(4) RETAIL SALES TAX ((A deduction is allowed from gross retail sales for)). The retail sales tax applies upon all retail sales of tangible personal property unless expressly exempted by law.

(5) EXEMPTIONS. The retail sales tax does not apply to sales to patients of drugs, medicines, prescription lenses, or other substances, but only when

(a) Dispensed by a licensed dispensary

- (b) Pursuant to a written prescription
 (c) Issued by a medical practitioner
 (d) For diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans. (See RCW 82.08.0281.)

(6) This ~~((deduction))~~ exemption does not apply to sales of food. Thus, dietary supplements or dietary adjuncts do not qualify for ~~((the deduction))~~ this exemption even though prescribed by a physician.

(7) The retail sales tax does not apply to sales of prosthetic ~~((and))~~ devices, orthotic devices prescribed by physicians, osteopaths, or chiropractors, nor to sales of ostomic items, medically prescribed oxygen, or hearing aids. (See RCW 82.08.0283.)

(8) PROOF OF EXEMPTION. Sales claimed ~~((deductible))~~ to be exempt under this rule must be separately accounted for ~~((As proof of entitlement to the deduction))~~ and for items requiring a prescription, sellers must retain in their files the written prescription bearing the signature of the medical practitioner who issued the prescription and the name of the patient for whom prescribed. See also WAC 458-20-150 Optometrists, ophthalmologists, and oculists; 458-20-151 Dentists, dental laboratories and physicians; and 458-20-168 Hospitals.

(9) USE TAX. The use tax does not apply to the use of articles and products ~~((deductible for))~~ which are exempt from sales tax as specified herein. (See RCW 82.12.0277).

(DEFINITIONS:

(1) ~~Prescription means a formula or recipe or an order therefor written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects of anomalies of humans.~~

(2) ~~Other substances means products such as catalytics, hormones, vitamins, and steroids, but the term does not include devices, instruments, equipment, and similar articles.~~

(3) ~~Food means any substance the chief general use of which is for human nourishment.~~

(4) ~~Medical practitioner means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.~~

(5) ~~Licensed dispensary means a drug store, pharmacy or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.~~

(6) ~~Prosthetic devices are artificial substitutes which replace missing parts of the human body, such as a limb, bone, joint, eye, tooth, or other organ or part thereof, and materials which become ingredients or components of prostheses.~~

(7) ~~Orthotic devices are fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or function. They include braces, collars, casts, splints, and other specially fitted apparatus as well as parts thereof. Orthotic devices do not include durable medical equipment such as wheelchairs, crutches, walkers, and canes nor consumable supplies such as elastic~~

~~stockings, arch pads, belts, supports, bandages, and the like, whether prescribed or not.~~

(8) ~~Ostomic items are medical supplies used by colostomy, ileostomy, and urostomy patients. These include bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and sundry related supplies:))~~

WSR 87-05-043

ADOPTED RULES

DEPARTMENT OF TRANSPORTATION

[Order 108—Filed February 18, 1987]

I, Duane Berentson, secretary of the Department of Transportation, do promulgate and adopt at Room ID-9, Transportation Building, Olympia, Washington, the annexed rules relating to manual on uniform traffic control devices for streets and highways (MUTCD), chapter 468-95 WAC. Adoption of Revision No. 4 to the 1978 MUTCD as an amendment to chapter 468-95 WAC.

This action is taken pursuant to Notice No. WSR 86-24-063 filed with the code reviser on December 3, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 47.36.030, traffic control devices, and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 17, 1987.

By A. D. Andreas
 Deputy Secretary

AMENDATORY SECTION (Amending Order 98, filed 11/18/85)

WAC 468-95-010 GENERAL. The Manual on Uniform Traffic Control Devices for Streets and Highways 1978 edition (MUTCD), approved by the Federal Highway Administrator as the national standard for all highways open to public travel; published by the U.S. Department of Transportation, Federal Highway Administration, was duly adopted by Administrative Order No. 51 of the Secretary of Transportation dated March 17, 1980. Revision No. 1 of the 1978 edition was duly adopted by Administrative Order No. 59 of the Secretary of Transportation dated March 16, 1981. Revision No. 2 of the 1978 edition was duly adopted by Administrative Order No. 93 of the Secretary of Transportation dated 12/17/84. Revision No. 3 of the 1978 edition was duly adopted by Administrative Order 98 of the Secretary of Transportation dated 11/18/85. Revision No. 4 of the MUTCD was duly adopted by Administrative Order No. 108 of the Secretary of Transportation dated February 17, 1987. The manual includes in part many illustrations, some of which depend on color for proper interpretation. The reviser has deemed it inexpedient to

convert these regulations and illustrations to the prescribed form and style of WAC and therefore excludes them from publication. Copies of the MUTCD, incorporating Revision No. 1, Revision No. 2, ~~((and))~~ Revision No. 3, and Revision No. 4 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The document is available for public inspection at the headquarters office and all district offices of the Washington state department of transportation. Further, each city, town, and county engineering office in the state will have a copy of the MUTCD with revisions in its possession.

WSR 87-05-044
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed February 18, 1987]

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 wine labels, WAC 314-24-090;

that the agency will at 9:30 a.m., Tuesday, March 24, 1987, 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 and 66.28.110.

The specific statute these rules are intended to implement is RCW 66.28.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 17, 1987

By: L. H. Pedersen
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-24-090 Wine labels.

Description of Purpose: To delete outdated language referencing the Washington State Liquor Act and to replace it with the proper statutory citations; and to correct a conflict the rule has with RCW 66.24.170 which allows wineries to sell wine at retail under specific conditions.

Statutory Authority: RCW 66.08.030 and 66.28.110.

Statutes Implemented by the Rule: RCW 66.28.110.

Summary of Rule and Reasons Supporting Proposed Action: Deleting language referencing the Washington State Liquor Act and replacing it with the proper statutory citation will make the rule more easily referenced and understood. The rule is in conflict with RCW 66.24.170 only because the rule was written prior to the

amendment of the statute. The change proposed will remove the conflict and bring the rule into compliance with the statute.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Jan Britt, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6273.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-24-090 WINE LABELS. (1) Every package or container of wine intended for sale within the state of Washington shall bear a label in compliance with ~~((section 45 of the Washington State Liquor Act ()))~~ RCW 66.28.110(7)). Such label shall show:

(a) The brand name of the wine.

(b) Class, type or other designation.

(c) The name and address of the bottler or packager, which shall be stated as follows "Bottled by" Where a bottler or packager has made not less than 75% of the wine in a particular package or container by crushing the grapes or other materials, fermenting the must and clarifying the resulting wine, there may be stated in lieu of the words "bottled by" the words "manufactured and bottled by" or "produced and bottled by." In addition to the name and address of the bottler or packager, but not in lieu thereof, there may be stated the name and address of the manufacturer or producer.

(d) The alcoholic content of the wine by volume, stated as provided in either (i) or (ii) below:

(i) "Alcohol % by volume."

(ii) "Alcohol % to % by volume."

(e) The net contents of the package or container: **PROVIDED**, That the net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the package or container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(2) No label shall be used until after the same has been submitted to, and has received a written approval of, the board (see WAC 314-24-040).

(3) No label shall be used that is misleading ~~((or))~~.

(4) Except in the case of a winery selling at retail under RCW 66.24.170(3), no label shall be used which indicates that the retailer is the producer or bottler or packager thereof, and no label shall be used which contains the name of the seller or purveyor in any manner~~((; and))~~.

(5) No "proprietary" label shall be used nor shall any label be restricted substantially to one retail outlet or to retail outlets under common ownership or associated together in, by or through a buying organization or agency or in any manner which represents a common identity to the public. The term "proprietary" label shall include any label which in the opinion of the board is being restricted in distribution by a wine wholesaler, and such restriction shall be found to exist when only token or minimal sales are made to retail licensees other than those to whom volume sales are obviously restricted, and when the label is not continuously offered and distributed to retail licensees generally in the same manner and to the same extent as unrestricted labels are offered and distributed.

WSR 87-05-045
PROPOSED RULES
LIQUOR CONTROL BOARD
 [Filed February 18, 1987]

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 Beer labels—Certificate of label approval required—Labels and product samples to be submitted—Analysis fee—Proprietary labels prohibited, WAC 314-20-020;

that the agency will at 9:30 a.m., Tuesday, March 24, 1987, 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 and 66.28.120.

The specific statute these rules are intended to implement is RCW 66.28.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 17, 1987

By: L. H. Pedersen
 Chairman

STATEMENT OF PURPOSE

Title: WAC 314-20-020 Beer labels—Certificate of label approval required—Labels and product samples to be submitted—Analysis fee—Proprietary labels prohibited.

Description of Purpose: To delete outdated language referencing the Washington State Liquor Act and to replace it with the proper statutory citation; and to correct a conflict the rule has with RCW 66.24.240 which allows breweries to sell beer at retail under specific conditions.

Statutory Authority: RCW 66.08.030 and 66.28.120.

Statutes Implemented by the Rule: RCW 66.28.120.

Summary of Rule and Reasons Supporting Proposed Action: Deleting language referencing the Washington State Liquor Act and replacing it with the proper statutory citation will make the rule more easily referenced and understood. The rule is in conflict with RCW 66.24.170 only because the rule was written prior to the amendment of the statute. The change proposed will remove the conflict and bring the rule into compliance with the statute.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Jan Britt, Supervisor, Manufacturers/Importers/Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6273.

Person or Organization Proposing Rule: Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: Not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: There will be no negative cost impact for this rule.

AMENDATORY SECTION (Amending Order 42, filed 11/6/75)

WAC 314-20-020 BEER LABELS—CERTIFICATE OF LABEL APPROVAL REQUIRED—LABELS AND PRODUCT SAMPLES TO BE SUBMITTED—ANALYSIS FEE—PROPRIETARY LABELS PROHIBITED. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with ~~(section 44 of the Washington State Liquor Act as amended (f))~~ RCW 66.28.120(~~(f)~~). No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

(2) A request for certificate of label approval must be submitted on forms prescribed by the board, together with the following:

(a) Two bottle labels or two photostatic copies of can flats of the brand and type of beer for which approval is requested, and a list of container sizes on which the label is to be used;

(b) Two product samples of approximately 12-ounce size, or one quart of the beer for chemical analysis;

(c) Payment of a fee of \$5.00 for each chemical analysis;

(d) One copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department.

(3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

(4) If a change in product has been made, a sample of such beer must be submitted for analysis, as provided in subsection (2) of this regulation. No analysis fee is required if the application is for approval of a revised label only, where no change has been made in the content of a previously approved product.

(5) No label shall be used that is misleading (~~(or)~~).

(6) Except in the case of a brewery selling at retail under RCW 66.24.240(2), no label shall be used which indicates that the retailer is the brewer or producer thereof, and no label shall be used which contains the name of the seller or purveyor in any manner(~~(-and)~~).

(7) No "proprietary" label shall be used nor shall any label be restricted substantially to one retail outlet or to retail outlets under common ownership or associated together in, by or through a buying organization or agency or in any manner which represents a common identity to the public. The term "proprietary" label shall include any label which in the opinion of the board is being restricted in distribution by a brewer, importer or wholesaler, and such restriction shall be found to exist when only token or nominal sales are made to retail licensees other than those to whom volume sales are obviously restricted, and when the label is not continuously offered and distributed to retail licensees generally in the same manner and to the same extent as unrestricted labels are offered and distributed.

~~((f))~~ (8) Every producer, importer, or wholesaler of beer shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to the analysis of that brand of beer approved originally by the board.

WSR 87-05-046

ADOPTED RULES

INSURANCE COMMISSIONER

[Order R 87-3—Filed February 18, 1987]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the approval of new mortality tables for use with annuity and pure endowment contracts and the approval of mortality tables that reflect differences in mortality between smokers and nonsmokers.

This action is taken pursuant to Notice No. WSR 87-02-066 filed with the code reviser on January 7, 1987. 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 48.02.060 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.74.030 (1)(a)(iii) and (2)(b), (c) and (e) and 48.76.050 (4)(h)(vi).

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

APPROVED AND ADOPTED February 18, 1987.

Dick Marquardt
Insurance Commissioner
By Patricia D. Petersen
Deputy Insurance Commissioner

Chapter 284-74 WAC
APPROVED INSURANCE TABLES

WAC

- 284-74-010 1983 annuity tables.
- 284-74-100 Smoker/nonsmoker mortality tables.

NEW SECTION

WAC 284-74-010 1983 ANNUITY TABLES. The purpose of this section is to recognize new mortality tables, the 1983 table "a" and the 1983 GAM table, for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

(1) The 1983 table "a" mortality table, which was developed by the society of actuaries committee to recommend a new mortality basis for individual annuity valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners (NAIC), and which is set forth in NAIC Proceedings, 1982 Vol. II, p. 454, is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued or delivered in this state on or after July 10, 1982.

(2) The 1983 table "a" referred to in subsection (1) of this section is to be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued or delivered in this state on or after January 1, 1988.

(3) The 1983 GAM mortality table, which was developed by the society of actuaries committee on annuities and adopted as a recognized mortality table for annuities in December 1983 by the NAIC, and which is set forth in NAIC Proceedings, 1984 Vol. I, pp. 414-415, and the 1983 table "a" mortality table referred to in subsection (1) of this section, are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, either table may be used for purposes of valuation for any annuity or pure endowment purchased

on or after July 10, 1982, under a group annuity or pure endowment contract.

(4) The 1983 GAM table referred to in subsection (3) of this section is to be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1988 under a group annuity or pure endowment contract.

NEW SECTION

WAC 284-74-100 SMOKER/NONSMOKER MORTALITY TABLES. The purpose of this section is to permit the use of mortality tables approved by the National Association of Insurance Commissioners (NAIC) that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

(1) As used in this section, the following definitions apply:

(a) "1980 CSO table, with or without ten-year select mortality factors," means that mortality table consisting of separate rates of mortality for male and female lives, developed by the society of actuaries committee to recommend new mortality tables for valuation of standard individual ordinary life insurance, incorporated in the 1980 NAIC amendments to the model standard valuation law and standard nonforfeiture law for life insurance and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality Table, with or without ten-year select mortality factors and set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), pp. 617 and 618, and referred to as commissioners 1980 standard ordinary mortality table (1980 CSO). The same select factors will be used for both smokers and nonsmokers tables. These select factors are set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), p. 669, and referred to therein as selection factors for alternate method of determining life insurance reserves and deficiency reserve requirements (1980 CSO with ten-year select mortality factors).

(b) "1980 CET table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the society of actuaries committee to recommend new mortality tables for valuation of standard individual ordinary life insurance, incorporated in the 1980 NAIC amendments to the standard model nonforfeiture law for life insurance and referred to in those models as the commissioners 1980 extended term insurance table, and set forth in Transactions, Society of Actuaries, Vol. XXXIII (1981), pp. 617 and 619, and referred to as commissioners 1980 extended term insurance mortality table (1980 CET).

(c) "1958 CSO table" means that mortality table developed by the society of actuaries special committee on new mortality tables, incorporated in the NAIC model standard nonforfeiture law for life insurance and referred to in that model as the commissioners 1958 standard ordinary mortality table, and set forth in Proceedings of the National Association of Insurance Commissioners, 1959, Vol. I, p. 195 (also see 1960, Vol. I, p.

211, and 1978, Vol. I, p. 537) and referred to as commissioners 1958 standard ordinary mortality table (1958 CSO).

(d) "1958 CET table" means that mortality table developed by the society of actuaries special committee on new mortality tables, incorporated in the NAIC model standard nonforfeiture law for life insurance and referred to in that model as the commissioners 1958 extended term insurance table, and set forth in Proceedings of the National Association of Insurance Commissioners, 1959, Vol. I, p. 196, and referred to as commissioners 1958 extended term insurance mortality table (1958 CET).

(e) The phrase "smoker and nonsmoker mortality tables" refers to the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in (a) through (d) of this subsection which were developed by the society of actuaries task force on smoker/nonsmoker mortality and the California insurance department staff and recommended by the NAIC technical staff actuarial group, and are published in Proceedings, National Association of Insurance Commissioners, 1984, Vol. I, pp. 402-413.

(f) The phrase "composite mortality tables" refers to the mortality tables defined in (a) through (d) of this subsection as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

(2) For any policy of insurance delivered or issued for delivery in this state after the effective date of this section and before January 1, 1989, at the option of the company and subject to the conditions stated in subsection (4) of this section:

(a) The 1958 CSO smoker and nonsmoker mortality tables may be substituted for the 1958 CSO table; and

(b) The 1958 CET smoker and nonsmoker mortality tables may be substituted for the 1958 CET table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

Provided that for any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET smoker and nonsmoker mortality tables, such minimum values may be calculated according to an age not more than six years younger than the actual age of the insured.

Provided further that the substitution of the 1958 CSO or 1958 CET smoker and nonsmoker mortality tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the effective date of this section and before a date not later than January 1, 1989.

(3) For any policy of insurance delivered or issued for delivery in this state after the effective date of this regulation, at the option of the company and subject to the conditions stated in subsection (4) of this section:

(a) The 1980 CSO smoker and nonsmoker mortality tables, with or without ten-year select mortality factors, may be substituted for the 1980 CSO table, with or without ten-year select mortality factors; and

(b) The 1980 CET smoker and nonsmoker mortality tables may be substituted for the 1980 CET table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(4) Conditions. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may:

(a) Use composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Use smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by RCW 48.74.070 and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Use smoker and nonsmoker mortality tables to determine minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(5) For purposes of determining nonforfeiture values and reserves, this section applies to all individual life insurance policies as defined in RCW 48.11.020 which are issued or delivered in this state after December 31, 1986. For purposes of RCW 48.74.070 (Minimum reserve if gross premium less than valuation net premium), this section applies to all individual life insurance policies as defined in RCW 48.11.020 which are issued or delivered in this state after December 31, 1985.

WSR 87-05-047

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Pupils, discipline—Conditions and limitations, chapter 180-40 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North, Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.04.132.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-40 WAC, Pupils.

Rule Section(s): WAC 180-40-235 Discipline—Conditions and limitations.

Statutory Authority: RCW 28A.04.132.

Purpose of the Rule(s): Further restrict the use of force upon children.

Summary of the New Rule(s) and/or Amendments: A school district may either prohibit or further limit the infliction of physical discipline by a teacher, and defines a teacher as one who holds a valid teaching certificate and provides instruction to the student upon whom physical discipline is inflicted.

Reasons Which Support the Proposed Action(s): In 1986 the legislature adopted section 1, chapter 149, Laws of 1986, which in part limits the persons who have received advance authority.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Local school districts; and Enforcement: Courts.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 6-77, filed 6/2/77, effective 8/1/77)

WAC 180-40-235 DISCIPLINE—CONDITIONS AND LIMITATIONS. Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-40-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 180-40-240: (1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) A student's academic grade or credit in a particular subject or course may be adversely affected by reason of tardiness or absences only to the extent and upon the basis that:

(a) The student's attendance and/or participation is related to the instructional objectives or goals of the particular subject or course, and

(b) The student's attendance and/or participation has been identified by the teacher pursuant to policy of the school district as a basis for grading, in whole or in part, in the particular subject or course.

(3) ~~((Corporal punishment shall be administered only in an office or some other area outside the view of other students and only by a certificated employee in the presence of and witnessed by another school district employee. Such witness shall be informed beforehand and in the student's presence of the reason(s) for the infliction of corporal punishment.))~~ Physical discipline may be inflicted upon a student for purposes of restraining or correcting the student only if expressly permitted by school district rules adopted pursuant to WAC 180-40-225, and shall be subject to the conditions set forth at subsections (4), (5), (6), and (7) of this section and such further conditions as may be established by a school district's rules.

(4) Physical discipline may be inflicted upon a student for purposes of restraining or correcting the student only by either:

(a) The student's teacher who holds a valid Washington state teaching certificate and provides instruction to the student; or,

(b) Any other certificated employee who has been authorized in advance by the student's parent or guardian to inflict physical discipline upon the student.

~~((4) No cruel and unusual form of corporal punishment shall be inflicted upon any student.))~~ (5) Physical discipline may be inflicted upon a student only:

(a) In an office or some area outside the view of other students; and,

(b) In the presence of and witnessed by another school district employee who shall be informed beforehand, and in the student's presence, of the reason for the infliction of physical discipline.

~~((5))~~ (6) Only reasonable and moderate ~~((force))~~ physical discipline shall be ~~((applied to))~~ inflicted upon a student and no form of ~~((corporal punishment))~~ physical discipline shall be inflicted upon the

head of a student. Furthermore, school district personnel are hereby advised that RCW 9A.16.100 provides in part:

"The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive."

~~((6))~~ (7) Parents or guardians, upon their request, shall be provided a written explanation of the reason(s) for the infliction of ~~((corporal punishment))~~ physical discipline and the name of the witness who was present at the time ~~((corporal punishment))~~ physical discipline was administered.

WSR 87-05-048

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Professional certification—General provisions, chapter 180-75 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North, Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-75 WAC.

Statutory Authority: RCW 28A.70.005.

Rule Section(s): Amending WAC 180-75-015, includes chapters 180-80 and 180-85 WAC within purpose of section. Eliminates language regarding exceptions to standards and delegation of State Board of Education authority to Superintendent of Public Instruction; new WAC 180-75-018, moves written notice provision from WAC 180-75-025 to this new section; new WAC 180-75-019, establishes policy regarding establishment, security, retention, and destruction of investigatory files; amending WAC 180-75-025, see comment regarding new WAC 180-75-018. Also, permits a study of the revocation process under stated conditions; new WAC 180-75-026, establishes content of agreement regarding study of revocation procedure as permitted by WAC 180-75-026(5); new WAC 180-75-034, establishes conditions for initiation of revocation proceeding; amending WAC 180-75-035, strikes material moved to WAC 180-75-081 and clarifies language with

section; new WAC 180-75-037, sets forth grounds for revocation of certificate; new WAC 180-75-038, sets forth duty of ESD superintendents to investigate written and signed complaints and conditions such duty to investigate; new WAC 180-75-039, sets forth duty of certain officials to file complaints. This is a restatement of material stricken from WAC 180-75-035; amending WAC 180-75-040, revises SPI duty to notify other states and school officials of certification status; new WAC 180-75-042, sets forth additional due process procedures regarding the implementation of RCW 34.04.170(2); new WAC 180-75-043, sets forth that intentional failure to file a complaint may be unprofessional conduct. See material stricken from WAC 180-75-035; new WAC 180-75-044, sets forth that intentional misrepresentation of a material fact in application for certification, reinstatement, or endorsement is an act of unprofessional conduct; amending WAC 180-75-065 (1)(b), an amendment to WAC 180-79-230(2) changes substitute certificates from three years to life. Amendment establishes fee for substitute certificates; amending WAC 180-75-065(3), permits fees paid for a denied certificate to be applied to an alternate certificate or re-application for same certificate; amending WAC 180-75-070(4), redefines allowable expenditures from inservice fund; amending WAC 180-75-075, eliminates reference to maintaining certificate in accordance with proposed change in WAC 180-79-065 (2)(a) and clarifies language with section; amending WAC 180-75-080, cross references of chapter 392-193 WAC and eliminates duplicative language; new WAC 180-75-081, defines good moral character and personal fitness; new WAC 180-75-082, details information to be submitted by applicant regarding good moral character and personal fitness; new WAC 180-75-083, makes good moral character and personal fitness of an educator a continuing requirement for license to practice; new WAC 180-75-084, establishes duration and standard of proof by applicants and holders whose certificates are challenged; amending WAC 180-75-085(2), clarifies that only new applicants must submit evidence of good moral character and personal fitness; amending WAC 180-75-085(6), eliminates reference to probating status; new WAC 180-75-086, permits voluntary surrender of certificates and requires full disclosure for reinstatement; amending WAC 180-75-087, includes surrendered or revoked certificate within reinstatement requirements; and new WAC 180-75-199, establishes an advisory committee to prepare a code of professional conduct for educators.

Purpose of the Rule(s): [No information supplied by agency.]

Summary of the New Rule(s) and/or Amendments: [No information supplied by the agency.]

Reasons Which Support the Proposed Action(s): Chapter 180-75 WAC contains admission and revocations standards for all professional certificates. The changes proposed establish administrative standards for the implementation of state board policy. In addition, several practices are being altered.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Charles R. "Bob" Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 10-78, filed 9/1/78)

WAC 180-75-015 EQUIVALENCY OF STANDARDS. Reasonable flexibility in interpretation of the requirements contained in this chapter and in chapters 180-77, 180-78, ~~((and)) 180-79, 180-80, and 180-85 WAC~~ may be applied consistent with the intent and spirit of the requirements of the appropriate chapter. ~~((Exceptions to specific requirements will be considered. It shall be the responsibility of the superintendent of public instruction or his or her designee to make the final decision concerning approval of any exception.))~~

NEW SECTION

WAC 180-75-018 WRITTEN NOTICE OF DENIAL, LAPSING, OR REVOCATION BY SUPERINTENDENT OF PUBLIC INSTRUCTION. Whenever the superintendent of public instruction takes action to deny an application or to lapse or revoke a certificate, the superintendent of public instruction, in accordance with the provisions of this chapter, shall report such decision to the applicant or affected certificate holder by written notice stating the reason(s) for such action and containing notice of applicable administrative appeal procedures provided in this chapter.

NEW SECTION

WAC 180-75-019 INVESTIGATORY FILES—ESTABLISHMENT, SECURITY, DISCLOSURE, RETENTION, AND DESTRUCTION. The following policies shall apply to investigatory files established by the superintendent of public instruction:

(1) Establishment. Upon receipt of any negative material relating to good moral character, personal fitness, and professional conduct as defined in WAC 180-75-037 and 180-75-081 or which forms the basis for initiation of a certificate revocation investigation pursuant to WAC 180-75-035, that section within the office of the superintendent of public instruction having responsibility for certification shall establish an investigatory file which shall contain all information related to the good moral character, personal fitness, and professional conduct in question.

(2) Security. The investigatory file shall be maintained separately from an applicant's or a certificate holder's noninvestigatory certification file and shall be kept in a secured storage area with access limited to the chief administrator responsible for certification and the assigned investigator and/or designated staff assistants of such investigator.

(3) Disclosure. The information in the investigatory file shall be exempt from public disclosure and copying pursuant to RCW 42.17.310 (1)(d). In response to a public records request concerning material in an investigatory file made by someone other than the certificate holder or applicant, the assigned investigator in the office of the superintendent of public instruction shall notify the requestor that the existence of or material in an investigatory file, pursuant to RCW 42.17.310 (1)(d), is exempt from public disclosure.

(4) Retention and destruction. Investigatory files shall be retained and destroyed pursuant to the following policies:

(a) If an applicant or certificate holder receives written notice, pursuant to WAC 180-75-018, of denial for failure to possess good moral character or personal fitness or of cause for revocation, the investigatory file related thereto shall not be destroyed until such affected party reaches the age of seventy or until such time as the chief administrator for certification determines, with a high degree of certainty, that the information within such file would not be relevant to a subsequent application for or reinstatement of a certificate or a subsequent revocation action. An affected party may request the chief administrator of certification, once in each calendar year, to make such a determination and either to destroy his or her investigatory file or to advise the affected party of the reason or reasons for the decision to retain such file.

(b) In all other cases, investigatory files shall be destroyed no later than one year after the date of establishment unless the chief administrator for certification, prior to such date, determines that the information within such file is or might be relevant either for investigatory and/or adjudication purposes in a current or subsequent revocation investigation or action and, in which case, the investigatory file shall be destroyed ten years after the file has been closed, which for the purpose of this section means the last date upon which the file was reviewed for an investigatory purpose. An affected party may request the chief administrator of certification, once in each calendar year, to make a determination as to current or subsequent relevancy of the information within his or her file and either to destroy his or her investigatory file or to advise the affected party of the reason or reasons for the decision to retain such file.

AMENDATORY SECTION (Amending Order 6-86, filed 6/10/86)

WAC 180-75-025 APPEAL PROCEDURE—INFORMAL SPI REVIEW. Any person who appeals the decision to deny his or her application, the lapsing of his or her certificate pursuant to chapter 180-85 WAC or the proposed order to revoke his or her certificate must file a written notice with the superintendent of public instruction within thirty calendar days following the date of mailing from the section of the superintendent of public instruction's office responsible for certification of the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke his or her certificate. ~~((Such decision shall state the reasons for the denial, lapsing, or revocation.))~~

The written notice must set forth the reasons why the appellant believes his or her application should have been granted or why his or her certificate should not be lapsed or revoked, whichever is applicable.

Following timely notice of appeal, the superintendent of public instruction shall appoint a review officer who shall be someone other than the person or persons who denied the application, approved the lapsing, or the proposed revocation initially and who is not a subordinate of such person.

The review officer shall:

(1) Review the application, notice of lapsing, or proposed revocation, whichever is applicable, and appeal notice and may request further written information including but not limited to an explanation from the person or persons who initially reviewed the application or decided to lapse the certificate or to issue the proposed order to revoke the certificate, whichever is applicable, of the reason(s) why the application was denied or the certificate was lapsed or should be revoked.

(2) If he or she deems it advisable, schedule an informal meeting of the appellant, the person or persons who denied the application, lapsed the certificate, or proposed to revoke the certificate initially, and any other interested parties designated by the reviewing officer to receive oral information concerning the application, lapsing, or revocation. Any such meeting must be held within thirty days of the date of receipt by the superintendent of public instruction of the timely-filed appeal notice.

(3) Send by certified mail a written decision—i.e., findings of fact and conclusions of law—on the appeal within forty-five days from the date of receipt of the timely-filed appeal notice by the superintendent of public instruction. The ~~((reviewing))~~ review officer may uphold, reverse, or modify the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke the certificate.

(4) The timelines stated herein may be extended by the review officer for cause.

(5) Provided, that in the case of an action for revocation of a certificate, the review officer, if so requested by an appellant, shall delay any review under this section until all administrative or judicial proceedings (i.e., criminal and civil actions), which the review officer and the appellant agree are factually related to the revocation proceedings, are completed, including appeals, if the appellant signs the agreement stated in WAC 180-75-026. In requesting such delay, the appellant shall disclose fully all pending administrative proceedings in which the appellant is involved.

NEW SECTION

WAC 180-75-026 AGREEMENT NOT TO CONTINUE OR ACCEPT EDUCATIONAL EMPLOYMENT. The agreement required for deferring revocation proceedings pursuant to WAC 180-75-025 shall read as follows:

"I,, have received notice that the office of superintendent of public instruction believes sufficient cause exists for the revocation of the following certificate(s):

- (1) Cert. No.
- (2) Cert. No.

As a condition to a delay in the hearing date, I agree not to commence or continue employment in any Washington public or private school or agency in a position requiring such certificate until the office of superintendent of public instruction dismisses the case without a hearing or until a hearing has been held and the final decision is rendered by the superintendent of public instruction. I further agree to advise the review officer assigned to my revocation proceedings, pursuant to WAC 180-75-025, of all decisions rendered in any administrative or judicial tribunal and all appeals therefrom which the review officer and I have agreed are factually related to the action to revoke my certificate(s). I understand my failure to abide by this agreement is an act of unprofessional conduct and, therefore, may be sufficient cause for revocation of my certificate(s)."

NEW SECTION

WAC 180-75-034 CERTIFICATE REVOCATION—INITIATION OF PROCEEDINGS. The initiation of revocation proceedings by the superintendent of public instruction shall commence as a result of the following:

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that a certificated employee has been arrested for any felony offense included within WAC 180-75-081(1), the superintendent of public instruction or the designated administrative officer shall cause an investigation pursuant to WAC 180-75-035(1).

(2) In all other cases, the initiation of investigative proceedings pursuant to WAC 180-75-035(1) shall commence only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school. Such written complaint shall state the grounds for revocation and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected certificate holder with a copy of such written complaint.

AMENDATORY SECTION (Amending Order 6-86, filed 6/10/86)

WAC 180-75-035 CERTIFICATE REVOCATION AND SUBSEQUENT REINSTATEMENT. ~~((The state board of education considers it to be the professional obligation of each school district superintendent or nonpublic school administrator and each educational service district superintendent to file a written complaint with the superintendent of public instruction pursuant to RCW 28A.70.160 against any certificated employee who:~~

~~((1) Has committed or is guilty of (a) immorality, (b) a violation of written contract, (c) intemperance, (d) a crime against the law of the state, or (e) an act of unprofessional conduct that is of a nature which may justify the revocation of the individual's certificate to be employed in the schools; or~~

~~((2) Has been convicted of any crime involving the physical neglect of children, injury of children (excepting possible motor vehicle violations) or the sexual abuse of children.))~~

The following shall apply to revocation and subsequent reinstatement:

(1) Revocation. Upon receipt of ~~((any such))~~ information of an arrest for any offense included within WAC 180-75-081(1) or a written complaint pursuant to WAC 180-75-034(2), that section within the office of the superintendent of public instruction having responsibility for certification shall investigate the complaint. If sufficient cause for revocation of the individual's certificate(s) is determined to exist, the section shall notify the holder by certified mail of its finding of sufficient cause in the form of a proposed order—i.e., findings of fact and conclusions of law—and shall further advise the holder of the appeal procedures specified in WAC 180-75-020, 180-75-030 and 180-75-033. The notice shall further specify that the superintendent of public instruction will sign the order after thirty calendar days from the date of mailing if the proposed order is not appealed.

(2) Reinstatement. In accordance with RCW 28A.70.180 an individual may become eligible to ~~((receive))~~ reinstate a certificate after a

period of one calendar year from the date of revocation. The superintendent of public instruction or his or her designee shall consider the application of an individual whose certificate has been revoked and, based upon application and such other information as deemed appropriate, determine whether a certificate shall be ~~((issued))~~ reinstated.

NEW SECTION

WAC 180-75-037 CERTIFICATE REVOCATION—
FOUNDATIONS FOR REVOCATION. The grounds for the revocation of professional education certificates are as follows:

(1) The lack of good moral character and/or personal fitness as defined in WAC 180-75-081.

(2) Unprofessional conduct, including the related acts of immorality, intemperance, and violation of written contract: **PROVIDED**, That until the state board of education adopts a code of professional conduct pursuant to WAC 180-75-199, the ground of unprofessional conduct shall be limited to civil acts expressly prohibited by law, including statutes, common law, and administrative rules of the state board of education: **PROVIDED FURTHER**, That unprofessional conduct shall not include matters related to employment with a particular public or private school employer, such as insubordination, violation of a collective bargaining act, or other employment related acts correctable by the employer or other civil remedies.

NEW SECTION

WAC 180-75-038 DUTY OF EDUCATIONAL SERVICE DISTRICT SUPERINTENDENT TO INVESTIGATE COMPLAINTS. Each educational service district superintendent shall cause to be investigated all written and signed complaints from whatever source, that allege that a certificated education professional within his or her educational service district is not of good moral character or personal fitness as defined in WAC 180-75-081 or has committed an act of unprofessional conduct as defined in WAC 180-75-037. If the educational service district superintendent determines the facts are reliable and further investigation by the superintendent of public instruction pursuant to WAC 180-75-035 is warranted, the educational service district superintendent shall forward the written complaint and the results of his or her investigation to the superintendent of public instruction: **PROVIDED**, That if the educational service district superintendent, after consultation with the assistant attorney general assigned to his or her educational service district, determines that the substance of the complaint would not constitute grounds for revocation if true, then such educational service district superintendent need not investigate the complaint: **PROVIDED FURTHER**, That if the educational service district superintendent receives a written assurance from the superintendent of public instruction, a district superintendent, or a chief administrative officer of an approved private school that such official is investigating the same or a substantially similar complaint, the educational service district superintendent shall be deemed to have caused an investigation in compliance with this section.

NEW SECTION

WAC 180-75-039 DUTY OF ESD SUPERINTENDENT, DISTRICT SUPERINTENDENT AND PRIVATE SCHOOL ADMINISTRATOR TO FILE COMPLAINTS. Whenever an educational service district superintendent, a district superintendent, or the chief administrative officer of an approved private school possesses sufficient reliable information to believe that a certificated employee within such district or approved private school is not of good moral character or personally fit or has committed an act of unprofessional conduct, such superintendent or chief administrative officer shall file a written complaint with the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 6-86, filed 6/10/86)

WAC 180-75-040 NOTIFICATION OF DENIAL, SURRENDER, LAPSING, OR REVOCATION OF CERTIFICATES. The ~~((office of the))~~ superintendent of public instruction shall notify all other states ~~((that))~~ whenever an applicant has been denied a certificate for failure to possess good moral character or personal fitness or whenever a certificate has been surrendered or revoked and shall provide the full name and certificate number, if applicable, to the agency responsible for certification in each state. ~~((A notice of revocation of a certificate may be made to educational agencies within the state of Washington))~~ The superintendent of public instruction shall notify appropriate public or private school officials within the state the name

and certification number of all certificate holders' whose certificate(s) has been lapsed, surrendered, or revoked: **PROVIDED**, That such notification shall not be made prior to forty-five days after the final administrative order and shall not be made if a court order staying the denial, lapsing, or revocation is in effect.

NEW SECTION

WAC 180-75-042 EMERGENCY SUSPENSION OF CERTIFICATE. Notwithstanding any other provision of this chapter, the superintendent of public instruction, pursuant to RCW 34.04.170(2), may emergency suspend a certificate if the superintendent of public instruction finds that the public health, safety, or welfare of students, colleagues, or the general public imperatively requires emergency action. In such cases, the holder of the certificate who is subjected to emergency suspension of his or her certificate shall have the right to commence an informal review of such action pursuant to WAC 180-75-025 within forty-eight hours of filing a notice of appeal with the superintendent of public instruction or, if applicable, to sign an agreement pursuant to WAC 180-75-026. If such an agreement is signed or, if not, unless the review officer sustains the emergency action of the superintendent of public instruction within seven calendar days of the filing of the notice of appeal, the emergency suspension shall be void.

NEW SECTION

WAC 180-75-043 UNPROFESSIONAL CONDUCT FOR FAILURE TO FILE A COMPLAINT. The intentional failure of an educational service district superintendent, a district superintendent, or a chief administrator of a private school to file a complaint pursuant to WAC 180-75-039 is an act of unprofessional conduct and may be sufficient cause for revocation of such person's professional education certificate.

NEW SECTION

WAC 180-75-044 UNPROFESSIONAL CONDUCT FOR MISREPRESENTATION OF FACTS. The intentional misrepresentation of material facts in an application for certification, reinstatement thereof, or endorsement thereon is an act of unprofessional conduct and may be sufficient cause for the revocation of such person's professional education certificate.

AMENDATORY SECTION (Amending Order 15-85, filed 7/29/85)

WAC 180-75-065 FEE FOR CERTIFICATION. (1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

- (a) The continuing certificate is seventy dollars;
- (b) The reinstatement, additional endorsement on the certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change is fifteen dollars; and
- (c) Any other certificate or credential or any renewal thereof shall be five dollars for each year of validity;
- (d) **PROVIDED**, That the fee for all vocational certificates shall be one dollar.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.70.110. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as a credit to a reapplication for the same or one or more other certificates if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-070 USE OF FEE FOR CERTIFICATION. (1) Certification fees will be used solely for precertification professional preparation, professional inservice training programs, teachers' institutes and/or workshops, and evaluations thereof in accordance with this chapter.

(2) Precertification professional preparation:

(a) A subcommittee of the state professional education advisory committee as established in WAC 180-78-015 shall assist the superintendent of public instruction in administration of precertification program funds by annually establishing priorities and procedures for distribution of funds available for precertification activities. The primary utilization shall be to support collaborative efforts essential to program development, program evaluation, and assessment of candidates' entry and exit competency.

(b) Funds set aside for precertification shall not supplant funds already available to any participating agency.

(c) A single educational service district shall be designated to administer the funds allocated for precertification programs. The designated educational service district shall be permitted to retain up to five percent of the precertification fees for costs related to administering these funds.

(d) Each quarter every educational service district shall forward the moneys designated for precertification programs to the educational service district designated to administer such programs.

(3) Professional inservice training programs and teachers' institutes and/or workshops:

(a) Each educational service district, or cooperative thereof as specified in subparagraph (d) of this subsection, shall establish an inservice committee composed of an educational service district representative; at least one district superintendent; one principal; one educational staff associate; one elementary, one junior high and one senior high teacher; one representative from the elementary or secondary level of private schools within the educational service district; and one representative selected by the chief administrative officer responsible for professional education from a college/university having a state board of education approved teacher education program. Teacher representatives shall be selected by agreement among the presidents of the local education associations within the respective educational service district or cooperative thereof.

(b) The educational service district representative shall serve as chairperson of the inservice committee and provide liaison with the superintendent of public instruction and the state board of education.

(c) The inservice committee will be responsible for coordinating inservice/staff development model programs within the educational service district and shall submit to the superintendent of public instruction and the state board of education a plan for soliciting and selecting model programs which shall include procedures for conducting needs assessments, determining priorities and carrying out program evaluation.

(d) Cooperative agreements may be made among educational service districts to provide quality inservice education programs.

(e) Funds designated for inservice programs shall not supplant funds already available for such programs.

(4) Allowable expenditures. Funds may be used to support costs related to training, such as the payment of professional contractual services, per diem, travel costs, materials, printing, or released time. Nonallowable costs (~~(, except when approved in advance by the superintendent of public instruction or his or her designee;)~~) are college/university tuition and fees (~~(and the rental or purchase of facilities or equipment)~~).

(5) Annual reporting. The superintendent of public instruction shall prepare and present to the state board of education an annual report concerning the use of certification fees for precertification and inservice activities.

AMENDATORY SECTION (Amending Order 8-80, filed 6/2/80)

WAC 180-75-075 EDUCATIONAL EXPERIENCE ACCEPTABLE FOR CERTIFICATION. (1) (~~(Experience for obtaining, maintaining and renewing certification:)~~) In order to satisfy experience requirements for obtaining (~~(, maintaining)~~) and renewing a certificate, an individual must complete experience in an educational setting as defined in WAC 180-79-010 or as authorized for a vocational certificate in chapter 180-77 WAC.

(2) Any year during which an individual unsuccessfully completes a probationary period and has been discharged or nonrenewed in accordance with RCW 28A.67.065 and 28A.67.070 shall not be considered a year of experience for purposes of obtaining, maintaining or renewing a certificate.

AMENDATORY SECTION (Amending Order 5-79, filed 5/22/79)

WAC 180-75-080 CITIZENSHIP REQUIREMENTS—(~~(ALIEN PERMITS—TEACHERS ONLY))~~ EXCEPTIONS. Except as provided in chapter 392-193 WAC, no person who is not a citizen of the United States of America shall be ((permitted)) certified to teach in the common schools of this state ((, PROVIDED, That the superintendent of public instruction may grant an alien a permit pursuant to WAC 180-75-090. PROVIDED FURTHER, That after a one-year probationary period the superintendent of public instruction, at the written request of the superintendent or his or her designee, or the school organization which employed such person on a permit, may grant to an alien who is otherwise qualified as determined by the superintendent of public instruction or his or her designee a certificate for which the applicant is otherwise qualified under this chapter)).

NEW SECTION

WAC 180-75-081 GOOD MORAL CHARACTER AND PERSONAL FITNESS—DEFINITION. As used in this chapter, the terms "good moral character and personal fitness" means character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character to have contact with and to teach children and personal fitness necessary to perform supervision of children and includes the following:

(1) No conviction of any felony crime involving:

(a) Physical neglect of children;

(b) The physical injury of children, excepting motor vehicle violations; and

(c) The sexual abuse of children.

Provided, that the general classes of felony crimes referenced within (a) and (b) of this subsection shall be limited in application to felony crimes in the state of Washington and equivalent federal and crimes in other states committed against children and which, in fact, caused bodily harm to such children greater than transient pain or minor temporary marks; provided further, that the general class of felony crime referenced within (c) of this subsection shall be limited in application to felony crimes in the state of Washington and equivalent federal and crimes in other states committed against children.

(2) No conviction of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as a professional within the public and private schools of the state. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to practice, the following considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as a professional educator within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness; and

(h) If this section is applied to a person certified under the laws of the state of Washington in a revocation action, the effect on the education profession, including any chilling effect shall be weighed.

(3) No serious behavioral problems which endanger the educational welfare or personal safety of students, teachers, or other colleagues within the educational setting.

NEW SECTION

WAC 180-75-082 GOOD MORAL CHARACTER AND PERSONAL FITNESS—NECESSARY SUPPORTING EVIDENCE BY APPLICANTS. All applicants for certification shall submit the following:

(1) An affidavit from the applicant indicating that he or she has not been convicted of any crime or a complete disclosure of all arrests and subsequent dispositions of such arrests. In the event of a conviction for any arrest, the applicant shall state reasons why such conviction does not reflect adversely on the requirement to possess good moral character and be personally fit.

(2) An affidavit from the applicant that he or she has no history of serious behavioral problems or a complete disclosure of the nature and status of all such problems, including the names and addresses of health practitioners who have treated the applicant within the past ten years and an executed consent form permitting the superintendent of public instruction to contact and consult with such health practitioners and for such health practitioners to fully disclose medical information related to such behavioral problems.

(3) An affidavit from the dean of the college or school of education or one or more officials designated by such dean, or, if none, by the college or university president, where the applicant completed his or her approved preparation program, that indicates that a designated college or university official has contacted several faculty members who personally know or knew the applicant and has no knowledge that the applicant has been convicted of any crime and has no knowledge that the applicant has a history of any serious behavioral problems or a statement from such affiant of the reasons why it is not possible to make such an affidavit.

(4) Provided, that, if the affidavit described in subsection (3) of this section is impossible or impractical to obtain, the applicant shall submit to the superintendent of public instruction the following:

(a) A statement as to why it is impossible or impractical to secure the affidavit required by subsection (3) of this section;

(b) A complete employment history, including the names, addresses, and phone numbers of the immediate supervisor of such applicant when an employee; and

(c) The names, addresses, and phone numbers of three character references who are not related to the applicant.

(5) If the applicant holds or has held a professional certificate in any other state, such applicant shall prepare one of the following affidavits for each such state:

(a) An affidavit that such certificate has not been suspended, surrendered, or revoked. Such affidavit shall be forwarded to the licensing agency in such state with a request that such affidavit be verified and forwarded directly to the superintendent of public instruction.

(b) An affidavit which shall fully disclose the reasons for the suspension, surrender, or revocation of the certificate. Such affidavit shall be submitted directly to the superintendent of public instruction.

NEW SECTION

WAC 180-75-083 GOOD MORAL CHARACTER AND PERSONAL FITNESS—CONTINUING REQUIREMENT. The good moral character and personal fitness requirement of applicants for certification under the laws of the state of Washington is a continuing requirement for holding a professional educational certificate under regulations of the state board of education.

NEW SECTION

WAC 180-75-084 GOOD MORAL CHARACTER, PERSONAL FITNESS, AND UNPROFESSIONAL CONDUCT—BURDEN AND STANDARD OF PROOF. The following burden and standard of proof shall be applicable for denial and revocation of a certificate for failure to meet the requirement to possess good moral character and personal fitness:

(1) If an application for certification or reinstatement has been denied by the superintendent of public instruction, the evidence submitted by the applicant must prove by clear and convincing evidence that he or she is of good moral character and personal fitness or the application will be denied.

(2) In a revocation proceeding, the superintendent of public instruction must prove by clear and convincing evidence that the certificate holder is not of good moral character or personal fitness or has committed an intentional act which constitutes unprofessional conduct.

AMENDATORY SECTION (Amending Order 5-79, filed 5/22/79)

WAC 180-75-085 GENERAL REQUIREMENTS—TEACHERS, ADMINISTRATORS, EDUCATIONAL STAFF ASSOCIATES. The following requirements are to be met by candidates for certification as teachers, administrators, or educational staff associates:

(1) Age. No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) Character. Applicants for certificates in Washington state who are not holders of a valid Washington state teacher's, administrator's, or educational staff associate's certificate must give evidence of good moral character(;) and personal fitness(, and no convictions for crimes involving the physical neglect of children, physical injury of children (excepting possible motor vehicle violations), or sexual abuse of children as verified by a signed affidavit. PROVIDED, That the superintendent of public instruction may issue an emergency certificate pursuant to WAC 180-79-230 to an applicant who is on parole or probation)) as specified in WAC 180-75-082.

(3) Competency. A candidate for certification shall demonstrate knowledge and skill in the areas specified by the state board of education as minimum generic standards for the respective certificate type and level set forth in WAC 180-79-130 through 180-79-210.

(4) Academic. A candidate for certification shall have successfully completed an approved program or have qualified under WAC 180-75-100 and/or 180-79-245 through 180-79-250: PROVIDED, That no more than five quarter hours of correspondence credit shall be acceptable toward continuing level certification.

(5) Experience. All candidates for continuing level certification shall have completed three years of certificated service in the respective role in an educational setting.

(6) ((Probationary status. A certificate shall not be issued to any candidate who is in a probationary status as defined in RCW 28A.67-.065 as teacher, educational staff associate, or administrator at the time of application for a certificate.

(7)) Program completion. A candidate for an initial or continuing certificate shall provide verification that he/she has completed an approved preparation program.

Subsections (3), (4) and (5) of this section shall not apply to vocational certificates. Vocational certificates are issued under academic and experience requirements set forth in chapter 180-77 WAC.

NEW SECTION

WAC 180-75-086 VOLUNTARY SURRENDER OF CERTIFICATES. A holder of a certificate who has not received notice of probable cause for revocation of his or her certificate pursuant to WAC 180-75-035 may voluntarily surrender his or her certificate to the superintendent of public instruction if the certificate holder believes that he or she is or might be ineligible to hold a certificate for any reason which is or might constitute grounds for revocation of the certificate other than conviction of a felony crime stated within WAC 180-75-081(1).

A certificate holder voluntarily surrendering a certificate shall provide the superintendent of public instruction the following affidavit:

"I,, have reason to believe that I am or might be ineligible to hold a certificate(s) for reasons which do or might constitute grounds for revocation of the certificate(s). Accordingly, I hereby voluntarily surrender the following certificate(s):

- 1. Cert. No.
- 2. Cert. No.

I have not been to the best of my knowledge convicted of any felony crime listed within WAC 180-75-081(1).

I agree, if I request reinstatement of the certificate(s) I have voluntarily surrendered, to provide the superintendent of public instruction with an affidavit describing in full the reasons for my voluntary surrender of the certificate(s) listed above. I further understand that the superintendent of public instruction will notify other states and public and private school officials within the state of Washington that I have voluntarily surrendered my certificate(s)."

Upon request for reinstatement of such certificate, the applicant must comply with WAC 180-75-087 and, in addition, must disclose in

full the reasons for the voluntary surrender of the certificate. In the event, if the surrendered certificate would have expired or lapsed but for the surrendering of the certificate, the applicant must meet all requirements for reinstating an expired or lapsed certificate.

AMENDATORY SECTION (Amending Order 6-86, filed 6/10/86)

WAC 180-75-087 REINSTATEMENT OF CERTIFICATES. Holders of expired ((or)), lapsed, surrendered, or revoked professional certificates at the time of application for reinstatement of such certificates must submit the following:

(1) Character evidence as required by WAC 180-75-085(2) for candidates for certification.

(2) An affidavit that they have not intentionally and knowingly practiced with an expired ((or)), lapsed, surrendered, or revoked certificate in a professional position for which certification is required under the rules of the state board of education or the submission of a statement why such practice, if conducted, should not reflect on such applicant's good moral character or personal fitness at the time of application.

NEW SECTION

WAC 180-75-199 CODE OF PROFESSIONAL RESPONSIBILITY FOR CERTIFICATED EDUCATIONAL PROFESSIONALS. The state board of education acknowledges that RCW 28A.70.160 permits the revocation of certificates for unprofessional conduct and certain related acts such as immorality, intemperance, and violation of written contract which probably are included within the concept of unprofessional conduct. The state board of education also acknowledges that due process of law requires that certified professional practitioners should not be denied the right to practice their profession for acts of unprofessional conduct unless notice has been received that such acts are included within unprofessional conduct. Therefore, the state board of education directs the superintendent of public instruction to appoint and provide necessary staff assistance to an advisory committee, described below, which shall have the responsibility to draft a code of professional conduct for certified educational professions and to present such code, including minority recommendations, to the state board of education in the form of proposed regulations no later than January, 1989. In addition to the responsibility for a code of professional responsibility, the advisory committee shall examine the desirability of establishing sanctions other than revocation, such as suspension and letters of reprimand, and the desirability of providing for professional and lay involvement in the administration of such code. Prior to making appointments to the advisory committee created by this section, the superintendent of public instruction shall consult with one or more officers within recognized professional and other educational organizations regarding possible appointments to the advisory committee. Such advisory committee shall consist of the following:

- (1) Four classroom teachers, one of which shall be a private school teacher.
- (2) Two educational staff associates.
- (3) Three principals.
- (4) One program director.
- (5) One superintendent.
- (6) One school board member.
- (7) One parent.

WSR 87-05-049
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Professional certification—Preparation program development and approval, chapter 180-78 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North,

Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.02.204 [28A.70.005].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-78 WAC.

Statutory Authority: RCW 28A.70.005.

Rule Section(s): New WAC 180-78-003 sets for [forth] authority for chapter; amending WAC 180-78-005 eliminates unnecessary language; amending WAC 180-78-010(1) eliminates reference to NASDTEC; amending WAC 180-78-010(5) changes subject matter field to subject area; amending WAC 180-78-010(7) eliminates language unnecessary to definition of interstate compact; amending WAC 180-78-025 eliminates transition language and changes school specialized personnel to educational staff associate consistent with other administrative rules; new WAC 180-78-191 sets forth new requirement for exit examination in certification process; new WAC 180-78-192 establishes panel of examiners and prescribes duties; new WAC 180-78-193 sets forth mandatory topics for exit examination; new WAC 180-78-194 sets forth mandatory parts for teachers, administrators, and educational staff associates; new WAC 180-78-195 sets forth administrative requirements associated with exit examination; new WAC 180-78-197 permits pilot testing of exit examination prior to required date; new WAC 180-78-198 requires initial generic requirements to be revised by September 1987; and new WAC 180-78-199 requires state administered entry examination standards to be submitted to State Board of Education by July 1994.

Purpose of the Rule(s): [No information supplied by agency.]

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): It is the policy of the State Board of Education to require an admission to practice examination for professional educators. These rules provide a transition to the implementation of such an examination by permitting, on an interim basis, colleges and universities to establish and administer such an examination. In addition, numerous housekeeping changes are proposed to clarify and update provisions within the chapter.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Charles R. "Bob" Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 180-78 WAC
PROFESSIONAL CERTIFICATION—PREPARATION PROGRAM DEVELOPMENT AND APPROVAL

NEW SECTION

WAC 180-78-003 AUTHORITY. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility and certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.04.120 (1) and (2) which authorizes the state board of education to approve professional preparation programs in institutions of higher education.

AMENDATORY SECTION (Amending Order 5-78, filed 5/26/78)

WAC 180-78-005 PURPOSE. The purposes of this chapter are to implement RCW 28A.04.120 (1) and (2) and to establish the procedures, standards, and criteria to be used in the development and approval of preparation programs offered by institutions of higher education in Washington state leading to teacher, ((school)) administrator, and ((school specialized personnel)) educational staff associates ((t)) certification.

AMENDATORY SECTION (Amending Order 12-78, filed 9/1/78)

WAC 180-78-010 DEFINITION OF TERMS. The following definitions shall be used in this chapter:

(1) "Accreditation" ((staff)) means a process whereby a preparation program is reviewed and determined by an accrediting agency to meet prespecified standards. Programs may be accredited by states, regional accrediting associations, or national professional organizations such as the national council for accreditation of teacher education (NCATE) ((or the national association of state directors of teacher education and certification (NASDTEC))). Such accreditation shall not replace state board of education program approval in Washington state.

(2) "Agency" ((staff)) means those groups, entities, associations, and the like recognized in WAC 180-78-030 as having a legitimate interest in the development of preparation programs.

(3) "College or university" ((staff)) means any baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops professional programs of preparation in education which are submitted to the state board of education for approval.

(4) "Cooperation" ((staff)) means the act of working together in a participatory mode.

(5) "Endorsement" ((staff)) means a specification placed on a certificate to indicate the subject ((matter field)) area, grade level, and/or specialization for which the individual is prepared to teach or serve as an administrator or educational staff associate.

(6) "General professional organization" ((staff)) means the professional organization determined in accordance with election procedures defined in RCW 41.59.070 or a cooperative group of such employee representative organizations.

(7) "Interstate compact" ((staff)) means the contractual agreement among several states authorized by RCW 28A.93.010 and 28A.93.020 which facilitates interstate reciprocity ((and guarantees graduates of institutions having approved programs in such states regular beginning certification in any state party to the compact)).

(8) "Minimum generic standards" ((staff)) means those basic areas of knowledge and skill adopted by the state board of education as essential to a given professional role.

(9) "Program approval" ((staff)) means the approval by the state board of education of a preparation program within Washington state.

(10) "Program development" ((staff)) means the cooperative process employed to identify program outcomes and experiences essential to program approval.

(11) "Program outcomes" ((staff)) means the explicit objectives of preparation programs stated in terms of knowledge, skill, and performance.

(12) "Program unit" ((staff)) means a group of cooperating agencies in Washington state, the specific membership and form of which

shall be established by the participating members. Any such unit must include at least one college/university, one school organization, and one general or specialized professional organization.

(13) "School organization" ((staff)) means any public or approved nonpublic school system or district or cooperative group of such organizations.

(14) "Site visit" ((staff)) means the process of an on-site review of preparation programs conducted pursuant to WAC 180-78-035 and 180-78-040.

(15) "Specialized associations" ((staff)) means the state-wide professional organization(s) recognized by the state board of education as having legitimate interest in the preparation of a respective professional role.

AMENDATORY SECTION (Amending Order 6-81, filed 6/1/81)

WAC 180-78-025 PROGRAM APPROVAL. ((Compliance date:)) All programs leading to certification offered in Washington state to prepare teachers, administrators, and ((school specialized personnel)) educational staff associates shall be approved ((under)) pursuant to the requirements of this chapter ((no later than September 1, 1983)).

NEW SECTION

WAC 180-78-191 EXIT EXAMINATION REQUIREMENT—REQUIRED FOR PROGRAM APPROVAL. Commencing January 1, 1990, no college or university's preparation program shall be or continue to be approved by the state board of education unless such college or university requires all candidates recommended for certificates to pass an exit examination administered in accordance with the provisions of WAC 180-78-192 through 180-78-195.

NEW SECTION

WAC 180-78-192 EXIT EXAMINATION REQUIREMENT—PANEL OF EXAMINERS. The chief administrator for professional preparation in education as designated by the college or university president shall appoint annually a panel of examiners which shall have the following duties:

(1) Prepare questions to be used on each exit examination. Such questions shall consist primarily of essay questions but may consist of some objective questions.

(2) Recommend to the chief administrator prior to the administration of such examination the passing score for each part of the examination.

(3) Supervise the administration and grading of the examination.

NEW SECTION

WAC 180-78-193 EXIT EXAMINATION REQUIREMENT—MANDATORY TOPICS. The examination shall be divided into four parts as follows:

(1) Part I shall address each of the initial generic standards common to and required in the training of all candidates for professional certification—i.e., teachers, administrators, and educational staff associates.

(2) Part II shall address each of the initial generic standards common to and required in the training of all candidates for teaching certificates.

(3) Part III shall address each of the initial generic standards common to and required in the training of all candidates for educational staff associates certificates.

(4) Part IV shall address each of the initial generic standards common to and required in the training of all candidates for administrative certificates.

NEW SECTION

WAC 180-78-194 EXIT EXAMINATION REQUIREMENTS—MANDATORY PARTS FOR CERTIFICATION. As a condition for recommendation for certification by an institution of higher education, candidates must pass the following parts.

(1) Candidates for teacher, administrator, and educational staff associate certificates must pass Part I.

(2) Candidates for teacher certificates must pass Part II.

(3) Candidates for educational staff associate certificates must pass Part III.

(4) Candidates for administrator certificates must pass Part IV.

(5) Provided, that candidates who provide satisfactory evidence of passage of one or more of the above noted parts at such or another Washington state college or university shall not be required to retake such part or parts.

NEW SECTION

WAC 180-78-195 EXIT EXAMINATION REQUIREMENT—STANDARDS FOR ADMINISTRATION. The following standards shall govern the administration of the examination:

- (1) The examination shall be administered at least twice per calendar year, and shall be separate from the examination required in any college or university course.
- (2) Candidates shall take only the parts of the examination applicable to the type of certification for which they are completing an approved preparation program and college and universities may impose restrictions on the number of times any candidate may stand for all or part of the examination.
- (3) The examination shall be monitored to ensure against cheating and to ensure an atmosphere conducive to testing. Such monitoring shall include preadministration security of the content of the examination.
- (4) The testing time for each of the mandatory four parts shall be at least one hundred fifty minutes.
- (5) Each candidate taking the examination shall be assigned a number for identification purposes and the names assigned to each number shall not be revealed to any member of the panel of examiners or persons grading such examinations.
- (6) Grading procedures shall be designed to require each examination with less than a passing score for any of the mandatory parts to be challenged and regraded.
- (7) A copy of each examination question previously administered shall be available in a designated library for review by prospective candidates, and a copy of each examination shall be forwarded to the superintendent of public instruction within thirty days of announcing the examination results.
- (8) Institutions of higher education also shall report, within thirty days of announcing the examination results, any fees charged candidates and the approximate cost of administration of such examination, including the grading thereof, on forms supplied by the superintendent of public instruction.
- (9) Candidate examination answers shall not be returned to the candidate but shall remain on file for three years for examination by such candidate and designated representatives of the superintendent of public instruction.

NEW SECTION

WAC 180-78-197 EXIT EXAMINATION REQUIREMENTS—PILOT PROGRAMMING. Nothing within WAC 180-78-191 through 180-78-195 precludes colleges or universities from piloting, prior to January 1, 1990, the exit examination required by this chapter.

NEW SECTION

WAC 180-78-198 REVISION OF GENERIC STANDARDS. The state board of education hereby acknowledges that the generic standards for certification of professional educators within chapter 180-79 WAC are in need of revision. For example, WAC 180-79-130 sets forth the minimum initial generic requirements for teachers, administrators, and educational staff associates. However, some of the requirements within WAC 180-79-130 are not common to all professional certificates, particularly candidates for educational staff associate certificates. Therefore, WAC 180-79-130 needs to be revised to include only initial generic requirements common to all professional certification. Similar revision is needed for the specific initial generic requirements for teachers, educational staff associates, and administrators revision must be timely in order to provide colleges and universities with professional preparation programs, and the students enrolled therein, at least two years advance notice of the topics to be included with the exit examination required by this chapter. The superintendent of public instruction is hereby directed by the state board of education to review and present to the state board of education by September 1987 recommendations for the revision of generic standards within chapter 180-79 WAC.

NEW SECTION

WAC 180-78-199 UNIFORM ADMISSION TO PRACTICE EXAMINATION. The examination required by WAC 180-78-191 through 180-78-195 is intended by the state board of education to be transitional to the adoption of a uniform admission to practice examination administered by the state board of education. The superintendent of public instruction shall present to the state board of education by January, 1992, the necessary administrative rules for a uniform state administered admission to practice examination for professional educators which shall commence in January, 1994.

WSR 87-05-050 PROPOSED RULES STATE BOARD OF EDUCATION

[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Professional certification—Preparation requirements, chapter 180-79 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North, Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-79 WAC.

Statutory Authority: RCW 28A.70.005.

Rule Section(s): New WAC 180-79-003 sets forth authority for chapter; amending WAC 180-79-010(1) eliminates unnecessary language; 180-79-010(2) eliminates unnecessary language; 180-79-010(7) eliminates definition of elementary which is no longer used in chapter; 180-79-010(8) redefines educational setting and eliminates delegation by State Board of Education to Superintendent of Public Instruction the authority to interpret this subsection; 180-79-010(10) eliminates definition of secondary education which is no longer used in chapter; 180-79-045(1) permits transition from previous standards to new standards for certain certificates; 180-79-045(3) confirms previous standards only for renewal and for issuance of standard or continuing certificates; 180-79-060(1) eliminates preparatory certificate; 180-79-060(2) eliminates unnecessary language; 180-79-060(3) eliminates unnecessary language; 180-79-065 (1)(a) sets forth new standard for renewal of initial certificate; 180-79-065 (1)(b) sets forth new standard for reinstatement at initial certificate; 180-79-065 (2)(a) eliminates recency of service standard and converts existing certificates to life certificates; 180-79-065(3) eliminates reference to recency of service. See WAC

180-79-065 (2)(a). Also clarifies language regarding recency of training; 180-79-075(1) amends language to reflect previous code changes; 180-79-075(3), eliminates reference to initial principal endorsements being endorsed by grade level to reflect policy not to distinguish between initial and continuing certificates; 180-79-080 clarifies types of endorsements for teacher and expands music endorsement to specialized endorsements; 180-79-086(1) adds music to broad subject area endorsements and increases course work requirements for broad area endorsements; 180-79-086(2) perfects agency intent; 180-79-086(3) extends by one year the time line for endorsement by examination and eliminates language regarding endorsement standards; 180-79-086(4) strikes material to reflect subsequent changes in chapter; 180-79-115 (1)(a) eliminates language requiring an area of emphasis to make provision consistent with endorsement policy in chapter; 180-79-115 (1)(b) clarifies agency policy regarding field experience and eliminates reference to K-12 to reflect preschool inclusion; 180-79-115 (2)(a) changes field to area and reflects policy to not permit undergraduate courses to apply to continuing certificate unless in fact applicant has secured a new endorsement; 180-79-115 (2)(c) extends date regarding compliance with two endorsements; 180-79-230 (2)(a)(i) eliminates reference to elementary and secondary; 180-79-230 (2)(a)(ii) strikes recency (10 year) requirement; 180-79-230 (2)(a)(iii) strikes unnecessary language. See WAC 180-79-230 (2)(c); 180-79-230 (2)(b) changes substitute certificate from three year to life certificate; 180-79-230 (2)(c) see WAC 180-79-230 (2)(a)(iii) above; 180-79-300 sets forth policy for endorsement recommendations by colleges and universities; 180-79-305 sets forth policy for endorsements through SPI; 180-79-310 defines minimum course work and sets standard; new WAC 180-79-312 permits experience or other credit granted by colleges and universities to apply to endorsements; 180-79-315 permits in-service hours to apply to endorsements and sets forth standards; 180-79-317 requires an advising committee of agency to evaluate application of WAC 180-79-315; and 180-79-320 through 180-79-398 sets forth requirements for receiving an endorsement in a particular subject matter area.

Purpose of the Rule(s): [No information supplied by agency.]

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): By 1986 action of the State Board of Education new endorsement policies were adopted to become effective September 1, 1987. The main thrust of the proposed rules is to implement that policy. In addition, several code changes are made to improve the administration of certification standards.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Charles R. "Bob" Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 180-79 WAC
PROFESSIONAL (~~PREPARATION~~) CERTIFICATION—
PREPARATION REQUIREMENTS

NEW SECTION

WAC 180-79-003 AUTHORITY. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for the certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.04.120(3) which authorizes the state board of education to specify the types and kinds of certificates necessary for the several departments within the common schools. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate state certification with few exceptions.)

AMENDATORY SECTION (Amending Order 9-80, filed 6/2/80)

WAC 180-79-010 DEFINITIONS. The following definitions shall apply to terms used in this chapter:

(1) The terms, "agency," "program approval," "accreditation," "cooperation," "program unit," "endorsement," "interstate compact," "minimum generic standards," "program outcomes," "site visit," "general professional organization," "school organization," "college or university," and "specialized associations," as defined in WAC 180-78-010 (~~as adopted or hereafter amended~~) shall apply to the provisions of this chapter.

(2) "Certificate" (~~shall~~) means the license issued by the superintendent of public instruction to teachers, administrators, and (~~school specialized personnel~~) educational staff associates(~~(?)~~) verifying that the individual has met the requirements set forth in this chapter (~~and authorizing the individual to serve in the schools of this state pursuant to RCW 28A.67.010~~).

(3) "Certificate reinstatement" (~~shall~~) means the process whereby the validity of any certificate not subject to renewal may be reestablished.

(4) "Certificate renewal" (~~shall~~) means the process whereby the validity of an initial certificate may be reestablished.

(5) "Certificate revocation" (~~shall~~) means the process whereby an individual's certificate is rescinded (~~pursuant to RCW 28A.70.160 and 28A.70.170~~).

(6) "Classroom teaching" (~~shall~~) means instructing pupils in a classroom setting.

(7) (~~"Elementary level" shall mean grades K through 8.~~)

(~~8~~) "Educational setting" (~~shall~~) means any setting, the primary purpose for which is to instruct/teach or to provide services to children, youth, or adults or to administer (~~such instruction/teaching~~) education programs. This shall include but not be limited to state board of education approved instate public and nonpublic schools; out-of-state K-12 schools; preschools; vocational schools; professional education associations; school board agencies; state and federal agencies or committees and private foundations primarily concerned with education programs; educational service districts; the office of the superintendent of public instruction; and institutions of higher education (~~PROVIDED, The office of the superintendent of public instruction shall have final authority to determine whether a specific setting qualifies as an educational setting for purposes of this chapter~~).

(~~9~~) (8) "Out-of-state applicant" (~~shall~~) means an applicant for a Washington state certificate who completed preparation for such certificate in a state other than Washington and who has not previously held a Washington state certificate covering the professional role for which he or she is seeking Washington state certification.

(~~10~~) (9) "Field experience" (~~shall~~) means a sequence of learning experiences which occur in actual (~~K-12~~) school settings or clinical and laboratory settings. Such learning experiences are related to specified program outcomes and are designed to integrate educational

theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

~~((1)) "Secondary level" shall mean grades 7 through 12.))~~

AMENDATORY SECTION (Amending Order 9-80, filed 6/2/80)

WAC 180-79-045. **CERTIFICATES—PREVIOUS STANDARDS.** (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term. All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reinstate a standard certificate or on application and payment of the fee as specified in WAC 180-75-065(1); PROVIDED, That all persons who hold any provisional or initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for standard or continuing certification as set forth in the relevant previous standards so long as the standard or continuing certificate is obtained within six calendar years of the date on which the first provisional or initial certificate was issued; and, if such requirements are met, shall be issued a continuing certificate subject to the conditions of this chapter: PROVIDED FURTHER, That all persons who hold other than provisional or standard teaching certificates issued under standards of the state board of education adopted prior to 1971 shall be issued continuing certificates if they have completed forty-five quarter hours (thirty semester hours) of preparation past the baccalaureate degree and three years of experience: PROVIDED FURTHER, That persons holding provisional credentials as administrators under standards adopted by the state board of education in 1956 who have completed all requirements for the standard credential except the three years of experience as a principal or superintendent shall be issued continuing administrator certificates under these standards if they have completed at least five years of experience in an educational setting ((as defined herein)) and three years of experience in the role of superintendent, principal, vice principal, or deputy or assistant to a principal or superintendent: PROVIDED FURTHER, That any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(2) Except as noted in subsection (1) (~~(above))~~ of this section, certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

~~((3)) Until such time as programs are approved under standards set forth in chapter 180-78 WAC, but not later than June 1, 1983, as specified in WAC 180-78-025.))~~ Program standards and certificate requirements set forth in chapters 180-80 and 180-84 WAC for renewal of provisional and initial certificates and issuance of standard and continuing certificates shall continue in effect.

AMENDATORY SECTION (Amending Order 9-80, filed 6/2/80)

WAC 180-79-060 **LEVELS OF CERTIFICATES.** ~~((Three))~~
Two levels of certification may be issued:

- (1) ~~((Preparatory certificate.~~
 - (a) ~~The preparatory certificate is optional and authorizes training experiences under supervision in school or school-related settings while the individual is participating in an approved program.~~
 - (b) ~~The preparatory certificate is valid for one year and may be re-issued on recommendation from a state board of education approved preparation program.~~
 - (c) ~~The preparatory certificate will be issued to those teacher, administrator and educational staff associate candidates who:

 - (i) Meet the relevant statutory and general requirements as set forth in WAC 180-75-080 and/or 180-75-085;
 - (ii) Have the preparatory level knowledge and skill specified in a state board of education approved program; and
 - (iii) Are recommended for preparatory certification by the administrator of such program;~~
 - (d) ~~This certificate does not authorize employment in the professional role and shall not be a certificate within the meaning of RCW 28A.67.010.~~
- (2)) Initial certificate. The initial certificate is valid for four years and authorizes school service in a particular role and allows the holder to assume independent responsibility for working with children, youth, and adults. ~~((An initial certificate shall be issued only to those persons who meet the requirements of this chapter.~~
- (3)) (2) Continuing certificate. The continuing certificate is valid on a continuing basis and authorizes school service in a particular role

~~((and will be issued only to persons who meet the requirements of this chapter)). The certificate indicates that the holder has completed additional ((academic, experience, and competency)) requirements beyond the initial certificate level.~~

AMENDATORY SECTION (Amending Order 7-86, filed 6/10/86)

WAC 180-79-065 **CERTIFICATE LAPSE, RENEWAL, AND REINSTATEMENT.** (1) Initial certificate.

(a) The initial certificate may be renewed once for a three-year period on application and verification that the individual ~~((is formally enrolled in a planned continuing level preparation program and has completed some course work relevant thereto. A statement from a college or university where the applicant is officially enrolled in a continuing level program shall be filed with the superintendent of public instruction verifying his or her status: PROVIDED, That no more than ten years has elapsed since completion of an approved preparation program for initial certification))~~ has completed all course work requirements for continuing certification or has completed at least fifteen quarter hours (ten semester hours) of course work since the initial certificate.

(b) The initial certificate may be reinstated for two three-year periods ~~((if))~~ on application and verification that the individual ~~((completes))~~ has completed all course work requirements for continuing certification or has completed at least fifteen quarter hours (ten semester hours) of course work ~~((in an approved preparation program applicable to the continuing))~~ since the issuance, renewal, or reinstatement, whichever is later, of the affected certificate.

(2) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987 and who applied for such certificates prior to July 1, 1988 will ~~((lapse if the holder does not serve at least thirty school days in an educational setting during one of seven consecutive school years. To reinstate such a lapsed continuing certificate the individual must complete fifteen quarter hours (ten semester hours) of course work in a state approved preparation program offered by a regionally accredited college or university and provide evidence of knowledge and skill in the minimum generic standards required for continuing certification: PROVIDED, That course work taken more than three years prior to the date of application for reinstatement shall not satisfy this requirement and that no more than five quarter (three semester) hours of correspondence credit shall be acceptable toward renewal or reinstatement requirements set forth above))~~ be valid for life. Holders of valid continuing certificates affected by this subsection ~~((:))~~ shall be entitled to have such certificate reissued and subject to the terms and conditions of the continuing education requirements of chapter 180-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall lapse if the holder does not complete the continuing education requirement specified in chapter 180-85 WAC. To reinstate such a lapsed continuing certificate the individual must complete the requirements for reinstatement stated within chapter 180-85 WAC.

(3) Recency of training ~~((and experience))~~. If an applicant has not ~~((served in an educational setting or has not))~~ completed a preparation program within the seven-year period preceding application for ~~((a))~~ an initial certificate or has not completed fifteen quarter (ten semester) hours of course work applicable to his or her subject matter field, specialization, or pedagogy in an accredited four-year college or university within the seven years immediately preceding application for ~~((a))~~ such initial certificate, he/she will be required to complete ~~((refresher study consisting of))~~ fifteen quarter (ten semester) hours of course work ~~((applicable to his or her field of study, specialization, or pedagogy in order to be eligible for certification: PROVIDED, That ESA applicants may be granted experience credit for service in their specialization in other than educational settings if so determined by the superintendent of public instruction or his or her designee)).~~

AMENDATORY SECTION (Amending Order 7-86, filed 6/10/86)

WAC 180-79-075 **CERTIFICATE ENDORSEMENT.** Professional education certificates shall be endorsed as follows:

(1) Teacher certificates shall specify ~~((the recommended assignment))~~ endorsements in subject area(s) and grade level(s): PROVIDED, That notwithstanding provisions of this chapter to the contrary, applicants who have completed all requirements for continuing teaching certificates pursuant to WAC 180-79-060 prior to August 31, 1987, and whose certificates are applied for prior to July 1, 1988, and

applicants who complete the requirements for standard certificates or continuing certificates pursuant to WAC 180-80-705 shall receive ~~((only an))~~ no endorsements ~~((for grades K-12))~~.

(2) Educational staff associate certificates shall identify the field of specialization by endorsement.

(3) Administrator certificates shall identify the field of specialization (principal, program administrator, superintendent) by endorsement.

~~((Principals' initial certificates shall be endorsed for grades preschool-9, 4-12, or preschool-12.))~~

(4) In order to change or add an endorsement to any certificate, the candidate must complete an application, pay the certification fee, and submit verification of completion of the necessary requirements.

AMENDATORY SECTION (Amending Order 7-86, filed 6/10/86)

WAC 180-79-080 AUTHORIZED ENDORSEMENTS FOR TEACHERS. Endorsements for grade levels and subject areas within such grade levels for certificated teachers receiving endorsements on or after August 31, 1987, shall be limited to the following:

(1) Preschool through grade three endorsements shall be granted in the subject area of:

- (a) Early childhood special education.
- (b) Early childhood education.

(2) Grade kindergarten through grade eight endorsements shall be granted in the subject area of elementary education which shall include all subject areas taught in such grades.

(3) Grade kindergarten through grade twelve endorsements shall be granted in:

- (a) Art
- (b) Music (broad subject area endorsement) and the specialized subject areas of:

- (i) Choral music
- (ii) Instrumental music
- (c) Physical education
- (d) Reading
- (e) Designated foreign language
- (f) Special education
- (g) Learning resources
- (h) English as a second language
- (i) Bilingual education.

(4) Grade four through grade twelve endorsements shall be granted in:

(a) English/language arts (broad subject area endorsement) and the specialized English/language arts subject areas of:

- (i) Drama
- (ii) English
- (iii) Journalism
- (iv) Speech.

(b) Science (broad subject area endorsement) and the specialized subject areas of:

- (i) Biology
- (ii) Chemistry
- (iii) Earth science
- (iv) Physics.

(c) Social studies (broad subject area endorsement) and the specialized social studies subject areas of:

- (i) Anthropology
- (ii) Economics
- (iii) Geography
- (iv) History
- (v) Political science
- (vi) Psychology
- (vii) Sociology.

(d) The specialized subject areas of:

- (i) Agriculture
- (ii) Business ~~((and office))~~ education
- (iii) Computer science
- (iv) ~~((Distributive education~~ ~~((v))~~ Health
- ~~((vii))~~ (v) Home economics
- ~~((viii))~~ (vi) Industrial arts
- ~~((ix))~~ (vii) Mathematics
- (viii) Marketing education.

(5) Traffic safety endorsements may be noted on certificates issued under this chapter if the candidate meets the requirements of the regulations promulgated by the superintendent of public instruction pursuant to RCW 28A.08.010(3).

AMENDATORY SECTION (Amending Order 7-86, filed 6/10/86)

WAC 180-79-086 MINIMUM PREPARATION FOR ENDORSEMENTS FOR TEACHERS. Effective August 31, 1987, endorsements granted teachers shall comply with the following:

(1) Endorsements~~((;))~~ with the exception of the broad subject area endorsements of English/language arts, music, science, and social studies, which shall require the satisfactory completion of a minimum of ~~((forty-five))~~ fifty-one quarter hours ~~((thirty-four semester hours))~~ of course work~~((;))~~ shall require the satisfactory completion of twenty-four quarter hours ~~((sixteen semester hours))~~ of course work—not including any practice teaching, internship, or other clinical or field laboratory experience courses—in the subject area in a regionally accredited institution of higher education or in a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-79 WAC.

(2) Reasonable flexibility shall be permitted in establishing equivalencies for specified subject area course work. The test for substitution of an equivalent course for a stated subject area course is a factual determination that the subject matter content of the equivalent course, or combination of courses, substantially complies with the generally recognized course content of the ~~((required))~~ subject area course.

(3) The superintendent of public instruction shall present to the state board of education prior to January 1, ~~((1987))~~ 1988, recommendations for rule adoption which will~~((:~~

~~((a) Establish standards for programs of study for which endorsements may be granted in grade levels and subject areas:~~

~~((b))~~ authorize specific examinations and qualifying scores which will authorize the granting of endorsements in grade levels and subject areas in lieu of the course work prescribed in subsection (1) of this section.

~~((4) If a school district assigns a teacher to a specialized subject area(s) within the general endorsement areas of English/language arts, science, and social studies, the district must require that the teacher has a minimum of six semester hours or nine quarter hours of course work in the specialized subject area(s).))~~

AMENDATORY SECTION (Amending Order 7-86, filed 6/10/86)

WAC 180-79-115 ACADEMIC AND EXPERIENCE REQUIREMENTS FOR CERTIFICATION—TEACHERS. Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-75-080 and 180-75-085.

(1) Initial.

(a) Candidates for the initial certificate shall hold a baccalaureate degree from a regionally accredited college or university~~((Candidates for secondary, grades K through 12, or grades 4 through 12 endorsements certificates))~~ and shall have completed the degree major in an academic field or in the teaching specialization of early childhood, elementary, reading, or special education. ~~((Candidates for elementary, grades preschool through 3, or grades K through 8 certificates shall have completed the degree major in an academic field or teaching specialization. If the degree major is early childhood or elementary education, the candidate must have at least one area of emphasis in an academic field.))~~

(b) Candidates shall give evidence that they have completed ~~((in-school, clinical, and laboratory))~~ field experience(s) which include observations and at least eight weeks of full time or equivalent practice teaching under supervision in a state board of education approved or accredited public or nonpublic ~~((K-12 classroom(s)))~~ school, grades preschool through 12.

(2) Continuing.

(a) Candidates shall have completed at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work subsequent to the baccalaureate degree of which twenty-one quarter hours (fourteen semester hours) must be taken after the first year of teaching unless such candidate holds a master's or higher degree: PROVIDED, That if the individual is pursuing study in a new subject matter ((field)) area or specialization, ((the preparing college or university may accept study in)) lower division courses in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates shall have completed at least three years of service in an educational setting, at least two years of which shall be as a classroom teacher in grades preschool through 12.

(c) Effective ~~((July 1))~~ August 31, 1988, candidates who apply after such date shall have been granted at least two subject area endorsements.

AMENDATORY SECTION (Amending Order 7-81, filed 6/1/81)

WAC 180-79-230 LIMITED CERTIFICATES. The following certificates are issued under specific circumstances for limited periods of service as outlined:

- (1) Consultant special certificate.
- (a) The issuance of consultant special certificates is limited to:
- (i) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;
 - (ii) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3);
 - (iii) Persons who qualify to teach specific subjects in the adult education program;
 - (iv) Persons who under previous standards hold the band and orchestra certificate; and
 - (v) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program.

(b) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special certificate:

- (i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;
- (ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities and will not be serving in a paraprofessional role which would not require certification;
- (iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;
- (iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and
- (v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-79-105 through 180-79-110 have been met.

(c) The certificate is valid for one year and only for the activity specified. The certificate may be reissued on application and evidence that requirements continue to be met: PROVIDED, That the superintendent of public instruction may extend the validity of the certificate for more than one year but no more than four years.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

- (i) ~~((Elementary or secondary school))~~ Teachers, educational staff associates or administrators whose state of Washington certificates have expired, or
- (ii) Persons who have completed state approved preparation programs at regionally accredited colleges and universities for certificates ~~((within the past ten years, or~~
- ~~(iii) Any district unable to secure substitutes who meet these requirements may contact the office of the superintendent of public instruction to request a waiver of these requirements. Reasons for the request and qualifications of the proposed substitute shall be set forth in writing)).~~

(b) The substitute certificate is valid for ~~((three years and may be reissued subsequently for three-year periods))~~ life:

(c) Provided, that the superintendent of public instruction may determine in emergency situations to issue the substitute certificate to persons not fully qualified under this subsection for ~~((a period))~~ use in a particular school district for the duration of the emergency but not to exceed one year.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: PROVIDED, That a qualified person who holds regular certification is not available or that the

position is essential and circumstances warrant consideration of issuance of an emergency certificate. The superintendent of public instruction shall determine that the issuance of such certificate is in the best interest of the state.

(b) The emergency certificate is valid for one year.

NEW SECTION

WAC 180-79-300 SUBJECT AREA ENDORSEMENT RECOMMENDATIONS BY COLLEGES AND UNIVERSITIES. Applicants for subject area endorsements may apply directly to a Washington college or university with an approved preparation program in the particular subject area. Only applicants who have provided sufficient evidence of completion of the required course work and the essential areas of study for the particular subject area endorsement shall be recommended, by the college or university, to the superintendent of public instruction for an endorsement in such subject area: PROVIDED, That nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

NEW SECTION

WAC 180-79-305 SUBJECT AREA ENDORSEMENTS THROUGH SPI. Applicants for subject area endorsements may apply directly to the superintendent of public instruction for a particular subject area endorsement. The application for a particular subject area endorsement shall include the following:

- (1) A list of the essential areas of study for a particular subject area endorsement.
- (2) Space following each essential area of study for the applicant to document in narrative form the college or university credit hours and/or approved in-service education programs which meet the credit hour requirements in the essential area of study.
- (3) Space for the applicant to list all college or university credit hours and approved in-service education programs which are applicable to the minimum credit hour requirements and to indicate which type of evidence—i.e., college transcripts, in-service records, or other reliable documentation—will be forwarded to the superintendent of public instruction.

NEW SECTION

WAC 180-79-310 MINIMUM COURSE WORK CREDIT HOURS—DEFINITION. As used in this chapter, the term "minimum course work credit hours" means the minimum number of credit hours specified in WAC 180-79-086(1) for an endorsement in the subject matter area: PROVIDED, That only course work which received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours.

NEW SECTION

WAC 180-79-312 AWARD OF COLLEGE OR UNIVERSITY CREDIT HOURS FOR EXPERIENCE. College and/or university credit hours awarded by accredited institutions of higher education for knowledge acquired in occupational or other experiences shall be recognized as meeting the minimum course work credit hours and/or the essential areas of study for a particular subject area endorsement if the college or university notes on its issued transcript that credit hours have been awarded for specific courses offered by such college or university.

NEW SECTION

WAC 180-79-315 IN-SERVICE IN LIEU OF COLLEGE AND UNIVERSITY CREDIT HOURS. The following shall govern the substitution of approved in-service education—i.e., sponsored by an approved in-service education provider pursuant to chapter 180-85 WAC—toward the minimum course work credit hours for a particular subject area endorsement and/or for meeting an essential area of study:

- (1) The in-service education program must be offered by an in-service education agency approved pursuant to chapter 180-85 WAC.
- (2) The in-service education program must be specifically designed by the in-service education agency to serve as a substitute for course

work in the specified subject area or areas and/or as meeting a designated essential area of study. The criterion for determining whether the in-service education program is specifically designed for such purpose is whether the in-service program's content is recognized as equivalent in content to what is generally recognized as the content of an equivalent course in an accredited college or university.

(3) The length of the in-service education program is at least thirty continuing education hours unless the in-service education program is designed to meet a methods course in one of the essential areas of study, in which case the program length must be at least ten continuing education hours.

(4) The in-service education agency must hold the recipient accountable for successful completion of the in-service education program through evaluation by an examination or some other work product provided by the recipient.

(5) The in-service education agency must provide the recipient with a letter, certificate, or other written document which indicates the following:

(a) The in-service education agency has been approved by the state board of education.

(b) The subject area or areas and/or the designated essential area of study for which the in-service education program was specifically designed to meet.

(c) The number of continuing education hours awarded.

(d) A statement that the recipient received a passing mark on an examination or some other work product which was evaluated by the in-service education agency.

(6) For the 1987-88 school year, the in-service education agency must provide the superintendent of public instruction with the following fourteen calendar days prior to commencement of the in-service program:

(a) The dates and location of places where the in-service program will be offered.

(b) The names and qualification of the instructor or instructors who will be assisting in the in-service program.

(c) An outline of the topics to be covered within each in-service session and which college or university courses are deemed equivalent to the in-service program.

(d) A description of the examination or work product which will be used to evaluate the participants.

(e) An invitation for a representative of the superintendent of public instruction and representative of the professional education advisory committee to attend and observe the in-service program.

(7) Upon completion of an in-service education program during the 1987-88 school year, the in-service education agency must provide the superintendent of public instruction the following:

(a) A copy of all program materials distributed to participants.

(b) A copy of the evaluation instrument and the results therefrom.

(8) Provided, that no more than one-fourth of the minimum course work credit hours required for a subject area endorsement may be met through in-service based on ten hours of approved in-service education for one-quarter hour of credit.

NEW SECTION

WAC 180-79-317 EVALUATION OF IN-SERVICE IN LIEU OF COLLEGE AND UNIVERSITY CREDIT HOURS BY PEAC. The professional education advisory committee shall review materials submitted to the superintendent of public instruction pursuant to WAC 180-79-315, conduct an evaluation of such in-service programs, and report to the superintendent of public instruction and the state board of education its recommendation regarding the continuation of such program and/or the advisability of removing or modifying the limitation on number of in-service credit hours that may be applied to an endorsement. Such report shall be presented by January, 1989.

NEW SECTION

WAC 180-79-320 AGRICULTURE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in agriculture, the candidate shall have completed the minimum course work credit hours in the subject area of agriculture—e.g., agriculture, agronomy, and animal science—including, but not limited to, credit hours in each of the following essential areas of study:

(1) Plant science, agronomy, or horticulture.

(2) Soil science.

(3) Animal science or animal husbandry.

(4) Agriculture mechanics.

(5) Agriculture economics.

NEW SECTION

WAC 180-79-322 ANTHROPOLOGY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in anthropology, the candidate shall have completed the minimum course work credit hours in the subject area of anthropology, including, but not limited to, credit hours in each of the following essential areas of study:

(1) Cultural anthropology.

(2) Physical anthropology.

(3) Archeology.

NEW SECTION

WAC 180-79-324 ART—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in art, the candidate shall have completed the minimum course work credit hours in the subject area of art, including, but not limited to, credit hours in each of the following essential areas of study:

(1) Art history or criticism.

(2) Philosophy of art or esthetics.

(3) Drawing.

(4) Painting.

(5) Sculpture.

(6) Instructional methods in art.

NEW SECTION

WAC 180-79-326 BILINGUAL EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in bilingual education, the candidate shall have completed the minimum course work credit hours in the subject area of bilingual education, which shall include, but not be limited to, one-half or more of the minimum course work credit hours for an endorsement in a designated foreign language and credit hours in each of the following essential areas of study:

(1) Linguistics.

(2) Instructional methods in English as a second language.

(3) History and/or theories of bilingual education.

(4) Instructional methods in bilingual education.

NEW SECTION

WAC 180-79-328 BIOLOGY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in biology, the candidate shall have completed the minimum course work credit hours in the subject area of biology, including, but not limited to, credit hours in each of the following essential areas of study:

(1) Genetics.

(2) Ecology or evolution theory.

(3) Botany, including laboratory experience therein.

(4) Zoology, including laboratory experience therein.

(5) Laboratory management or safety.

(6) Science technology and society or bioethics.

NEW SECTION

WAC 180-79-330 BUSINESS EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in business education, the candidate shall have completed the minimum course work credit hours in the subject area of business education—e.g., business administration, business education, and accounting—including, but not limited to, credit hours in each of the following essential areas of study:

(1) Business organization or management.

(2) Office procedures.

(3) Accounting.

(4) Information processing, word processing, or machine transcription.

(5) Microcomputer application.

(6) Keyboarding.

NEW SECTION

WAC 180-79-332 CHEMISTRY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in chemistry, the candidate shall have completed the minimum course work credit hours

in the subject area of chemistry, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Organic chemistry, including laboratory experience therein.
- (2) Inorganic chemistry, including laboratory experience therein.
- (3) Analytic chemistry, including laboratory experience therein.
- (4) Physical chemistry.
- (5) Laboratory management and safety.

NEW SECTION

WAC 180-79-334 COMPUTER SCIENCE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in computer science, the candidate shall have completed the minimum course work credit hours in the subject area of computer science, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Computers and society.
- (2) Computer software.
- (3) Structural programming in BASIC.
- (4) Structural programming in Logo.
- (5) Structural programming in Pascal or Modula.

NEW SECTION

WAC 180-79-336 DESIGNATED FOREIGN LANGUAGE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in a designated foreign language, the candidate shall have completed the minimum course work credit hours in the subject area of the designated foreign language, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Writing/composition in the designated foreign language.
- (2) Conversation in the designated foreign language.
- (3) Reading in the designated foreign language.
- (4) History and culture of the designated foreign language.

NEW SECTION

WAC 180-79-338 DRAMA—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in drama, the candidate shall have completed the minimum course work credit hours in the subject area of drama, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Acting skills.
- (2) Theater production.
- (3) Theater history or history of drama.
- (4) Creative drama.
- (5) Theater directing.

NEW SECTION

WAC 180-79-340 EARLY CHILDHOOD EDUCATION, REGULAR—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in early childhood education, regular, the candidate shall have completed the minimum course work credit hours in the subject area of early childhood education—e.g., preschool, early childhood, and elementary education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) All essential areas of study for an endorsement in elementary education.
- (2) Issues and trends in early childhood education.
- (3) Instructional methods in early childhood or preschool education.

NEW SECTION

WAC 180-79-342 EARLY CHILDHOOD EDUCATION, SPECIAL EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in early childhood education, special education, the candidate shall have completed the minimum course work credit hours in the subject area of special education and early childhood education, the credit hours in each of the essential areas of study for an endorsement in the subject area of special education, and credit hours in each of the following essential areas of study:

- (1) Issues and trends in early childhood education.
- (2) Instructional methods in early childhood education.

NEW SECTION

WAC 180-79-344 EARTH SCIENCE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in earth science,

the candidate shall have completed the minimum course work credit hours in the subject area of earth science—e.g., geology, mineralogy, oceanography, astronomy, and meteorology—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Physical geology.
- (2) Historical geography.
- (3) Environmental geography.
- (4) Oceanography.
- (5) Astronomy.
- (6) Meteorology.

NEW SECTION

WAC 180-79-346 ECONOMICS—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in economics, the candidate shall have completed the minimum course work credit hours in the subject area of economics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Macroeconomics.
- (2) Microeconomics.
- (3) History and/or development of economic thought.

NEW SECTION

WAC 180-79-348 ELEMENTARY EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in elementary education, the candidate shall have completed the minimum course work credit hours in the subject area of elementary education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Child growth and development.
- (2) Classroom organization and management.
- (3) Instructional methods in reading.
- (4) Instructional methods in mathematics.
- (5) Instructional methods in language arts.
- (6) Instructional methods in science.
- (7) Instructional methods in social studies.
- (8) Instructional methods in art.
- (9) Instructional methods in music.
- (10) Instructional methods in physical education.

NEW SECTION

WAC 180-79-350 ENGLISH—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in English, the candidate shall have completed the minimum course work credit hours in the subject area of English, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) American literature.
- (2) English literature.
- (3) Structure of language.
- (4) Writing/composition.

NEW SECTION

WAC 180-79-352 ENGLISH AS A SECOND LANGUAGE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in English as a second language, the candidate shall have completed the minimum course work credit hours in the subject area of English as a second language—e.g., English, elementary education, and English as a second language—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Structure of language or language acquisition.
- (2) Culture and learning for the ESL student.
- (3) Instructional methods in language arts for the ESL student.
- (4) Instructional methods in reading for the ESL student.
- (5) Instructional methods in English as a second language.

NEW SECTION

WAC 180-79-354 ENGLISH/LANGUAGE ARTS—BROAD SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in English/language arts, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of English/language arts, the credit hours in each of the essential areas of study for an English subject area endorsement, and at least nine quarter (six semester) credit hours selected from the essential areas of study in each of the specialized English/language arts subject areas of:

- (1) Drama.

- (2) Speech.
- (3) Journalism.

NEW SECTION

WAC 180-79-356 GEOGRAPHY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in geography, the candidate shall have completed the minimum course work credit hours in the subject area of geography, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Physical geography.
- (2) Human or cultural geography.
- (3) Economic geography.
- (4) North American or other regional geography.
- (5) Map reading and analysis.

NEW SECTION

WAC 180-79-358 HEALTH—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in health, the candidate shall have completed the minimum course work credit hours in the subject area of health, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Drug use and abuse.
- (2) Disease.
- (3) Nutrition.
- (4) Human physiology.
- (5) Safety education.

NEW SECTION

WAC 180-79-360 HISTORY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in history, the candidate shall have completed the minimum course work credit hours in the subject area of history, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Washington state or Pacific Northwest history and government.
- (2) United States history.
- (3) World, Western, or Pacific Rim history or civilizations.

NEW SECTION

WAC 180-79-362 HOME ECONOMICS—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in home economics, the candidate shall have completed the minimum course work credit hours in the subject area of home economics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Family relations.
- (2) Child growth and development.
- (3) Foods or nutrition.
- (4) Consumer education or resource management.
- (5) Textiles or clothing.

NEW SECTION

WAC 180-79-364 INDUSTRIAL ARTS—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in industrial arts, the candidate shall have completed the minimum course work credit hours in the subject area of industrial arts, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Industrial safety.
- (2) Technology education.
- (3) Industrial arts program management.
- (4) Manufacturing, construction, communications, or transportation.

NEW SECTION

WAC 180-79-366 MARKETING EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in marketing education, the candidate shall have completed the minimum course work credit hours in the subject area of marketing education—e.g., business administration, business or marketing education, and economics—including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Selling.
- (2) Economics.
- (3) Retail management.

NEW SECTION

WAC 180-79-368 JOURNALISM—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in journalism, the candidate shall have completed the minimum course work credit hours in the subject area of journalism, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) News and feature writing.
- (2) Copy editing.
- (3) News production.
- (4) Copy makeup and design.
- (5) Legal rights and liabilities of the press.

NEW SECTION

WAC 180-79-370 LEARNING RESOURCES—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in learning resources, the candidate shall have completed the minimum course work credit hours in the subject area of learning resources, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Library/media materials selection.
- (2) Materials production.
- (3) Literature for children and young adults.
- (4) Information services.
- (5) Learning resources management.
- (6) Instructional methods in learning resources.

NEW SECTION

WAC 180-79-372 MATHEMATICS—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in mathematics, the candidate shall have completed the minimum course work credit hours in the subject area of mathematics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Euclidean geometry.
- (2) Non-Euclidean geometry.
- (3) Differential calculus.
- (4) Integral calculus.
- (5) Discrete mathematics.

NEW SECTION

WAC 180-79-374 MUSIC—BROAD SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in music, the candidate shall have completed the minimum course work credit hours in the subject area of music, the requirements for an endorsement in the specialized subject areas of choral music and instrumental music, and at least an additional six quarter (four semester) hours of credit hours of performance experience in both choral music and instrumental music.

NEW SECTION

WAC 180-79-376 CHORAL MUSIC—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in choral music, the candidate shall have completed the minimum course work credit in the subject area of music, including at least nine quarter hours (six semester hours) of performance experience in choral music, and credit hours in each of the following essential areas of study:

- (1) Score reading.
- (2) Music theory.
- (3) Music history or psychology or philosophy of music.
- (4) Conducting.
- (5) Instructional methods in choral music.

NEW SECTION

WAC 180-79-378 INSTRUMENTAL MUSIC—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in instrumental music, the candidate shall have completed the minimum course work credit hours in the subject area of music, including at least nine quarter hours (six semester hours) of performance experience in instrumental music, and credit hours in each of the following essential areas of study:

- (1) Score reading.
- (2) Music theory.
- (3) Music history or psychology or philosophy of music.
- (4) Conducting.

- (5) Instructional methods in instrumental music.

NEW SECTION

WAC 180-79-380 PHYSICAL EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in physical education, the candidate shall have completed the minimum course work credit hours in the subject area of physical education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) First aid, cardio-pulmonary resuscitation, or care and prevention of student injury.
- (2) Kinesiology.
- (3) Exercise physiology.
- (4) School physical education, sports, or athletic law.
- (5) Sociology and/or psychology of sports.
- (6) Instructional methods in physical education for the handicapped.
- (7) Instructional methods in physical education.

NEW SECTION

WAC 180-79-382 PHYSICS—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in physics, the candidate shall have completed the minimum course work credit hours in the subject area of physics, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Mechanics, including laboratory experience therein.
- (2) Electricity and magnetism, including laboratory experience therein.
- (3) Light and sound, including laboratory experience therein.
- (4) Thermodynamics, modern physics, or astronomy.

NEW SECTION

WAC 180-79-384 POLITICAL SCIENCE—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in political science, the candidate shall have completed the minimum course work credit hours in the subject area of political science, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) American government.
- (2) International relations or studies.
- (3) Comparative government or political systems.
- (4) Political theory.

NEW SECTION

WAC 180-79-386 PSYCHOLOGY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in psychology, the candidate shall have completed the minimum course work credit hours in the subject area of psychology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Human behavior.
- (2) Learning theories.
- (3) Developmental psychology.
- (4) Interpersonal psychology.

NEW SECTION

WAC 180-79-388 READING—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in reading, the candidate shall have completed the minimum course work credit hours in the subject area of reading, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Reading development.
- (2) Reading diagnosis and prescription.
- (3) Children and adolescent literature.
- (4) Instructional methods in reading.
- (5) Instructional methods in reading in the content areas.

NEW SECTION

WAC 180-79-390 SCIENCE—BROAD SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in science, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of science, the credit hours in each of the essential areas of study for a chemistry, physics, biology, or earth

science subject area endorsement, and at least nine quarter (six semester) credit hours selected from the essential areas of study in each of the specialized science subject areas of:

- (1) Chemistry, including laboratory experience therein.
- (2) Physics, including laboratory experience therein.
- (3) Biology, including laboratory experience therein.
- (4) Earth science.

NEW SECTION

WAC 180-79-392 SOCIOLOGY—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in sociology, the candidate shall have completed the minimum course work credit hours in the subject area of sociology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Group behavior.
- (2) Social institutions.
- (3) Social process.
- (4) Theory and history of sociology.

NEW SECTION

WAC 180-79-394 SOCIAL STUDIES—BROAD SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in social studies, the candidate shall have completed the minimum course work credit hours in the specialized subject areas of social studies, the credit hours in each of the essential areas of study for a history subject area endorsement, credit hours in American government, and credit hours selected from the essential areas of study in each of the specialized social studies subject areas of:

- (1) Psychology.
- (2) Economics.
- (3) Anthropology or sociology.
- (4) Geography.

NEW SECTION

WAC 180-79-396 SPECIAL EDUCATION—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in special education, the candidate shall have completed the minimum course work credit hours in the subject area of special education, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Exceptionality.
- (2) Alternative delivery systems and strategies for special education.
- (3) Student assessment and evaluation.
- (4) Procedural and substantive legal issues in special education.
- (5) Instructional methods in special education.
- (6) Child growth and development.

NEW SECTION

WAC 180-79-398 SPEECH—SUBJECT AREA ENDORSEMENT. In order to receive an endorsement in speech, the candidate shall have completed the minimum course work credit hours in the subject area of speech, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) Public speaking.
- (2) Debate.
- (3) Group process.

**WSR 87-05-051
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 18, 1987]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning professional certification, continuing education requirement, chapter 180-85 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North,

Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.70.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-85 WAC.

Statutory Authority: RCW 28A.70.005.

Rule Section(s): Amending WAC 180-85-045 allows departments or sections within agencies to be approved; 180-85-220 specifies that only the department or section that fails to comply will lose its eligibility to provide continuing education credits; and 180-85-225 adds departments or sections within agencies to agencies that may be denied the authority to grant continuing education credit hours.

Purpose of the Rule(s): [No information supplied by agency.]

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): To enumerate approved inservice agencies. The amendment permits sections of divisions within agencies to have independent approval.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Charles R. "Bob" Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 8-86, filed 6/10/86)

WAC 180-85-045 APPROVED IN-SERVICE EDUCATION AGENCY—DEFINITION. As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the state board of education to provide in-service education programs and to grant continuing education credit hours to all or a selective group of educators. Such agency must demonstrate the following characteristics:

(1) The agency is one of the following entities or a department or section within such entities:

- (a) A college or university referenced in WAC 180-85-025(1);
- (b) A professional organization which for the purpose of this chapter shall mean any local, state, regional, or national organization composed primarily of teachers, administrators, and/or educational staff associates;
- (c) A school district, an educational service district, and the superintendent of public instruction; or
- (d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112.

(2) The agency has either a committee or board of directors which provides prior approval to proposed in-service education programs that are designed to meet the program standards set forth in WAC 180-85-200.

AMENDATORY SECTION (Amending Order 8-86, filed 6/10/86)

WAC 180-85-220 NONCOMPLIANCE—SUBSTANTIAL COMPLIANCE RULE. If an audit by the superintendent of public instruction finds that an approved in-service education agency is not in substantial compliance with the provisions of this chapter, the superintendent of public instruction shall document violations of the regulations—i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such agency fails to provide an assurance within twenty calendar days that such corrective action will be implemented, the superintendent of public instruction shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action will be implemented which will satisfy the substantial compliance standard: PROVIDED, That if the approved in-service agency has more than one department or section operating in-service programs, then only the department or section within such agency that fails to comply with the provisions of this chapter shall no longer be eligible to provide continuing education credit hours.

AMENDATORY SECTION (Amending Order 8-86, filed 6/10/86)

WAC 180-85-225 APPEAL TO STATE BOARD OF EDUCATION. Any finding of noncompliance by the superintendent of public instruction pursuant to WAC 180-85-120 may be appealed to the state board of education for review. The filing of a notice of appeal shall cause a stay of any order by the superintendent of public instruction until the state board of education makes an independent determination on the issue of substantial compliance. If the state board of education concurs that the approved in-service education agency has failed to substantially comply with the applicable provisions of this chapter, the state board of education shall prescribe the corrective action necessary to achieve substantial compliance. Such agency or department or section within such agency, whichever is applicable, upon receipt of notice of action by the state board of education, shall be denied the authority to grant any continuing education credit hours for any subsequent in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action prescribed by the state board of education will be implemented.

WSR 87-05-052

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Board of Education intends to adopt, amend, or repeal rules concerning Definitions—Exceptional case, unusual competence, and general supervision, loss of approval of a nonoperating school, minimum standards and certificate form, chapter 180-90 WAC;

that the agency will at 9:00 a.m., Thursday, March 26, 1987, in the Kent Commons, 525 4th Avenue North, Kent, WA 98032, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 27, 1987.

The authority under which these rules are proposed is RCW 28A.02.204 [28A.02.240].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Thursday, March 26, 1987.

Dated: February 18, 1987
By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-90 WAC.

Rule Sections(s): WAC 180-90-125 Definitions—Exceptional case, unusual competence, and general supervision; 180-90-141 Loss of approval of a nonoperating school; and 180-90-160 Minimum standards and certificate form.

Statutory Authority: RCW 28A.02.204 [28A.02.240].

Purpose of the Rule(s): To set forth procedures and standards for the approval of private schools.

Summary of the New Rule(s) and/or Amendment(s): WAC 180-90-125 defines exceptional case, unusual competence and general supervision for the purpose of hiring noncertified persons to teach in private schools; 180-90-141 provides that a private school loses its approval status if it does not operate within the specified period of time after State Board of Education approval has been granted; and 180-90-160 amends the certificate of compliance with state standards to include the definitions for exceptional case, unusual competence, and general supervision.

Reasons Which Support the Proposed Actions: WAC 180-90-125 provides private schools and SPI with uniform standards to determine what constitutes an exceptional case, unusual competence and general supervision when a private school seeks to hire a teacher who does not hold a Washington state teaching certificate; 180-90-141 allows SPI to remove a nonoperating approved private school from the list of approved private schools; and 180-90-160 provides for assurances by the private school administrator that the definitions for exceptional case, unusual competence, and general supervision have been met if noncertified teachers are employed by the private school.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 753-2298; Implementation: Barbara L. Mertens, SPI, 753-2562; and Enforcement: Judy Schrag, SPI, 586-6394.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement, and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

NEW SECTION

WAC 180-90-125 DEFINITIONS—EXCEPTIONAL CASE, UNUSUAL COMPETENCE, AND GENERAL SUPERVISION. As used in this chapter the term:

(1) "Exceptional case" means that a circumstance exists within a private school in which:

(a) A certified teacher is not available for employment for the school year or remainder thereof and documents related to unsuccessful efforts to recruit a certified teacher are on file in the school records and will be forwarded to the superintendent of public instruction upon request; and

(b) The educational program offered by the private school either will be significantly impaired without the employment of the noncertified employee or will be significantly improved with the employment of the noncertified employee.

(2) "Unusual competence":

(a) As applied to an exceptional case wherein the educational program will be significantly impaired without the employment of a noncertified employee, means that the noncertified employee possesses a minimum of forty-five quarter credits beyond the baccalaureate degree with a minimum of forty-five quarter credits in courses in the subject matter to be taught or in courses closely related to the subject matter to be taught; or

(b) As applied to an exceptional case wherein the educational program will be significantly improved with the employment of a noncertified employee, means that the noncertified employee possesses a minimum of three calendar years of experience in a specialized field. For purposes of this subsection, the term "specialized field" means a specialized area of the curriculum where skill or talent is applied and where entry into an occupation in such field generally does not require a baccalaureate degree, including, but not limited to the fields of art, drama, dance, music, physical education, and vocational or occupational education.

(3) "General supervision" means that:

(a) A certified teacher or administrator shall be generally available at the school site to observe and advise the noncertified employee; and

(b) The noncertified employee shall be evaluated pursuant to policies of the private school.

(4) PROVIDED, That the noncertified employee of the private school, employed pursuant to this section, and as verified by the private school:

(a) Meets the age, good moral character, and personal fitness requirements of WAC 180-75-085 (1) and (2); and

(b) Has not had his or her teacher's certificate revoked by any state or foreign country; and

(c) Is not eligible for an initial or continuing teacher's certificate in the state of Washington.

(5) PROVIDED FURTHER, That the provisions of this section shall not be applicable until the state board of education takes action to approve private schools for the 1988-89 school year.

NEW SECTION

WAC 180-90-141 LOSS OF APPROVAL OF A NONOPERATING PRIVATE SCHOOL. An approved private school which does not have students enrolled for any six consecutive calendar months and which fails to provide evidence of student enrollment upon request of the superintendent of public instruction for the said period of time shall lose its approval status for the remainder of the school year.

AMENDATORY SECTION (Amending Order 23-85, filed 12/2/85)

WAC 180-90-160 MINIMUM STANDARDS AND CERTIFICATE FORM. The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE
WITH STATE STANDARDS

((ESD/County/Public School
District/Private School
or Private School
District Address))
ESD/County/Public School
District Private School/
District Address

I,, do hereby certify that I am the principal or chief administrator of the above named school; that said school is located at the address listed above, and conducts grades through with a projected enrollment of; and that said school is scheduled to meet throughout the school year, the following standards with the exception only of such deviations, if any, as are set forth in an attachment to this certificate of compliance

or

I,, do hereby certify that I am the superintendent of the above named private school district; and that the private schools under my jurisdiction are scheduled to meet throughout the school year, the following standards with the exception only of such deviations as are set forth in an attachment to this certificate of compliance; and that a list of such schools, including the grades conducted and the projected enrollment for each school, accompanies this certificate:

(1) The minimum school year for instructional purposes consists of no less than 180 school days or the equivalent in annual minimum program hour offerings as prescribed in RCW 28A.58.754.

(2) On each school day, pupils enrolled in the school are provided the opportunity to be engaged in educational activity planned by and under the direction of the staff, as directed by the administration and/or governing board; and that pupils are provided a total program hour offering as prescribed in RCW 28A.58.754 except that the percentages for basic skills, work skills, and optional subjects and activities prescribed in RCW 28A.58.754 do not apply to private schools and that the total program hour offering, except as otherwise specifically provided in RCW 28A.58.754, made available is at least:

- (a) 2700 hours for students in grades one through three.
- (b) 2970 hours for students in grades four through six.
- (c) 1980 hours for students in grades seven and eight.
- (d) 4320 hours for students in grades nine through twelve.

(3) All classroom teachers hold appropriate Washington State certification except for:

(a) Teachers for religious courses or courses for which no counterpart exists in the public schools; and/or

(b) ~~((People of recognized professional competence who are not certificated, but who teach or will teach students under the supervision of a certificated person in exceptional cases, the certificated person who supervises and the circumstances necessitating the employment of the noncertificated person(s) are listed on the reverse of this certificate.))~~
A person of unusual competence who is not certified but who will teach students in an exceptional case under the general supervision of a certified teacher or administrator pursuant to WAC 180-90-125. The noncertified employee, the certified person who will supervise, and the exceptional circumstances are listed on the addendum to this certificate: PROVIDED, That if a noncertified person is employed subsequent to the filing of this certificate, this same information shall be forwarded to the superintendent of public instruction within thirty days from the date of employment.

(4) If the school operates an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody, the extension program meets the following requirements:

(a) The parent, guardian, or custodian is supervised by a person certified under chapter 28A.70 RCW and who is employed by the school;

(b) The planning by the certified person and the parent, guardian, or person having legal custody includes objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spends a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the extension program;

(d) Each student's progress is evaluated by the certified person; and

(e) The certified person does not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(6) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(7) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth in chapter 180-51 WAC;

(8) The school or its organized district maintains up-to-date policy statements related to the administration and operation of the school or district;

(9) The school does not engage in a policy of racial segregation or discrimination;

(10) The governing authority of this private school or private school district has been apprised of the requirements of chapter 180-90 WAC relating to the minimum requirements for approval of private schools and such governing authority has further been apprised of all deviations from the rules and regulations of the state board of education and the standards contained in chapter 180-90 WAC. I have reported all such deviations herewith.

DATED this day of, 19 . . .

.....
(signed)

.....
(title)

.....
(phone number)

WSR 87-05-053
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 18, 1987]

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 apiary inspection fees and apiary board and standards for colony strength, chapter 16-602 WAC;

that the agency will at 1:00 p.m., Wednesday, June 17, 1987, in the Agricultural Service Center Conference Room, 2015 South 1st Street, Yakima, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 30, 1987.

The authority under which these rules are proposed is chapter 15.60 RCW.

Dated: February 18, 1987
By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapter 16-602 WAC, WAC 16-602-005 through 16-602-030.

Description of Purpose: To amend apiary inspection fees and standards for honeybee colony strength.

Statutory Authority: Chapter 15.60 RCW.

Summary of Rules: Geographical areas represented by the apiary advisory board and fees and standards for honeybees.

Reasons for Supporting Proposed Actions: To increase inspection fees to cover the department's increased costs for conducting inspections; to clean up the language and to make housekeeping changes for clarity; and to increase standards for colony strength for honeybees used in agricultural crop pollination.

Agency Personnel Responsible for Drafting: Robert O. Rebhan, Plant Services Supervisor, 406 General Administration Building, AX-41, Olympia, WA 98504, (206) 753-5062.

Persons Proposing Amendments: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.
Small Business Economic Impact Statement: None.

NEW SECTION

WAC 16-602-005 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

- (1) "Director" means the director of agriculture of the state of Washington;
- (2) "Department" means the department of agriculture of the state of Washington;
- (3) "Apiary" includes bees, hives, and appliances, wherever they are kept, located, or found;
- (4) "Apiarist" means any person who owns bees or is a keeper of bees;
- (5) "Appliances" means any implements or devices used in the manipulating of bees or their brood or hives, which may be used in any apiary or any extracting or packing equipment;
- (6) "Bees" means honey producing insects of the species *apis mellifera* and include the adults, eggs, larvae, pupae, or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form;
- (7) "Colony" or "colonies of bees" refers to any natural group of bees having a queen;
- (8) "Hive" means any receptacle or container made or prepared for the use of bees, or box or similar container taken possession of by bees;
- (9) "Location" means any premises upon which an apiary is located.

AMENDATORY SECTION (Amending Order 1551, filed 3/31/78)

WAC 16-602-010 APIARY BOARD, AREA BOUNDARIES. The following are the geographical divisions of the beekeeping industry of Washington state which are represented by members of the apiary board as provided for in RCW 15.60.025:

- (1) Area 1. Area 1 shall include the counties of Whatcom, San Juan, Island, Skagit, Snohomish and King.
- (2) Area 2. Area 2 shall include the counties of Pierce, Kitsap, Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark and Skamania.
- (3) Area 3. Area 3 shall include the counties of Kittitas, Yakima, Klickitat and Benton.
- (4) Area 4. Area 4 shall include the counties of Okanogan, Chelan and Douglas.
- (5) Area 5. Area 5 shall include the counties of Grant, Adams, Franklin, Walla Walla, Columbia, Garfield, Asotin and Whitman.
- (6) Area 6. Area 6 shall include the counties of Spokane, Lincoln, Ferry, Stevens and Pend Oreille.

AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-020 APIARY INSPECTION FEES. Fees for inspection of honeybees are as follows:

- (1) Certification of honeybees for out-of-state movement - ~~(\$12.00)~~ \$18.00 per hour.
- (2) Colony strength inspection - ~~(\$12.00)~~ \$18.00 per hour.
- (3) All other inspections or services requested by persons or those performed by the department as required by chapter 15.60 RCW - ~~(\$12.00)~~ \$18.00 per hour.
- ~~((2))~~ (4) For all inspection services performed after 5:00 p.m. or on Saturdays, or Sundays, or state legal holidays, an hourly ~~((charge))~~ rate equivalent of ~~(\$18.00)~~ \$27.00 per hour for actual hours spent in performance of duties ~~((must be made))~~ shall be charged by the department.
- ~~((3))~~ (5) The following state legal holidays will be observed: New Year's Day, Veterans Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following Thanksgiving Day, Christmas Day, ~~((Lincoln's Birthday and Washington's Birthday))~~ President's Day, and Martin Luther King, Jr.'s Birthday. NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Years Day, beginning at 5:00 p.m. on the previous day.
- ~~((4))~~ (6) Mileage. ~~((Whenever necessary;))~~ Mileage ~~((with))~~ shall be charged at the rate established by the state office of financial management.

AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-030 COLONY STRENGTH. The official minimum standards required for honeybee colony strength certification in the state of Washington shall be ~~((six))~~:

(1) A honeybee colony to be used in agricultural crop pollination shall have a laying queen (be "queen right") for at least three weeks prior to pollination activities: PROVIDED, That no more than three percent of the pollinating colonies may be queenless due to transportation hazards. Hives shall contain pollen or pollen supplement and honey stores.

(2) Colonies shall consist of eight frames, two-thirds covered with bees at a temperature of 65° Fahrenheit at spring orchard pollination placement, March 1 through May 31, and ten frames fully covered with bees at 65° Fahrenheit at summer berry, seed and legume pollination placement, June 1 through July 31.

~~((H))~~ (3) The official minimum standards shall remain at this strength continuously ~~((from year to year))~~ unless ~~((, in a given year;))~~ the director by his own motion or upon the advice of apiary advisory board determines that a new standard may need to be established, in which case he ~~((with))~~ shall hold a hearing on this issue in accordance with chapter 34.04 RCW.

WSR 87-05-054
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Department of Ecology intends to adopt, amend, or repeal rules concerning the minimum functional standards for waste handling, amending chapter 173-304 WAC to include a requirement for maximum recycling when constructing or operating solid waste incineration or energy recovery facilities.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 31, 1987.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 70.95 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 18, 1987

By: Andrea Riniker
Director

STATEMENT OF PURPOSE

Title: Minimum functional standards for solid waste handling, chapter 173-304 WAC.

Description of Purpose: To properly dispose of solid waste in an environmentally sound manner. To address the planning, management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes.

Statutory Authority: Chapter 43.21A RCW (establishing the Department of Ecology); chapter 34.04 RCW (Administrative Procedure Act); and chapter 70.95 RCW (solid waste management).

Summary of Rule: Amend the minimum functional standards for solid waste handling, chapter 173-304 WAC to include a requirement for maximum recycling

when constructing or operating solid waste incineration or energy recovery facilities.

Agency Personnel Responsible for Drafting: R. Leighton Pratt; Implementation: Thomas Eaton; and Enforcement: Jurisdictional health department.

Person or Organization Proposing the Rule: State Representative Dick Nelson and Washington Citizens for Recycling.

Agency Comments or Recommendations Regarding Statutory Language, Implementation and Enforcement: This rule will impact local governments planning, constructing and operation of solid waste incineration or energy recovery facilities.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: No adverse economic impact.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry be reviewed and altered to minimize their impact upon small businesses. The regulatory proposal has been reviewed in light of that requirement. The conclusions of this review are summarized below.

This regulatory proposal sets forth a planning and program development requirement for local governments considering incineration/energy recovery as a means of handling solid waste loads. In that the proposal stresses waste reduction and recycling, it is unlikely to have an adverse impact upon any businesses—either large or small. In fact, it would not be unreasonable to expect a beneficial impact upon the recycling industry resulting from a possible increase in the volume of materials available to it.

NEW SECTION

WAC 173-304-012 PLANNING REQUIREMENTS FOR ENERGY RECOVERY OR INCINERATION FACILITIES (1) Analysis Required

When a local government recommends construction or operation of a public or private energy recovery or incineration facility (subject to the WAC 173-304-440 standards) the local government shall conduct, as part of the comprehensive solid waste management plan, an analysis of the maximum feasible waste reduction and recycling that could occur. An analysis of maximum feasible waste reduction and recycling shall take into account factors of markets, waste generation trends, waste composition, demographics, costs, disposal and collection savings, reliability, environmental protection, and private sector recycling efforts.

(2) Revisions

At least every five years, and coincidentally with the revision of the solid waste management plan, local government shall conduct another analysis under WAC 173-304-012(1).

AMENDATORY SECTION (Amending Order 85-18, filed 10/28/85)

WAC 173-304-440 ENERGY RECOVERY AND INCINERATOR STANDARDS (1) Applicability. These standards apply to all facilities designed to burn more than twelve tons of solid waste per day, except for facilities burning woodwaste or gases recovered at a landfill.

(2) Requirements for energy recovery facilities and incinerators.

(a) Incinerators and energy recovery facilities storing putrescible wastes shall be confined to storage compartments specifically designed to store wastes temporarily in piles, surface impoundments, tanks or containers. The storage facilities shall meet the facility standards of

WAC 173-304-400. Storage of wastes other than in the specifically designed storage compartments is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required in order to maintain the plant in a sanitary and clean condition;

(b) All residues from energy recovery facilities or incinerator facilities shall be used, handled or disposed of as solid or dangerous wastes according to these standards or the standards of the dangerous waste regulation, chapter 173-303 WAC;

(c) Each owner or operator of an energy recovery facility or incinerator facility shall comply with WAC 173-304-40-5. The plan of operation shall address alternative storage, and/or disposal plans for all breakdowns that would result in overfilling of the storage facility;

(d) Energy recovery facilities and incinerators must be designed, constructed, and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements;

(e) Each owner or operator shall close their energy recovery facility or incinerator by removing all ash, solid wastes and other residues to a permitted facility;

(f) Each owner or operator of an energy recovery facility or incinerator shall be required to provide recycling facilities in a manner equivalent to WAC 173-304-460 (4)(f);

(g) Owners or operators of energy recovery facilities or incinerators shall not knowingly dispose of, treat, store, or otherwise handle dangerous waste unless the requirements of chapter 173-303 WAC are met; and

(h) Each owner or operator of a new or expanded energy recovery or incineration facility that has commenced construction after July 1, 1987 shall design the facility to process the amount of solid waste remaining after all reasonable steps to accomplish waste reduction and recycling are taken in conformance with the analysis of -012(1). Commenced construction shall have the meaning set forth in WAC 173-304-100(27).

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

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

WSR 87-05-055

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

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 general occupational health standards, chapter 296-62 WAC, is being amended by deleting the last paragraph of WAC 296-62-05427 Appendix D, definition of the last paragraph titled "trade secret" (mandatory) and changing the definitions of "employee" and "employer" in WAC 296-62-05405 to conform to the definitions of RCW 49.17.020. The changes are adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1910.1200; Federal Register Vol. 51, No. 189, page 34597, dated 9/30/86, and OSHA Instruction STP 2-1.133; general occupational health standards, chapter 296-62 WAC, is being amended by repealing specific sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthrophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that

WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes are being adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1910.1001 and 29 CFR 1926.58; Federal Register Vol. 51, No. 119, page 22612, dated 6/20/86, and OSHA Instruction STP 2-1.126; Federal Register Vol. 51, No. 201, page 37002, dated 10/17/86, and OSHA Instruction STP 2-1.134; asbestos removal and encapsulation, chapter 296-65 WAC, is being amended to correct references required by changes in chapter 296-62 WAC, general occupational health standard and chapter 296-155 WAC, safety standards for construction work. The changes are federal-initiated; and safety standards for construction work, chapter 296-155 WAC, is being amended by repealing specific sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthrophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes are being adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1926.58; Federal Register Vol. 51, No. 119, page 22612, dated 6/20/86, and OSHA Instruction STP 2-1.126; Federal Register Vol. 51, No. 201, page 37002, dated 10/17/86, and OSHA Instruction STP 2-1.134.

New	WAC 296-62-077	Asbestos, tremolite, anthrophyllite, and actinolite.
New	WAC 296-62-07701	Scope and application.
New	WAC 296-62-07703	Definitions.
New	WAC 296-62-07705	Permissible exposure limits (PEL).
New	WAC 296-62-07707	Identification.
New	WAC 296-62-07709	Exposure monitoring.
New	WAC 296-62-07711	Regulated areas.
New	WAC 296-62-07713	Methods of compliance.
New	WAC 296-62-07715	Respiratory protection.
New	WAC 296-62-07717	Protective work clothing and equipment.
New	WAC 296-62-07719	Hygiene facilities and practices.
New	WAC 296-62-07721	Communication of hazards to employees.
New	WAC 296-62-07723	Housekeeping.
New	WAC 296-62-07725	Medical surveillance.
New	WAC 296-62-07727	Recordkeeping.
New	WAC 296-62-07729	Observation of monitoring.
New	WAC 296-62-07731	Dates.
New	WAC 296-62-07733	Appendices.
New	WAC 296-62-07735	Appendix A—WISHA reference method—Mandatory.
New	WAC 296-62-07737	Appendix B—Detailed procedure for asbestos, tremolite, anthrophyllite, and actinolite sampling and analysis—Nonmandatory.
New	WAC 296-62-07739	Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.
New	WAC 296-62-07741	Appendix D—Medical questionnaires; Mandatory.
New	WAC 296-62-07743	Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.
New	WAC 296-62-07745	Appendix F—Work practices and engineering controls for automotive

		brake repair operations—Nonmandatory.
New	WAC 296-62-07747	Appendix G—Substance technical information for asbestos—Nonmandatory.
New	WAC 296-62-07749	Appendix H—Medical surveillance guidelines for asbestos, tremolite, anthrophyllite, and actinolite—Nonmandatory.
New	WAC 296-155-175	Scope and application.
New	WAC 296-155-17505	Definitions.
New	WAC 296-155-17510	Permissible exposure limits (PEL).
New	WAC 296-155-17515	Communication among employers.
New	WAC 296-155-17520	Identification.
New	WAC 296-155-17525	Regulated areas.
New	WAC 296-155-17530	Exposure monitoring.
New	WAC 296-155-17532	Methods of compliance.
New	WAC 296-155-17535	Respiratory protection.
New	WAC 296-155-17540	Protective clothing.
New	WAC 296-155-17545	Hygiene facilities and practices.
New	WAC 296-155-17550	Communication of hazards to employees.
New	WAC 296-155-17555	Housekeeping.
New	WAC 296-155-17560	Medical surveillance.
New	WAC 296-155-17565	Recordkeeping.
New	WAC 296-155-17570	Dates.
New	WAC 296-155-17575	Appendices.
New	WAC 296-155-177	Appendix A—WISHA reference method—Mandatory.
New	WAC 296-155-179	Appendix B—Detailed procedure for asbestos, tremolite, anthrophyllite, and actinolite sampling and analysis—Nonmandatory.
New	WAC 296-155-181	Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.
New	WAC 296-155-183	Appendix D—Medical questionnaires; Mandatory.
New	WAC 296-155-185	Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.
New	WAC 296-155-187	Appendix F—Work practices and engineering controls for major asbestos removal, renovation, and demolition operations—Nonmandatory.
New	WAC 296-155-189	Appendix G—Work practices and engineering controls for small-scale, short-duration asbestos renovation and maintenance activities—Mandatory.
New	WAC 296-155-191	Appendix H—Substance technical information for asbestos, nonmandatory.
New	WAC 296-155-193	Appendix I—Medical surveillance guidelines for asbestos, tremolite, anthrophyllite, and actinolite nonmandatory.
Amd	WAC 296-62-07517	Asbestos.
Amd	WAC 296-62-05405	Definitions applicable to this section.
Amd	WAC 296-62-05427	Appendix D—Definition of "trade secret" (mandatory).
Amd	WAC 296-65-005	Training course content.
Amd	WAC 296-65-015	Training course certification.
Amd	WAC 296-65-020	Notification requirements.
Amd	WAC 296-65-030	Methods of compliance.
Amd	WAC 296-65-040	Appeals—Notice and filing.
Amd	WAC 296-155-160	Gases, vapors, fumes, dusts, and mists.
Amd	WAC 296-155-775	Preparatory operations;

that the agency will at 9:30 a.m., Tuesday, March 24, 1987, in the Auditorium, General Administration Building, West Capitol Campus, 11th Avenue and Columbia Street, 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 April 27, 1987.

The authority under which these rules are proposed is RCW 49.17.040, 49.17.050 and 49.26.040.

The specific statute these rules are intended to implement is RCW 49.17.040, 49.17.050, 49.17.050(2), 49.17.060(1), 49.26.020 and 49.26.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987, by 5:00 p.m.

Dated: February 18, 1987

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

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-62 WAC, General occupational health standards; chapter 296-65 WAC, Asbestos removal and encapsulation; and chapter 296-155 WAC, Safety standards for construction work.

Authorities Under Which These Rules are Proposed: RCW 49.17.040 and 49.17.050.

Specific Statutes that Rules are Intended to Implement: RCW 49.17.040, 49.17.050, 49.17.050(2), 49.17.060(1) and chapter 49.26 RCW.

Summary of Rules: Chapter 296-62 WAC, general occupational health standards, is being amended by deleting the last paragraph of WAC 296-62-05427 Appendix D, definition of the last paragraph titled "trade secret" (mandatory) and changing the definitions of "employee" and "employer" in WAC 296-62-05405 to conform to the definitions of RCW 49.17.020. The changes are adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1910.1200; Federal Register Vol. 51, No. 189, page 34597, dated 9/30/86, and OSHA Instruction STP 2-1.133; chapter 296-62 WAC, general occupational health standards, is being amended by repealing specific sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthrophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes are being adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1910.1001 and 29 CFR 1926.58; Federal Register Vol. 51, No. 119, page 22612, dated 6/20/86, and OSHA Instruction STP 2-1.126; Federal Register Vol. 51, No. 201, page 37002, dated 10/17/86, and OSHA Instruction STP 2-1.134; chapter 296-65 WAC, asbestos removal and encapsulation, is being amended to correct references required by changes in chapter 296-62 WAC, general occupational health standard and chapter 296-155 WAC, safety standards for construction work. The changes are federal-initiated; and chapter 296-155 WAC, safety standards for construction work, is being amended by repealing specific

sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthrophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes are being adopted to be at least as effective as the OSHA amendments. The changes are federal-initiated. References: 29 CFR 1926.58; Federal Register Vol. 51, No. 119, page 22612, dated 6/20/86, and OSHA Instruction STP 2-1.126; Federal Register Vol. 51, No. 201, page 37002, dated 10/17/86, and OSHA Instruction STP 2-1.134.

Description of the Purpose of the Rule(s): To provide effective rules to protect employees of the state of Washington from occupational exposure to asbestos, tremolite, anthrophyllite, and actinolite; and provide definition of trade secret, Appendix D.

Reasons for Supporting the Proposed Rule(s): The rule changes are OSHA mandated.

Agency Personnel Responsible for Drafting: Ray Wax, Safety Regulations Program Supervisor, Department of Labor and Industries, Division of Industrial Safety and Health, 805 Plum Street S.E., Olympia, Washington 98504, (206) 753-6381; Implementation: G. David Hutchins, Assistant Director, Department of Labor and Industries, Division of Industrial Safety and Health, 805 Plum Street S.E., Olympia, Washington 98504, (206) 753-6500; and Enforcement: Same as above.

Name of Person or Organization, Whether Private, Public or Governmental that is Proposing the Rule(s): Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s): None.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Regulatory Fairness Act, chapter 19.85 RCW, was enacted to reduce the imposition of proportionately higher burdens on small business caused by the promulgation of agency rules whenever it is legal and feasible to do so in meeting the stated objectives of statutes which are the basis of the proposed rules. The criterion used to establish the need for a small business economic impact statement is the determination that there will be an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry. The proposed changes to chapters 296-62 and 296-155 WAC have been reviewed in light of this requirement.

The department has concluded that these rules do not place a disproportionate burden on small businesses. Only employers having employees exposed to asbestos fibers, a cancer-causing and debilitating-disease-causing mineral, are affected by the rules. These rules protect employees from occupational exposure to asbestos and are required under chapter 49.17 RCW to implement this standard to be at least as effective as the Federal Occupational Safety and Health Administration

(OSHA). The OSHA standards were published June 20, 1986, in the Federal Register (FR Vol. 51, No. 119, pages 22612-22790). Clarifications and amendments to the OSHA standard have been reviewed by an asbestos advisory committee comprised of labor, management, academia, and technical experts.

OSHA conducted a thorough economic impact and regulatory flexibility analysis of its standard (FR Vol. 51, No. 119, pages 22650-22671). The department concludes that state initiated changes have not significantly altered the federal analysis and, therefore, incorporate its content by reference herein. These standards are substantially mandated by OSHA and are expected to reduce the occupational incidence of asbestos-related diseases.

AMENDATORY SECTION (Amending Order 86-22, filed 5/22/86)

WAC 296-62-05405 DEFINITIONS APPLICABLE TO THIS SECTION. (1) Article - a manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(c) Which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

(2) Chemical - any element, chemical compound or mixture of elements and/or compounds.

(3) Chemical manufacturer - an employer with a workplace where chemical(s) are produced for use or distribution.

(4) Chemical name - the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(5) Combustible liquid - any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

(6) Common name - any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

(7) Compressed gas

(a) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C); or

(b) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D-323-72.

(8) Container - any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section, pipes or piping systems are not considered to be containers.

(9) Designated representative - any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(10) Director - the director of the department of labor and industries or his/her designee.

(11) Distributor - a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to purchasers.

(12) Employee - ~~((a worker employed by an employer who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies, including, but not limited to production workers, line supervisors, and repair or maintenance personnel. Office workers, grounds maintenance personnel, security personnel or nonresident management are included if their job performance routinely involves potential exposure to hazardous chemicals.))~~ means an employee

of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise. However, for the purposes of this subsection, employee shall not mean immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity or officers of any closely held corporation engaged in agricultural production of crops or livestock.

(13) Employer - ~~((a person engaged in a business where chemicals are either used, or are produced for use or distribution))~~ means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any business, industry, profession, or activity in this state and employs one or more employees or who contract with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

(14) Explosive - a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

(15) Exposure or exposed - an employee that is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (e.g. accidental or possible) exposure.

(16) Flammable - a chemical that falls into one of the following categories:

(a) Aerosol flammable - an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(b) Gas, flammable:

(i) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen percent by volume or less; or

(ii) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve percent by volume, regardless of the lower limit;

(c) Liquid, flammable - any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up 99 percent or more of the total volume of the mixture.

(d) Solid, flammable - a solid, other than a blasting agent or explosive as defined in 29 CFR s1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(17) Flashpoint - the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(a) Tagliabue closed tester - (see American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(b) Pensky-Martens closed tester - (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(c) Setaflash closed tester - (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

(18) Foreseeable emergency - any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

(19) Hazardous chemical - any chemical which is a physical hazard or a health hazard.

(20) Hazard warning – any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemical(s) in the container(s).

(21) Health hazard – a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

(22) Identity – any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

(23) Immediate use – that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

(24) Importer – the first business within Washington which receives hazardous chemicals produced in other states or countries, for the purpose of supplying them to distributors or purchasers within Washington.

(25) Label – any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

(26) Material safety data sheet (MSDS) – written or printed material concerning a hazardous chemical which is prepared in accordance with WAC 296-62-05413.

(27) Mixture – any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

(28) Organic peroxide – an organic compound that contains the bivalent-O-O-structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(29) Oxidizer – a chemical other than a blasting agent or explosive as defined in WAC 296-52-030, that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.

(30) Physical hazard – a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

(31) Produce – to manufacture, process, formulate, or repackage.

(32) Purchaser – an employer with a workplace who purchases a hazardous chemical for use within that workplace.

(33) Pyrophoric – a chemical that will ignite spontaneously in air at a temperature of 130°F (54.4°C) or below.

(34) Responsible party – someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(35) Specific chemical identity – the chemical name, Chemical Abstracts Service (CAS) registry number, or any other information that reveals the precise chemical designation of the substance.

(36) Trade secret – any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. WAC 296-62-05427, Appendix D, sets out the criteria to be used in evaluating trade secrets.

(37) Unstable (reactive) – a chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

(38) Use – to package, handle, react, or transfer.

(39) Water-reactive – a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

(40) Work area – a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

(41) Workplace – an establishment at one geographical location containing one or more work areas.

AMENDATORY SECTION (Amending Order 86-22, filed 5/22/86)

WAC 296-62-05427 APPENDIX D. Definition of "trade secret" (mandatory)

The following is a reprint of the Restatement of Torts section 757, comment b (1939):

"b. Definition of trade secret. A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business (see § 759 of the Restatement of Torts which is not included in this Appendix) in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a process or device for continuous use in the operations of the business. Generally it relates to the production of goods, as, for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

Secrecy. The subject matter of a trade secret must be secret. Matters of public knowledge or of general knowledge in an industry cannot be appropriated by one as his secret. Matters which are completely disclosed by the goods which one markets cannot be his secret. Substantially, a trade secret is known only in the particular business in which it is used. It is not requisite that only the proprietor of the business know it. He may, without losing his protection, communicate it to employees involved in its use. He may likewise communicate it to other pledged to secrecy. Others may also know of it independently, as, for example, when they have discovered the process or formula by independent invention and are keeping it secret. Nevertheless, a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one's trade secret are: (1) The extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Novelty and prior art. A trade secret may be a device or process which is patentable; but it need not be that. It may be a device or process which is clearly anticipated in the prior art or one which is merely a mechanical improvement that a good mechanic can make. Novelty and invention are not requisite for a trade secret as they are for patentability. These requirements are essential to patentability because a patent protects against unlicensed use of the patented device or process even by one who discovers it properly through independent research. The patent monopoly is a reward to the inventor. But such is not the case with a trade secret. Its protection is not based on a policy of rewarding or otherwise encouraging the development of secret processes or devices. The protection is merely against breach of faith and reprehensible means of learning another's secret. For this limited protection it is not appropriate to require also the kind of novelty and invention which is a requisite of patentability. The nature of the secret is, however, an important factor in determining the kind of relief that is appropriate against one who is subject to liability under the rule stated in this Section. Thus, if the secret consists of a device or process which is a novel invention, one who acquires the secret wrongfully is ordinarily enjoined from further use of it and is required to account for the profits derived from his past use. If, on the other hand, the secret consists of mechanical improvements that a good mechanic can make without resort to the secret, the wrongdoer's liability may be limited to damages, and an injunction against future use of the improvements made with the aid of the secret may be inappropriate.

~~(Information not a trade secret. Although given information is not a trade secret, one who receives the information in a confidential relation or discovers it by improper means may be under some duty not to~~

disclose or use that information. Because of the confidential relation or the impropriety of the means of discovery, he may be compelled to go to other sources for the information. As stated in Comment a, even the rule stated in this Section rests not upon a view of trade secrets as physical objects of property but rather upon abuse of confidence or impropriety in learning the secret. Such abuse or impropriety may exist also where the information is not a trade secret and may be equally a basis for liability. The rules relating to the liability for duties arising from confidential relationships generally are not within the scope of the Restatement of this Subject. As to the use of improper means to acquire information, see § 759.)"

NEW SECTION

WAC 296-62-077 ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE.

NEW SECTION

WAC 296-62-07701 SCOPE AND APPLICATION. (1) WAC 296-62-07701 through 296-62-07749 applies to all occupational exposures to asbestos, tremolite, anthophyllite, and actinolite, in all industries covered by the Washington Industrial Safety and Health Act, except as provided in subsection (2) of this section.

(2) This section does not apply to construction work as defined in WAC 296-155-012(6). Exposure to asbestos, tremolite, anthophyllite, and actinolite in construction work is covered by WAC 296-155-175 through 296-155-193.

Note: Enforcement of WAC 296-62-077 through 296-62-07749 is stayed as it applies to nonasbestiform tremolite, anthophyllite, and actinolite. During the period of this stay, the provisions of WAC 296-62-07517 will remain in effect with respect to regulation of nonasbestiform tremolite, anthophyllite, and actinolite.

NEW SECTION

WAC 296-62-07703 DEFINITIONS. For the purpose of this chapter:

(1) "Action level" means an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals, of 0.1 fiber per cubic centimeter (f/cc) of air calculated as an eight-hour time-weighted average, or 0.5 fiber per cubic centimeter (f/cc) of air calculated as a ceiling concentration provided the eight-hour time weighted average of 0.1 f/cc is not exceeded.

(2) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

(3) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(6) "Employee exposure" means that exposure to airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals that would occur if the employee were not using respiratory protective equipment.

(7) "Fiber" means a particulate form of asbestos, tremolite, anthophyllite, or actinolite, 5 micrometers or longer, with a length-to-diameter ratio of at least 3 to 1.

(8) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of 0.3 micrometer diameter mono-disperse particles.

(9) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed, or can reasonably be expected to exceed, the permissible exposure limit.

(10) "Tremolite, anthophyllite, or actinolite" means the nonasbestos form of these minerals, and any of these minerals that have been chemically treated and/or altered.

NEW SECTION

WAC 296-62-07705 PERMISSIBLE EXPOSURE LIMITS (PEL). (1) The employer shall ensure that no employee is exposed to an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 0.2 fiber per cubic centimeter of air as an eight-hour time-weighted average

(TWA) as determined by the method prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

(2) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 1.0 fiber per cubic centimeter of air, as determined by the methods prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

NEW SECTION

WAC 296-62-07707 IDENTIFICATION. The employer shall determine if materials to be worked on or removed contain asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals. Determinations shall be documented (e.g., laboratory analysis report, manufacturer's product information), maintained on file and made available upon request to the director.

NEW SECTION

WAC 296-62-07709 EXPOSURE MONITORING. (1) General.

(a) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight-hour TWA of each employee and of the ceiling concentrations of each employee.

(b) Representative eight-hour TWA employee exposures shall be determined on the basis of one or more samples representing full-shift exposures for each shift for each employee in each job classification in each work area.

(2) Initial monitoring.

(a) Each employer who has a workplace or work operation covered by this standard, except as provided for in (b) and (c) of this subsection, shall perform initial monitoring of employees who are, or may reasonably be expected to be exposed to airborne concentrations at or above the action level.

(b) Where the employer has monitored after December 20, 1985, and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection.

(c) Where the employer has relied upon objective data that demonstrates that asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is not capable of being released in airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, then no initial monitoring is required.

(3) Monitoring frequency (periodic monitoring) and patterns. After the initial determinations required by subsection (2)(a) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than six months for employees whose exposures may reasonably be foreseen to exceed the action level.

(4) Changes in monitoring frequency. If either the initial or the periodic monitoring required by subsections (2) and (3) of this section statistically indicates that employee exposures are below the action level, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(5) Additional monitoring. Notwithstanding the provisions of subsections (2)(b) and (4) of this section, the employer shall institute the exposure monitoring required under subsections (2)(a) and (3) of this section whenever there has been a change in the production, process, control equipment, personnel, or work practices that may result in new or additional exposures above the action level or when the employer has any reason to suspect that a change may result in new or additional exposures above the action level.

(6) Method of monitoring.

(a) All samples taken to satisfy the monitoring requirements of this section shall be personal samples collected following the procedures specified in WAC 296-62-07735, Appendix A.

(b) Monitoring shall be performed by persons having special training that ensures thorough understanding of the monitoring principles and adherence to the procedures specified in WAC 296-62-07735, Appendix A, and the requirements of WAC 296-62-07727 (1)(b)(i) through (xiv).

(c) All samples taken to satisfy the monitoring requirements of this section shall be evaluated using the WISHA Reference Method specified in WAC 296-62-07735, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA Reference Method is used, the employer shall ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons;

(ii) The comparison indicates that 90 percent of the samples collected in the range 0.5 to 2.0 times the permissible limit have an accuracy range of plus or minus 25 percent of the WISHA Reference Method results with a 95 percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers must use the results of monitoring analysis performed by laboratories which have instituted quality assurance programs that include the elements as prescribed in WAC 296-62-07735, Appendix A.

(7) Employee notification of monitoring results.

(a) The employer shall, within fifteen working days after the receipt of the results of any monitoring performed under the standard, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by (a) of this subsection shall contain the corrective action being taken by the employer to reduce employee exposure to or below the PEL, wherever monitoring results indicated that the PEL had been exceeded.

NEW SECTION

WAC 296-62-07711 REGULATED AREAS. (1) Establishment. The employer shall establish regulated areas wherever airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals are in excess of the permissible exposure limit prescribed in WAC 296-62-07705.

(2) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to asbestos, tremolite, anthophyllite, or actinolite.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by the Washington industrial safety and health act or regulations issued pursuant thereto.

(4) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with WAC 296-62-07715.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-62-07717.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated areas.

NEW SECTION

WAC 296-62-07713 METHODS OF COMPLIANCE. (1) Engineering controls and work practices.

(a) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the exposure limit prescribed in WAC 296-62-07705, except to the extent that such controls are not feasible.

(b) Wherever the feasible engineering controls and work practices that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(c) For the following operations, wherever feasible engineering controls and work practices that can be instituted are not sufficient to reduce the employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to or below 0.5 fiber per cubic centimeter of air (as an eight-hour time-weighted average) and shall supplement them by the use of any combination of respiratory protection that complies with the requirements of WAC 296-62-07715, work practices and feasible engineering controls that will reduce employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-

07705: Coupling cutoff in primary asbestos cement pipe manufacturing; sanding in primary and secondary asbestos cement sheet manufacturing; grinding in primary and secondary friction product manufacturing; carding and spinning in dry textile processes; and grinding and sanding in primary plastics manufacturing.

(d) Local exhaust ventilation. Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with good practices such as those found in the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1979, and be equipped with HEPA filtration.

(e) Particular tools. All hand-operated and power-operated tools which would produce or release fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals so as to expose employees to levels in excess of the exposure limit prescribed in WAC 296-62-07705, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems which comply with (d) of this subsection.

(f) Wet methods. Insofar as practicable, asbestos, tremolite, anthophyllite, or actinolite shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers so as to expose employees to levels in excess of the exposure limit prescribed in WAC 296-62-07705, unless the usefulness of the product would be diminished thereby.

(g) Materials containing asbestos, tremolite, anthophyllite, or actinolite shall not be applied by spray methods.

(h) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos, tremolite, anthophyllite, or actinolite shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, enclosed, or ventilated so as to prevent effectively the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals so as to expose employees to levels in excess of the limit prescribed in WAC 296-62-07705.

(i) Compressed air. Compressed air shall not be used to remove asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite, unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(2) Compliance program.

(a) Where the PEL is exceeded, the employer shall establish and implement a written program to reduce employee exposure to or below the limit by means of engineering and work practice controls as required by subsection (1) of this section, and by the use of respiratory protection where required or permitted under this section.

(b) Such programs shall be reviewed and updated as necessary to reflect significant changes in the status of the employer's compliance program.

(c) Written programs shall be submitted upon request for examination and copying to the director, affected employees and designated employee representatives.

(d) The employer shall not use employee rotation as a means of compliance with the PEL.

NEW SECTION

WAC 296-62-07715 RESPIRATORY PROTECTION. (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-077 through 296-62-07749. Respirators shall be used in the following circumstances:

(a) During the interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations, such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the exposure limit;

(d) In emergencies; and

(e) Whenever otherwise required by this standard.

(2) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator as specified in Table 1 of this section. The employer shall select respirators from among those approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) or by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(b) The employer shall provide a powered, air-purifying respirator in lieu of any negative pressure respirator specified in Table 1 of this section whenever:

- (i) An employee chooses to use this type of respirator; and
- (ii) This respirator will provide adequate protection to the employee.

TABLE 1.—RESPIRATORY PROTECTION FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE FIBERS

Airborne eight-hour time-weighted average (TWA) concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals	Required Respirator ^a
Not in excess of 2 f/cc (10X PEL-TWA).	1. Half-mask, air-purifying respirator equipped with high-efficiency filters. ^b
Not in excess of 10 f/cc (50X PEL-TWA).	1. Full facepiece air-purifying respirator equipped with high-efficiency filters.
Not in excess of 20 f/cc (100X PEL-TWA).	1. Any powered air-purifying respirator equipped with high-efficiency filters. 2. Any supplied-air respirator operated in continuous flow mode.
Not in excess of 200 f/cc (1000X PEL-TWA).	1. Full facepiece supplied-air respirator operated in pressure demand mode.
Greater than 200 f/cc (>1000X PEL-TWA) or unknown concentration.	1. Full facepiece supplied-air respirator operated in pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter.

Note: a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.
 b. A high-efficiency filter means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.

(3) Respirator program.

(a) Where respiratory protection is required, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave the regulated area to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employee shall be assigned to tasks requiring the use of respirators if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employee shall be assigned to another job or given the opportunity to transfer to a different position whose duties he or she is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay the employee had just prior to such transfer, if such a different position is available.

(4) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) For each employee wearing negative pressure respirators, employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with WAC 296-62-07739, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1 of this section.

NEW SECTION

WAC 296-62-07717 PROTECTIVE WORK CLOTHING AND EQUIPMENT. (1) Provision and use. If an employee is exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL, or where the possibility of eye irritation exists, the employer shall provide at no cost to the employee and ensure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

- (a) Coveralls or similar full-body work clothing;
- (b) Gloves, head coverings, and foot coverings; and
- (c) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-07801.

(2) Removal and storage.

(a) The employer shall ensure that employees remove work clothing contaminated with asbestos, tremolite, anthophyllite, or actinolite only in change rooms provided in accordance with WAC 296-62-07719(1).

(b) The employer shall ensure that no employee takes contaminated work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(c) Contaminated work clothing shall be placed and stored in closed containers which prevent dispersion of the asbestos, tremolite, anthophyllite, and actinolite outside the container.

(d) Containers of contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal, shall bear labels in accordance with WAC 296-62-07721(2).

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. The employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(b) The employer shall prohibit the removal of asbestos, tremolite, anthophyllite, and actinolite from protective clothing and equipment by blowing or shaking.

(c) Laundering of contaminated clothing shall be done so as to prevent the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit prescribed in WAC 296-62-07705.

(d) Any employer who gives contaminated clothing to another person for laundering shall inform such person of the requirement in (c) of this subsection to effectively prevent the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with asbestos, tremolite, anthophyllite, or actinolite of the potentially harmful effects of exposure to asbestos, tremolite, anthophyllite, or actinolite.

(f) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with WAC 296-62-07721.

NEW SECTION

WAC 296-62-07719 HYGIENE FACILITIES AND PRACTICES. (1) Change rooms.

(a) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is above the permissible exposure limit.

(b) The employer shall ensure that change rooms are in accordance with WAC 296-24-120, and are equipped with two separate lockers or storage facilities, so separated as to prevent contamination of the employee's street clothes from his protective work clothing and equipment.

(2) Showers.

(a) The employer shall ensure that employees who work in areas where their airborne exposure is above the permissible exposure limit shower at the end of the work shift.

(b) The employer shall provide shower facilities which comply with WAC 296-24-12009(3).

(c) The employer shall ensure that employees who are required to shower pursuant to (a) of this subsection do not leave the workplace wearing any clothing or equipment worn during the work shift.

(3) Lunchrooms.

(a) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure is above the permissible exposure limit.

(b) The employer shall ensure that lunchroom facilities have a positive pressure, filtered air supply, and are readily accessible to employees.

(c) The employer shall ensure that employees who work in areas where their airborne exposure is above the permissible exposure limit wash their hands and faces prior to eating, drinking, or smoking.

(d) The employer shall ensure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface asbestos, tremolite, anthophyllite, and actinolite fibers have been removed from the clothing or equipment by vacuuming or other method that removes dust without causing the asbestos, tremolite, anthophyllite, or actinolite to become airborne.

NEW SECTION

WAC 296-62-07721 COMMUNICATION OF HAZARDS TO EMPLOYEES. (1) Warning signs.

(a) Warning signs shall be provided and displayed at each regulated area. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) The warning signs required by subsection (1)(a) of this section shall bear the following information:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE
HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE
CLOTHING
ARE REQUIRED IN THIS AREA

(c) Where minerals in the regulated area are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(2) Warning labels.

(a) Warning labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos, tremolite, anthophyllite, or actinolite fibers, or to their containers.

(b) The labels shall comply with the requirements of WAC 296-62-05411, and shall include the following information:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE
HAZARD

(c) Where minerals to be labeled are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(3) Material safety data sheets. Employers who are manufacturers or importers of asbestos, tremolite, anthophyllite, or actinolite, or asbestos, tremolite, anthophyllite, or actinolite products shall comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-08413, except as provided by subsection (4) of this section.

(4) The provisions for labels required by subsection (2) of this section or for material safety data sheets required by subsection (3) of this section do not apply where:

(a) Asbestos, tremolite, anthophyllite, or actinolite fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the action level will be released; or

(b) Asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is present in a product in concentrations less than 0.1 percent by weight.

(5) Employee information and training.

(a) The employer shall institute a training program for all employees who are exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level and ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment and at least annually thereafter.

(c) The training program shall be conducted in a manner which the employee is able to understand. The employer shall ensure that each employee is informed of the following:

(i) The health effect associated with asbestos, tremolite, anthophyllite, or actinolite exposure;

(ii) The relationship between smoking and exposure to asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer;

(iii) The quantity, location, manner of use, release, and storage of asbestos, tremolite, anthophyllite, or actinolite, and the specific nature of operations which could result in exposure to asbestos, tremolite, anthophyllite, or actinolite;

(iv) The engineering controls and work practices associated with the employee's job assignment;

(v) The specific procedures implemented to protect employees from exposure to asbestos, tremolite, anthophyllite, or actinolite, such as appropriate work practices, emergency and clean-up procedures, and personal protective equipment to be used;

(vi) The purpose, proper use, and limitations of respirators and protective clothing;

(vii) The purpose and a description of the medical surveillance program required by WAC 296-62-07725; and

(viii) A review of this standard, including appendices.

(d) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(6) Certification.

(a) All individuals working on asbestos projects, as defined in WAC 296-65-003(4) shall be certified as required by WAC 296-65-010 and 296-65-030.

(b) In cases excepted under WAC 296-65-030 (1) and (2), all employees shall be trained according to subsection (5) of this section.

NEW SECTION

WAC 296-62-07723 HOUSEKEEPING. (1) All surfaces shall be maintained as free as practicable of accumulations of dusts and waste containing asbestos, tremolite, anthophyllite, or actinolite.

(2) All spills and sudden releases of material containing asbestos, tremolite, anthophyllite, or actinolite shall be cleaned up as soon as possible.

(3) Surfaces contaminated with asbestos, tremolite, anthophyllite, or actinolite may not be cleaned by the use of compressed air.

(4) Vacuuming. HEPA-filtered vacuuming equipment shall be used for vacuuming. The equipment shall be used and emptied in a manner which minimizes the reentry of asbestos, tremolite, anthophyllite, or actinolite into the workplace.

(5) Shoveling, dry sweeping, and dry clean-up of asbestos, tremolite, anthophyllite, or actinolite may be used only where vacuuming and/or wet cleaning are not feasible.

(6) Waste disposal. Waste, scrap, debris, bags, containers, equipment, and clothing contaminated with asbestos, tremolite, anthophyllite, or actinolite consigned for disposal, shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(7) Deterioration. Asbestos, tremolite, anthophyllite, or actinolite which has become damaged or deteriorated shall be enclosed, encapsulated, or removed.

NEW SECTION

WAC 296-62-07725 MEDICAL SURVEILLANCE. (1) General. (a) The employer shall institute a medical surveillance program for all employees who are or will be exposed to airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level.

(b) Examination by a physician. (i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee and at a reasonable time and place.

(ii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section, shall complete a training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Preplacement examinations. (a) Before an employee is assigned to an occupation exposed to airborne concentrations of asbestos,

tremolite, anthophyllite, or actinolite fibers, a preplacement medical examination shall be provided or made available by the employer.

(b) Such examination shall include, as a minimum, a medical and work history: A complete physical examination of all systems with emphasis on the respiratory system, the cardiovascular system and digestive tract; completion of the respiratory disease standardized questionnaire in WAC 296-62-07741, Appendix D, Part 1; a chest roentgenogram (posterior-anterior 14x17 inches); pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}); and any additional tests deemed appropriate by the examining physician. Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-62-07743, Appendix E.

(3) Periodic examinations. (a) Periodic medical examinations shall be made available annually.

(b) The scope of the medical examination shall be in conformance with the protocol established in subsection (2)(b) of this section, except that the frequency of chest roentgenograms shall be conducted in accordance with Table 2 of this section, and the abbreviated standardized questionnaire contained in WAC 296-62-07741, Appendix D, Part 2, shall be administered to the employee.

TABLE 2.—FREQUENCY OF CHEST ROENTGENOGRAMS

Years since first exposure	Age of employee		
	15 to 35	35+ to 45	45+
0 to 10	Every 5 years	Every 5 years	Every 5 years.
10+	Every 5 years	Every 2 years	Every 1 year.

(4) Termination of employment examinations. (a) The employer shall provide, or make available, a termination of employment medical examination for any employee who has been exposed to airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level.

(b) The medical examination shall be in accordance with the requirements of the periodic examinations stipulated in subsection (3) of this section, and shall be given within thirty calendar days before or after the date of termination of employment.

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with subsection (2), (3), or (4) of this section within the past one-year period.

(6) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D and E of WAC 296-62-07741 and 296-62-07743, respectively.

(b) A description of the affected employee's duties as they relate to the employee's exposure.

(c) The employee's representative exposure level or anticipated exposure level.

(d) A description of any personal protective and respiratory equipment used or to be used.

(e) Information from previous medical examinations of the affected employee that is not otherwise available to the examining physician.

(7) Physician's written opinion. (a) The employer shall obtain a written signed opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos, tremolite, anthophyllite, or actinolite;

(ii) Any recommended limitations on the employee or upon the use of personal protective equipment such as clothing or respirators; and

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions resulting from asbestos, tremolite, anthophyllite, or actinolite exposure that require further explanation or treatment.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos, tremolite, anthophyllite, or actinolite.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

NEW SECTION

WAC 296-62-07727 RECORDKEEPING. (1) Exposure measurements. (a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to asbestos, tremolite, anthophyllite, or actinolite as prescribed in WAC 296-62-07709.

(b) This record shall include at least the following information:

- (i) Name of employer;
- (ii) Name of person conducting monitoring;
- (iii) Date of monitoring;
- (iv) Address of asbestos operation;
- (v) Operation involving exposure to asbestos, tremolite, anthophyllite, or actinolite which is being monitored;
- (vi) Description of sampling strategies;
- (vii) Personal or area sample;
- (viii) Employee name, social security number, and asbestos worker certificate number if the project requires certified workers;
- (ix) Type of engineering control, if any;
- (x) Type of respirator used;
- (xi) Type of protective clothing used;
- (xii) Pump calibration date and data;
- (xiii) Pump serial number and flow rate;
- (xiv) Sampling on and off time and total volume of air sampled;
- (xv) Name, address, and telephone number of analytical laboratory;
- (xvi) Name of microscopist;
- (xvii) Date of analysis;
- (xviii) Analytical method;
- (xix) Total number of fibers counted and total number of fields counted;

- (xx) Average concentration in fibers per cubic centimeter of air;
- (xxi) Evidence of analytical method accuracy.

(c) The employer shall maintain this record for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(2) Objective data for exempted operations. (a) Where the processing, use, or handling of products made from or containing asbestos, tremolite, anthophyllite, or actinolite is exempted from other requirements of this section under WAC 296-62-07709(2)(c), the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following:

- (i) The product qualifying for exemption;
 - (ii) The source of the objective data;
 - (iii) The testing protocol, results of testing, and/or analysis of the material for the release of asbestos, tremolite, anthophyllite, or actinolite;
 - (iv) A description of the operation exempted and how the data support the exemption; and
 - (v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.
- (c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

Note: The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(3) Medical surveillance. (a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-62-07725 (1)(a), in accordance with WAC 296-62-052.

(b) The record shall include at least the following information:

- (i) The name and social security number of the employee;
- (ii) Physician's written opinions;
- (iii) Any employee medical complaints related to exposure to asbestos, tremolite, anthophyllite, or actinolite; and
- (iv) A copy of the information provided to the physician as required by WAC 296-62-07725(6).

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(4) Training. The employer shall maintain all employee training records for one year beyond the last date of employment of that employee.

(5) Availability. (a) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying.

(b) The employer, upon request shall make any exposure records required by subsection (1) of this section available for examination and

copying to affected employees, former employees, designated representatives, and the director, in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) The employer, upon request, shall make employee medical records required by subsection (2) of this section available for examination and copying to the subject employee, to anyone having the specific written consent of the subject employee, and the director, in accordance with WAC 296-62-052.

(6) Transfer of records. (a) The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal of records and, upon request, transmit them to the director.

NEW SECTION

WAC 296-62-07729 OBSERVATION OF MONITORING. (1) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite conducted in accordance with this section.

(2) Observation procedures. When observation of the monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-62-07731 DATES. (1) The requirements of the asbestos standard issued in May, 1973, as amended, and published in WAC 296-62-07517, remain in effect until compliance is achieved with the parallel provisions of WAC 296-62-077 through 296-62-07749.

(2) Start-up dates. All obligations of this section commence on the effective date except as follows:

(a) Hygiene and lunchroom facilities. Changerooms, showers, lavatories, and lunchroom facilities shall be constructed and in use no later than July 20, 1987. However, if as part of the compliance plan it is predicted by an independent engineering firm that engineering controls and work practices will reduce exposures below the permissible exposure limit by July 20, 1988, for affected employees, then such facilities need not be completed until one year after the engineering controls are completed, if such controls have not in fact succeeded in reducing exposure to below the permissible exposure limit.

(b) Compliance program. Written compliance programs required by WAC 296-62-07713(2) as a result of initial monitoring shall be completed and available for inspection and copying as soon as possible but no later than July 20, 1987.

(c) Methods of compliance. The engineering and work practice controls as required by WAC 296-62-07713(1) shall be implemented as soon as possible but no later than July 20, 1988.

NEW SECTION

WAC 296-62-07733 APPENDICES. (1) The following Appendices to this chapter are mandatory.

(a) WAC 296-62-07735, Appendix A: WISHA Reference Method, Mandatory.

(b) WAC 296-62-07739, Appendix C: Qualitative and Quantitative Fit Testing Procedures, Mandatory.

(c) WAC 296-62-07741, Appendix D: Medical Questionnaires, Mandatory.

(d) WAC 296-62-07743, Appendix E: Interpretation and Classification of Chest Roentgenograms, Mandatory.

(2) The following Appendices to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(a) WAC 296-62-07737, Appendix B: Detailed Procedure for Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis, Nonmandatory.

(b) WAC 296-62-07745, Appendix F: Work Practices and Engineering Controls for Automotive Brake Repair Operations, Nonmandatory.

(c) WAC 296-62-07747, Appendix G: Substance Technical Information for Asbestos, Nonmandatory.

(d) WAC 296-62-07749, Appendix H: Surveillance Guidelines for Asbestos, Tremolite, Anthophyllite, and Actinolite, Nonmandatory.

NEW SECTION

WAC 296-62-07735 APPENDIX A—WISHA REFERENCE METHOD—MANDATORY. This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described below represent the elements of the available monitoring methods (such as the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under paragraph (f) of the standard are required to utilize analytical laboratories that use this procedure, or an equivalent method recognized by the department, for collecting and analyzing samples.

(1) Sampling and Analytical Procedure. (a) The sampling medium for air samples shall be mixed cellulose ester filter membranes. These shall be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device shall be the 25-mm diameter cassette with an open-faced 50-mm extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record.

(c) An air flow rate between 0.5 liter/min and 4.0 liters/min shall be selected for the 25-mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min shall be selected.

(d) Where possible, a sufficient air volume for each air sample shall be collected to yield between 100 and 1,300 fibers per square millimeter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample shall be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples shall be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts shall be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope shall be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of 100 micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope shall be about 3 degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets 1 to 7, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set 3 completely, although they may appear somewhat faint, and that the grooved lines in sets 6 and 7 must be invisible. Sets 4 and 5 must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include 10 percent blanks or a minimum of 2 blanks. The blank results shall be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of 7 fibers/100 fields shall be rejected.

(l) The samples shall be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than 5 micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of 3:1 or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field shall receive a count of 1. Fibers crossing the boundary once, having one end within the circle, shall receive the count of one-half (1/2). Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) For a 25mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 10 fibers are found after counting 100 fields and the sample air volume is less than 60 liters, count a total number of fields calculated from the following formulas:

$$N = 6000/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 2400/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 25mm filter
V = Air volume of sample in liters
QL = Limit of reliable quantification in fibers/cc
for the NIOSH 7400 method

(vi) For a 37mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 100 fibers are found after counting 100 fields and the sample air volume is less than 133 liters, count a total number of fields calculated from the following formulas:

$$N = 13300/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 5320/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 37mm filter
V = Air volume of sample in liters
QL = Limit of reliable quantification in fibers/cc

(n) Blind recounts shall be conducted at the rate of 10 percent.

(2) Quality Control Procedures. (a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting slides shall establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program shall include all laboratories and shall also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program. Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory shall participate in round robin testing at least once every 6 months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory shall submit slides typical of its own work load for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope shall be evaluated and the microscope shall be replaced, as necessary.

(e) Current results of these quality assurance programs shall be posted in each laboratory to keep the microscopists informed.

NEW SECTION

WAC 296-62-07737 APPENDIX B—DETAILED PROCEDURE FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE SAMPLING AND ANALYSIS—NON-MANDATORY. This appendix contains a detailed procedure for sampling and analysis and includes those critical elements specified in

WAC 296-62-07735, Appendix A. Employers are not required to use this procedure, but they are required to use Appendix A. The purpose of Appendix B is to provide a detailed step-by-step sampling and analysis procedure that conforms to the elements specified in WAC 296-62-07735, Appendix A. Since this procedure may also standardize the analysis and reduce variability, WISHA encourages employers to use this appendix.

Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis Method.

Technique: Microscopy, phase contrast.

Analyte: Fibers (manual count).

Sample Preparation: Acetone/triacetin method.

Calibration: Phase-shift detection limit about 3 degrees.

Range: 100 to 1300 fibers/mm² filter area.

Estimated limit of detection: 7 fibers/mm² filter area.

Sampler: Filter (0.8-1.2 um mixed cellulose ester membrane, 25-mm diameter).

Flow rate: 0.5 l/min to 4.0 l/min (25-mm cassette) 1.0 l/min to 4.0 l/min (37-mm cassette).

Sample volume: Adjust to obtain 100 to 1300 fibers/mm².

Shipment: Routine.

Sample stability: Indefinite.

Blanks: 10% of samples (minimum 2).

Standard analytical error: 0.25.

Applicability: The working range is 0.02 f/cc (1920-L air sample) to 1.25 f/cc (400-L air sample). The method gives an index of airborne asbestos, tremolite, anthophyllite, and actinolite fibers but may be used for other materials such as fibrous glass by inserting suitable parameters into the counting rules. The method does not differentiate between asbestos, tremolite, anthophyllite, and actinolite and other fibers. Asbestos, tremolite, anthophyllite, and actinolite fibers less than ca. 0.25 um diameter will not be detected by this method.

Interferences: Any other airborne fiber may interfere since all particles meeting the counting criteria are counted. Chain-like particles may appear fibrous. High levels of nonfibrous dust particles may obscure fibers in the field of view and raise the detection limit.

(1) Reagents.

(a) Acetone.

(b) Triacetin (glycerol triacetate), reagent grade.

Special precautions: Acetone is an extremely flammable liquid and precautions must be taken not to ignite it. Heating of acetone must be done in a ventilated laboratory fume hood using a flameless, spark-free heat source.

(2) Equipment.

(a) Collection device: 25-mm cassette with 50-mm extension cowl with cellulose ester filter, 0.8 to 1.2 mm pore size and backup pad.

Note: Analyze representative filters for fiber background before use and discard the filter lot if more than 5 fibers/100 fields are found.

(b) Personal sampling pump, greater than or equal to 0.5 L/min. with flexible connecting tubing.

(c) Microscope, phase contrast, with green or blue filter, 8 to 10 X eyepiece, and 40 to 45 X phase objective (total magnification ca. 400 X); numerical aperture = 0.65 to 0.75.

(d) Slides, glass, single-frosted, pre-cleaned, 25 x 75 mm.

(e) Cover slips, 25 x 25 mm, No. 1 1/2 unless otherwise specified by microscope manufacturer.

(f) Knife, No. 1 surgical steel, curved blade.

(g) Tweezers.

(h) Flask, Guth-type, insulated neck, 250 to 500 mL (with single-hole rubber stopper and elbow-jointed glass tubing, 16 to 22 cm long).

(i) Hotplate, spark-free, stirring type; heating mantle; or infrared lamp and magnetic stirrer.

(j) Syringe, hypodermic, with 22-gauge needle.

(k) Graticule, Walton-Beckett type with 100 um diameter circular field at the specimen plane (area = 0.00785 mm²), (Type G-22).

Note: The graticule is custom-made for each microscope.

(l) HSE/NPL phase contrast test slide, Mark II.

(m) Telescope, ocular phase-ring centering.

(n) Stage micrometer (0.01 mm divisions).

(3) Sampling.

(a) Calibrate each personal sampling pump with a representative sampler in line.

(b) Fasten the sampler to the worker's lapel as close as possible to the worker's mouth. Remove the top cover from the end of the cowl

extension (open face) and orient face down. Wrap the joint between the extender and the monitor's body with shrink tape to prevent air leaks.

(c) Submit at least two blanks (or 10% of the total samples, whichever is greater) for each set of samples. Remove the caps from the field blank cassettes and store the caps and cassettes in a clean area (bag or box) during the sampling period. Replace the caps in the cassettes when sampling is completed.

(d) Sample at 0.5 L/min or greater. Do not exceed 1 mg total dust loading on the filter. Adjust sampling flow rate, Q (L/min), and time to produce a fiber density, E (fibers/mm²), of 100 to 1300 fibers/m² (3.85×10^4 to 5×10^5 fibers per 25-mm filter with effective collection area ($A_c=385$ mm²)) for optimum counting precision (see subsection (7)(a) of this section). Calculate the minimum sampling time, t_{minimum} at the action level (one-half of the current standard), L (f/cc) of the fibrous aerosol being sampled:

$$t_{\text{minimum}} = \frac{(A_c)(E)}{(Q)(L)10^3}$$

(e) Remove the field monitor at the end of sampling, replace the plastic top cover and small end caps, and store the monitor.

(f) Ship the samples in a rigid container with sufficient packing material to prevent jostling or damage.

Note: Do not use polystyrene foam in the shipping container because of electrostatic forces which may cause fiber loss from the sampler filter.

(4) Sample preparation.

Note: The object is to produce samples with a smooth (nongrainy) background in a medium with a refractive index equal to or less than 1.46. The method below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. Other mounting techniques meeting the above criteria may also be used, e.g., the nonpermanent field mounting technique used in P & CAM 239.

(a) Ensure that the glass slides and cover slips are free of dust and fibers.

(b) Place 40 to 60 ml of acetone into a Guth-type flask. Stopper the flask with a single-hole rubber stopper through which a glass tube extends 5 to 8 cm into the flask. The portion of the glass tube that exits the top of the stopper (8 to 10 cm) is bent downward in an elbow that makes an angle of 20 to 30 degrees with the horizontal.

(c) Place the flask in a stirring hotplate or wrap in a heating mantle. Heat the acetone gradually to its boiling temperature (ca. 58°C).

Caution: The acetone vapor must be generated in a ventilated fume hood away from all open flames and spark sources. Alternate heating methods can be used, providing no open flame or sparks are present.

(d) Mount either the whole sample filter or a wedge cut from the sample filter on a clean glass slide.

(i) Cut wedges of ca. 25 percent of the filter area with a curved-blade steel surgical knife using a rocking motion to prevent tearing.

(ii) Place the filter or wedge, dust side up, on the slide. Static electricity will usually keep the filter on the slide until it is cleared.

(iii) Hold the glass slide supporting the filter approximately 1 to 2 cm from the glass tube port where the acetone vapor is escaping from the heated flask. The acetone vapor stream should cause a condensation spot on the glass slide ca. 2 to 3 cm in diameter. Move the glass slide gently in the vapor stream. The filter should clear in 2 to 5 sec. If the filter curls, distorts, or is otherwise rendered unusable, the vapor stream is probably not strong enough. Periodically wipe the outlet port with tissue to prevent liquid acetone dripping onto the filter.

(iv) Using the hypodermic syringe with a 22-gauge needle, place 1 to 2 drops of triacetin on the filter. Gently lower a clean 25-mm square cover slip down onto the filter at a slight angle to reduce the possibility of forming bubbles. If too many bubbles form or the amount of triacetin is insufficient, the cover slip may become detached within a few hours.

(v) Glue the edges of the cover slip to the glass slide using a lacquer or nail polish.

Note: If clearing is slow, the slide preparation may be heated on a hotplate (surface temperature 50°C) for 15 min. to hasten clearing. Counting may proceed immediately after clearing and mounting are completed.

(5) Calibration and quality control.

(a) Calibration of the Walton-Beckett graticule. The diameter, d_c (mm), of the circular counting area and the disc diameter must be specified when ordering the graticule.

(i) Insert any available graticule into the eyepiece and focus so that the graticule lines are sharp and clear.

(ii) Set the appropriate interpupillary distance and, if applicable, reset the binocular head adjustment so that the magnification remains constant.

(iii) Install the 40 to 45 X phase objective.

(iv) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(v) Measure the magnified grid length, L_o (um) using the stage micrometer.

(vi) Remove the graticule from the microscope and measure its actual grid length, L_a (mm). This can best be accomplished by using a stage fitted with verniers.

(vii) Calculate the circle diameter, d_c (mm), for the Walton-Beckett graticule:

$$d_c = \frac{L_a \times D}{L_o}$$

Example: If $L_o = 108$ um, $L_a = 2.93$ mm and $D = 100$ um, then $d_c = 2.71$ mm.

(viii) Check the field diameter, D (acceptable range 100 mm \pm 2 mm) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine field area (mm²).

(b) Microscope adjustments. Follow the manufacturer's instructions and also the following:

(i) Adjust the light source for even illumination across the field of view at the condenser iris.

Note: Kohler illumination is preferred, where available.

(ii) Focus on the particulate material to be examined.

(iii) Make sure that the field iris is in focus, centered on the sample, and open only enough to fully illuminate the field of view.

(iv) Use the telescope ocular supplied by the manufacturer to ensure that the phase rings (annular diaphragm and phase-shifting elements) are concentric.

(c) Check the phase-shift detection limit of the microscope periodically.

(i) Remove the HSE/NPL phase-contrast test slide from its shipping container and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooves (ca. 20 grooves to each block) in descending order of visibility from sets 1 to 7. The requirements for counting are that the microscope optics must resolve the grooved lines in set 3 completely, although they may appear somewhat faint, and that the grooved lines in sets 6 to 7 must be invisible. Sets 4 and 5 must be at least partially visible but may vary slightly in visibility between microscopes. A microscope which fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image quality deteriorates, clean the microscope optics and, if the problem persists, consult the microscope manufacturer.

(d) Quality control of fiber counts.

(i) Prepare and count field blanks along with the field samples. Report the counts on each blank. Calculate the mean of the field blank counts and subtract this value from each sample count before reporting the results.

Note 1: The identity of the blank filters should be unknown to the counter until all counts have been completed.

Note 2: If a field blank yields fiber counts greater than 7 fibers/100 fields, report possible contamination of the samples.

(ii) Perform blind recounts by the same counter on 10 percent of filters counted (slides relabeled by a person other than the counter).

(e) Use the following test to determine whether a pair of counts on the same filter should be rejected because of possible bias. This statistic estimates the counting repeatability at the 95% confidence level. Discard the sample if the difference between the two counts exceeds $2.77(F)s_r$, where F = average of the two fiber counts and s_r = relative standard deviation, which should be derived by each laboratory based on historical in-house data.

Note: If a pair of counts is rejected as a result of this test, recount the remaining samples in the set and test the new counts against the first counts. Discard all rejected paired counts.

(f) Enroll each new counter in a training course that compares performance of counters on a variety of samples using this procedure.

Note: To ensure good reproducibility, all laboratories engaged in asbestos, tremolite, anthophyllite, and actinolite counting are required to participate in the Proficiency Analytical Testing (PAT) Program and should routinely participate with other asbestos, tremolite, anthophyllite, and actinolite fiber counting laboratories in the exchange of field samples to compare performance of counters.

(6) Measurement.

(a) Place the slide on the mechanical stage of the calibrated microscope with the center of the filter under the objective lens. Focus the microscope on the plane of the filter.

(b) Regularly check phase-ring alignment and Kohler illumination.

(c) The following are the counting rules:

(i) Count only fibers longer than 5 μm . Measure the length of curved fibers along the curve.

(ii) Count only fibers with a length-to-width ratio equal to or greater than 3:1.

(iii) For fibers that cross the boundary of the graticule field, do the following:

(A) Count any fiber longer than 5 μm that lies entirely within the graticule area.

(B) Count as 1/2 fiber any fiber with only one end lying within the graticule area.

(C) Do not count any fiber that crosses the graticule boundary more than once.

(D) Reject and do not count all other fibers.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of a fiber.

(v) For a 25mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 10 fibers are found after counting 100 fields and the sample air volume is less than 60 liters, count a total number of fields calculated from the following formulas:

$$N = 6000/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 2400/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 25mm filter

V = Air volume of sample in liters

QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

(vi) For a 37mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 100 fibers are found after counting 100 fields and the sample air volume is less than 133 liters, count a total number of fields calculated from the following formulas:

$$N = 13300/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 5320/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 37mm filter

V = Air volume of sample in liters

QL = Limit of reliable quantification in fibers/cc

(d) Start counting from one end of the filter and progress along a radial line to the other end, shift either up or down on the filter, and continue in the reverse direction. Select fields randomly by looking away from the eyepiece briefly while advancing the mechanical stage. When an agglomerate covers ca. 1/6 or more of the field of view, reject the field and select another. Do not report rejected fields in the number of total fields counted.

Note: When counting a field, continuously scan a range of focal planes by moving the fine focus knob to detect very fine fibers which have become embedded in the filter. The small-diameter fibers will be very faint but are an important contribution to the total count.

(7) Calculations.

(a) Calculate and report fiber density on the filter, E (fibers/ mm^2); by dividing the total fiber count, F; minus the mean field blank count, B, by the number of fields, n; and the field area, $A_f(0.00785 \text{ mm}^2)$ for a properly calibrated Walton-Beckett graticule):

$$E = \frac{F-B}{(n)(A_f)} \text{ fibers}/\text{mm}^2$$

(b) Calculate the concentration, C (f/cc), of fibers in the air volume sampled, V (L), using the effective collection area of the filter, $A_c(385 \text{ mm}^2)$ for a 25-mm filter):

$$C = \frac{(E)(A_c)}{V(10^3)}$$

Note: Periodically check and adjust the value of A_c , if necessary.

Bulk Sample Collection and Analysis.

Bulk samples should be collected as specified in Appendix G, Section 1 of the United States Environmental Protection Agency (EPA) publication No. 560/5-85-024 (June 1985) entitled Guidance for Controlling Asbestos-Containing Materials in Buildings.

Analysis of the samples should be conducted by polarizing light microscopy in a qualified laboratory. In certain cases, x-ray diffraction may be required to confirm the presence of asbestos. Qualified laboratories must be participants in the EPA bulk asbestos quality assurance program or other bulk asbestos quality assurance program recognized by the department.

NEW SECTION

WAC 296-62-07739 APPENDIX C—QUALITATIVE AND QUANTITATIVE FIT TESTING PROCEDURES—MANDATORY. (1) Qualitative fit test protocols.

(a) Isoamyl acetate protocol.

(i) Odor threshold screening:

(A) Three 1-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labelled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator.

This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(I) Positioning of mask on nose.

(II) Room for eye protection.

(III) Room to talk.

(IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

(I) Chin properly placed.

(II) Strap tension.

(III) Fit across nose bridge.

(IV) Distance from nose to chin.

(V) Tendency to slip.

(VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear 55 gal. drum liner suspended inverted over a 2 foot diameter frame, so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and rainbow passage shall be taped to the inside of the test chamber:

Test exercises.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a 6 inch by 5 inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 10 times the PEL of airborne asbestos. In atmospheres greater than 10 times, and less than 100 times the PEL (up to 100 ppm), the subject must pass the IAA test using a full face negative pressure respirator. (The concentration of the IAA inside the test chamber must be increased by ten times for QLFT of the full facepiece.)

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

- (II) Significant facial scarring in the area of the facepiece seal,
- (III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,
- (IV) Reconstructive or cosmetic surgery, or
- (V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

- (A) Name of test subject.
- (B) Date of testing.
- (C) Name of the test conductor.
- (D) Respirators selected (indicate manufacturer, model, size and approval number).
- (E) Testing agent.
- (b) Saccharin solution aerosol protocol.
- (i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.
- (ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in 100 cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after 30 squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 10 times the PEL of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

- (C) Name of test conductor.
- (D) Respirators selected (indicate manufacturer, model, size and approval number).
- (E) Testing agent.
- (c) Irritant fume protocol.
- (i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the facepiece area of the test subject. The person conducting the test shall begin with the tube at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber

shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a 10 percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed 2 seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, Norton M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least 5 minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half-mask and 1 percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least 5 seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least 5 seconds. Perform for at least three complete cycles.

(v) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least 15 seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least 30 seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least 30 seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half-masks and 1 percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate. (See (d)(ii) of this subsection.)

(g) Calculation of fit factors.

(i) The fit factor determined by the quantitative fit test equals the average concentration inside the respirator.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three protection factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of 100 or 1,000, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

(A) Name.

(B) Date of fit test.

(C) Protection factors obtained through each manufacturer, model and approval number of respirator tested.

(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

- (i) Weight change of 20 pounds or more,
(ii) Significant facial scarring in the area of the facepiece seal,
(iii) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,
(iv) Reconstructive or cosmetic surgery, or
(v) Any other condition that may interfere with facepiece sealing.
(k) Recordkeeping.

A summary of all test results shall be maintained for 3 years. The summary shall include:

- (i) Name of test subject.
(ii) Date of testing.
(iii) Name of the test conductor.
(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

NEW SECTION

WAC 296-62-07741 APPENDIX D-MEDICAL QUESTIONNAIRES; MANDATORY. This mandatory appendix contains the medical questionnaires that must be administered to all employees who are exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the action level, and who will therefore be included in their employer's medical surveillance program.

Part I INITIAL MEDICAL QUESTIONNAIRE

1. NAME
2. SOCIAL SECURITY #
3. CLOCK NUMBER
4. PRESENT OCCUPATION
5. PLANT
6. ADDRESS
7. (Zip Code)
8. TELEPHONE NUMBER
9. INTERVIEWER
10. DATE
11. Date of Birth
12. Place of Birth
13. Sex
14. What is your marital status?
15. Race
16. What is the highest grade completed in school?

OCCUPATIONAL HISTORY

17A. Have you ever worked full-time (30 hours per week or more) for 6 months or more?
IF YES TO 17A:
B. Have you ever worked for a year or more in any dusty job?
C. Have you ever been exposed to gas or chemical fumes in your work?
D. What has been your usual occupation or job—the one you have worked at the longest?

Have you ever worked:

E. In a mine?
F. In a quarry?
G. In a foundry?
H. In a pottery?
I. In a cotton, flax or hemp mill?
J. With asbestos?

18. PAST MEDICAL HISTORY

A. Do you consider yourself to be in good health?
B. Have you any defect in vision?
C. Have you any hearing defect?
D. Are you suffering from or have you ever suffered from:
a. Epilepsy (or fits, seizures, convulsions)?
b. Rheumatic fever?
c. Kidney disease?
d. Bladder disease?
e. Diabetes?
f. Jaundice?

19. CHEST COLDS AND CHEST ILLNESSES

19A. If you get a cold, does it usually go to your chest?
20A. During the past 3 years, have you had any chest illnesses that have kept you off work, indoors at home, or in bed?
B. Did you produce phlegm with any of these chest illnesses?
C. In the last 3 years, how many such illnesses with (increased) phlegm did you have which lasted a week or more?
21. Did you have any lung trouble before the age of 16?
22. Have you ever had any of the following?
1A. Attacks of bronchitis?
B. Was it confirmed by a doctor?
C. At what age was your first attack?
2A. Pneumonia (include broncho-pneumonia)?

- B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- C. At what age did you first have it? Age in Years ___
Does Not Apply ___
- 3A. Hay Fever? 1. Yes ___ 2. No ___
IF YES TO 3A:
- B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- C. At what age did it start? Age in Years ___
Does Not Apply ___
- 23A. Have you ever had chronic bronchitis? 1. Yes ___ 2. No ___
IF YES TO 23A:
- B. Do you still have it? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- D. At what age did it start? Age in years ___
Does Not Apply ___
- 24A. Have you ever had emphysema? 1. Yes ___ 2. No ___
IF YES TO 24A:
- B. Do you still have it? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- D. At what age did it start? Age in years ___
Does Not Apply ___
- 25A. Have you ever had asthma? 1. Yes ___ 2. No ___
IF YES TO 25A:
- B. Do you still have it? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- D. At what age did it start? Age in years ___
Does Not Apply ___
- E. If you no longer have it, at what age did it stop? Age stopped ___
Does Not Apply ___
- 26. Have you ever had: 1. Yes ___ 2. No ___
- A. Any other chest illness? 1. Yes ___ 2. No ___
If yes, please specify _____
- B. Any chest operations? 1. Yes ___ 2. No ___
If yes, please specify _____
- C. Any chest injuries? 1. Yes ___ 2. No ___
If yes, please specify _____
- 27A. Has a doctor ever told you that you had heart trouble? 1. Yes ___ 2. No ___
IF YES TO 27A:
- B. Have you ever had treatment for heart trouble in the past 10 years? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- 28A. Has a doctor ever told you that you had high blood pressure? 1. Yes ___ 2. No ___
IF YES TO 28A:
- B. Have you had any treatment for high blood pressure (hypertension) in the past 10 years? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- 29. When did you last have your chest x-rayed? (Year) ___ 25 ___ 26 ___ 27 ___ 28 ___
- 30. Where did you last have your chest x-rayed (if known)? _____
What was the outcome? _____

FAMILY HISTORY

31. Were either of your natural parents ever told by a doctor that they had a chronic lung condition such as:

	FATHER			MOTHER		
	1. Yes	2. No	3. Don't Know	1. Yes	2. No	3. Don't Know
A. Chronic Bronchitis?	___	___	___	___	___	___
B. Emphysema?	___	___	___	___	___	___
C. Asthma?	___	___	___	___	___	___
D. Lung cancer?	___	___	___	___	___	___
E. Other chest conditions?	___	___	___	___	___	___
F. Is parent currently alive?	___	___	___	___	___	___
G. Please specify	___ Age if Living	___ Age at Death	___ Don't Know	___ Age if Living	___ Age at Death	___ Don't Know
H. Please specify cause of death	_____					

COUGH

- 32A. Do you usually have a cough? (Count a cough with first smoke or on first going out of doors. Exclude clearing of throat.) (If no, skip to question 32C.) 1. Yes ___ 2. No ___
- B. Do you usually cough as much as 4 to 6 times a day 4 or more days out of the week? 1. Yes ___ 2. No ___
- C. Do you usually cough at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___
- D. Do you usually cough at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF ABOVE (32A, B, C, OR D), ANSWER THE FOLLOWING. IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO NEXT PAGE

- E. Do you usually cough like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- F. For how many years have you had the cough? Number of years ___
Does Not Apply ___
- 33A. Do you usually bring up phlegm from your chest? (Count phlegm with the first smoke or on first going out of doors. Exclude phlegm from the nose. Count swallowed phlegm.) (If no, skip to 33C) 1. Yes ___ 2. No ___
- B. Do you usually bring up phlegm like this as much as twice a day 4 or more days out of the week? 1. Yes ___ 2. No ___
- C. Do you usually bring up phlegm at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___
- D. Do you usually bring up phlegm at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF THE ABOVE (33A, B, C, OR D), ANSWER THE FOLLOWING: IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO 34A.

- E. Do you bring up phlegm like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___
3. Does Not Apply ___
- F. For how many years have you had trouble with phlegm? Number of years ___
Does Not Apply ___

EPISODES OF COUGH AND PHELEM

- 34A. Have you had periods or episodes of (increased*) cough and phlegm lasting for 3 weeks or more each year? 1. Yes ___ 2. No ___
*(For persons who usually have cough and/or phlegm)
- IF YES TO 34A:
- B. For how long have you had at least 1 such episode per year? Number of years ___
Does Not Apply ___

WHEEZING

35A. Does your chest ever sound wheezy or whistling:

- 1. When you have a cold?
2. Occasionally apart from colds?
3. Most days or nights?

IF YES TO 1, 2, OR 3 IN 35A:

- 1. Yes ___ 2. No ___
1. Yes ___ 2. No ___
1. Yes ___ 2. No ___

B. For how many years has this been present?

Number of years ___
Does Not Apply ___

36A. Have you ever had an attack of wheezing that has made you feel short of breath?

- 1. Yes ___ 2. No ___

IF YES TO 36A:

B. How old were you when you had your first such attack?

Age in Years ___
Does Not Apply ___

C. Have you had 2 or more such episodes?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

D. Have you ever required medicine or treatment for the(se) attack(s)?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

BREATHLESSNESS

37. If disabled from walking by any condition other than heart or lung disease, please describe and proceed to question 39A.

Nature of condition(s) _____

38A. Are you troubled by shortness of breath when hurrying on the level or walking up a slight hill?

- 1. Yes ___ 2. No ___

IF YES TO 38A:

B. Do you have to walk slower than people of your age on the level because of breathlessness?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

C. Do you ever have to stop for breath when walking at your own pace on the level?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

D. Do you ever have to stop for breath after walking about 100 yards (or after a few minutes) on the level?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

E. Are you too breathless to leave the house or breathless on dressing or climbing one flight of stairs?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

TOBACCO SMOKING

39A. Have you ever smoked cigarettes? (No means less than 20 packs of cigarettes or 12 oz. of tobacco in a lifetime or less than 1 cigarette a day for 1 year.)

- 1. Yes ___ 2. No ___

IF YES TO 39A:

B. Do you now smoke cigarettes (as of one month ago)?

- 1. Yes ___ 2. No ___
3. Does Not Apply ___

C. How old were you when you first started regular cigarette smoking?

Age in Years ___
Does Not Apply ___

D. If you have stopped smoking cigarettes completely, how old were you when you stopped?

Aged stopped ___
Check if still smoking ___
Does Not Apply ___

E. How many cigarettes do you smoke per day now?

Cigarettes per day ___
Does Not Apply ___

F. On the average of the entire time you smoked, how many cigarettes did you smoke per day?

Cigarettes per day ___
Does Not Apply ___

G. Do or did you inhale the cigarette smoke?

- 1. Does Not Apply ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

40A. Have you ever smoked a pipe regularly? (Yes means more than 12 oz. of tobacco in a lifetime.)

IF YES TO 40A:

2. If you have stopped smoking a pipe completely, how old were you when you stopped?

Age stopped ___
Check if still smoking pipe ___
Does Not Apply ___

C. On the average over the entire time you smoked a pipe, how much pipe tobacco did you smoke per week?

___ oz. per week
(a standard pouch of tobacco contains 1 1/2 oz.)
___ Does Not Apply

D. How much pipe tobacco are you smoking now?

oz. per week ___
Not currently Smoking a pipe ___

E. Do you or did you inhale the pipe smoke?

- 1. Never smoked ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

41A. Have you ever smoked cigars regularly? (Yes means more than 1 cigar a week for a year)

- 1. Yes ___ 2. No ___

IF YES TO 41A:

FOR PERSONS WHO HAVE EVER SMOKED CIGARS

B. 1. How old were you when you started smoking cigars regularly?

Age ___

2. If you have stopped smoking cigars completely, how old were you when you stopped?

Age stopped ___
Check if still smoking cigars ___
Does Not Apply ___

C. On the average over the entire time you smoked cigars, how many cigars did you smoke per week?

Cigars per week ___
Does Not Apply ___

D. How many cigars are you smoking per week now?

Cigars per week ___
Check if not smoking cigars currently ___

E. Do or did you inhale the cigar smoke?

- 1. Never smoked ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

Signature _____ Date _____

Part 2 PERIODIC MEDICAL QUESTIONNAIRE

1. NAME _____

2. SOCIAL SECURITY # _____

3. CLOCK NUMBER _____

4. PRESENT OCCUPATION _____

5. PLANT _____

6. ADDRESS _____

7. _____ (Zip Code)

8. TELEPHONE NUMBER _____

9. INTERVIEWER _____

10. DATE _____

11. What is your marital status? 1. Single ___ 4. Separate/ Divorced ___
2. Married ___ 3. Widowed ___

12. OCCUPATIONAL HISTORY

12A. In the past year, did you work full time (30 hours per week or more) for 6 months or more? 1. Yes ___ 2. No ___

FOR PERSONS WHO HAVE EVER SMOKED A PIPE

B. 1. How old were you when you started to smoke a pipe regularly?

Age _____

IF YES TO 12A:

12B. In the past year, did you work in a dusty job? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

12C. Was dust exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

12D. In the past year, were you exposed to gas or chemical fumes in your work? 1. Yes ___ 2. No ___

12E. Was exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

12F. In the past year, what was your: 1. Job/occupation? ___ 2. Position/job title? ___

13. RECENT MEDICAL HISTORY

13A. Do you consider yourself to be in good health? Yes ___ No ___

If No, state reason _____

13B. In the past year, have you developed: Epilepsy? ___ Rheumatic fever? ___ Kidney disease? ___ Bladder disease? ___ Diabetes? ___ Jaundice? ___ Cancer? ___

14. CHEST COLDS AND CHEST ILLNESS

14A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time) 1. Yes ___ 2. No ___ 3. Don't get colds ___

15A. During the past year, have you had any chest illnesses that have kept you off work, indoors at home, or in bed? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

IF YES TO 15A:

15B. Did you produce phlegm with any of these chest illnesses? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

15C. In the past year, how many such illnesses with (increased) phlegm did you have which lasted a week or more? Number of illnesses ___ No such illnesses ___

16. RESPIRATORY SYSTEM

In the past year have you had:

Asthma ___ Further Comment on Positive Answers ___
Bronchitis ___
Hay Fever ___
Other Allergies ___

Pneumonia ___ Further Comment on Positive Answers ___
Tuberculosis ___
Chest Surgery ___
Other Lung Problems ___
Heart Disease ___

Do you have:

Frequent colds ___
Chronic cough ___
Shortness of breath when walking or climbing one flight of stairs ___
Do you: Wheeze ___ Cough up phlegm ___ Smoke cigarettes ___ Packs per day ___ How many years ___

Date _____ Signature _____

NEW SECTION

WAC 296-62-07743 APPENDIX E-INTERPRETATION AND CLASSIFICATION OF CHEST ROENTGENOGRAMS-MANDATORY. (1) Chest roentgenograms shall be interpreted and classified in accordance with a professionally accepted classification system and recorded on a Roentgenographic Interpretation Form. *Form CSD/NIOSH (M) 2.8.

(2) Roentgenograms shall be interpreted and classified only by a B-reader, a board eligible/certified radiologist, or an experienced physician with known expertise in pneumoconioses.

(3) All interpreters, whenever interpreting chest roentgenograms made under this section, shall have immediately available for reference a complete set of the ILO-U/C International Classification of Radiographs for Pneumoconioses, 1980.

NEW SECTION

WAC 296-62-07745 APPENDIX F-WORK PRACTICES AND ENGINEERING CONTROLS FOR AUTOMOTIVE BRAKE REPAIR OPERATIONS-NONMANDATORY. This appendix is intended as guidance for employers in the automotive brake and clutch repair industry who wish to reduce their employees' asbestos exposures during repair operations to levels below the new standard's action level (0.1 f/cc). WISHA believes that employers in this industry sector are likely to be able to reduce their employees' exposures to asbestos by employing the engineering and work practice controls described in subsections (1) and (2) of this section. Those employers who choose to use these controls and who achieve exposures below the action level will thus be able to avoid any burden that might be imposed by complying with such requirements as medical surveillance, recordkeeping, training, respiratory protection, and regulated areas, which are triggered when employee exposures exceed the action level or PEL.

Asbestos exposure in the automotive brake and clutch repair industry occurs primarily during the replacement of clutch plates and brake pads, shoes, and linings. Asbestos fibers may become airborne when an automotive mechanic removes the asbestos-containing residue that has been deposited as brakes and clutches wear. Employee exposures to asbestos occur during the cleaning of the brake drum or clutch housing.

WISHA believes that employers engaged in brake repair operations who implement any of the work practices and engineering controls described in subsections (1) and (2) of this section may be able to reduce their employees' exposures to levels below the action level (0.1 fiber/cc). These control methods and the relevant record evidence on these and other methods are described in the following sections.

(1) Enclosed cylinder/HEPA vacuum system method.

The enclosed cylinder-vacuum system used in one of the facilities visited by representatives of the National Institute for Occupational Safety and Health (NIOSH) during a health hazard evaluation of brake repair facilities consists of three components:

- (a) A wheel-shaped cylinder designed to cover and enclose the wheel assembly;
(b) A compressed-air hose and nozzle that fits into a port in the cylinder; and
(c) A HEPA-filtered vacuum used to evacuate airborne dust generated within the cylinder by the compressed air.

To operate the system, the brake assembly is enclosed in a cylinder that has viewing ports to provide visibility and cotton sleeves through which the mechanic can handle the brake assembly parts. The cylinder effectively isolates asbestos dust in the drum from the mechanic's breathing zone. The brake assembly isolation cylinder is available from the Nilfisk Company and comes in two sizes to fit brake drums in the 7-to-12-inch size range common to automobiles and light trucks and the 12-to-19-inch size range common to large commercial vehicles. The cylinder is equipped with built-in compressed-air guns and a connection for a vacuum cleaner equipped with a High Efficiency Particulate Air (HEPA) filter. This type of filter is capable of removing all particles greater than 0.3 microns from the air. When the vacuum cleaner's filter is full, it must be replaced according to the manufacturer's instruction, and appropriate HEPA-filtered dual cartridge respirators should be worn during the process. The filter of the vacuum cleaner is assumed to be contaminated with asbestos fibers and should be handled carefully, wetted with a fine mist of water, placed immediately in a labelled plastic bag, and disposed of properly. When the cylinder is in place around the brake assembly and the HEPA vacuum is

connected, compressed air is blown into the cylinder to loosen the residue from the brake assembly parts. The vacuum then evacuates the loosened material from within the cylinder, capturing the airborne material on the HEPA filter.

The HEPA vacuum system can be disconnected from the brake assembly isolation cylinder when the cylinder is not being used. The HEPA vacuum can then be used for clutch facing work, grinding, or other routine cleaning.

(2) Compressed air/solvent system method.

A compressed-air hose fitted at the end with a bottle of solvent can be used to loosen the asbestos-containing residue and to capture the resulting airborne particles in the solvent mist. The mechanic should begin spraying the asbestos-contaminated parts with the solvent at a sufficient distance to ensure that the asbestos particles are not dislodged by the velocity of the solvent spray. After the asbestos particles are thoroughly wetted, the spray may be brought closer to the parts and the parts may be sprayed as necessary to remove grease and other material. The automotive parts sprayed with the mist are then wiped with a rag, which must then be disposed of appropriately. Rags should be placed in a labelled plastic bag or other container while they are still wet. This ensures that the asbestos fibers will not become airborne after the brake and clutch parts have been cleaned. (If cleanup rags are laundered rather than disposed of, they must be washed using methods appropriate for the laundering of asbestos-contaminated materials.)

WISHA believes that a variant of this compressed-air/solvent mist process offers advantages over the compressed-air/solvent mist technique discussed above, both in terms of costs and employee protection. The variant involves the use of spray cans filled with any of several solvent cleaners commercially available from auto supply stores. Spray cans of solvent are inexpensive, readily available, and easy to use. These cans will also save time, because no solvent delivery system has to be assembled, i.e., no compressed-air hose/mister ensemble. OSHA believes that a spray can will deliver solvent to the parts to be cleaned with considerably less force than the alternative compressed-air delivery system described above, and will thus generate fewer airborne asbestos fibers than the compressed-air method. The agency therefore believes that the exposure levels of automotive repair mechanics using the spray can/solvent mist process will be even lower than the exposures reported by NIOSH for the compressed-air/solvent mist system (0.08 f/cc).

(3) Information on the Effectiveness of Various Control Measures.

The amount of airborne asbestos generated during brake and clutch repair operations depends on the work practices and engineering controls used during the repair or removal activity.

(a) Prohibited Methods.

The use of compressed air to blow the asbestos-containing residue off the surface of the brake drum removes the residue effectively but simultaneously produces an airborne cloud of asbestos fibers. According to NIOSH, the peak exposures of mechanics using this technique were as high as 15 fibers/cc, and 8-hour TWA exposures ranged from 0.03 to 0.19 f/cc.

Dr. William J. Nicholson of the Mount Sinai School of Medicine cited data from Knight and Hickish (1970) that indicated that the concentration of asbestos ranged from 0.84 to 5.35 f/cc over a 60-minute sampling period when compressed air was being used to blow out the asbestos-containing residue from the brake drum. In the same study, a peak concentration of 87 f/cc was measured for a few seconds during brake cleaning performed with compressed air. Rohl et al. (1976) measured area concentrations (of unspecified duration) within 3-5 feet of operations involving the cleaning of brakes with compressed air and obtained readings ranging from 6.6 to 29.8 f/cc. Because of the high exposure levels that result from cleaning brake and clutch parts using compressed air, WISHA has prohibited this practice in the revised standard.

(b) Ineffective Methods.

When dry brushing was used to remove the asbestos-containing residue from the brake drums and wheel assemblies, peak exposures measured by NIOSH ranged from 0.61 to 0.81 f/cc, while 8-hour TWA levels were at the new standard's permissible exposure limit (PEL) of 0.2 f/cc. Rohl and his colleagues collected area samples 1-3 feet from a brake cleaning operation being performed with a dry brush, and measured concentrations ranging from 1.3 to 3.6 f/cc; however, sampling times and TWA concentrations were not presented in the Rohl et al. study.

When a brush wetted with water, gasoline, or Stoddart solvent was used to clean the asbestos-containing residue from the affected parts,

exposure levels (8-hour TWAs) measured by NIOSH also exceeded the new 0.2 f/cc PEL, and peak exposures ranged as high as 2.62 f/cc.

(c) Preferred Methods.

Use of an engineering control system involving a cylinder that completely encloses the brake shoe assembly and a High Efficiency Particulate Air (HEPA) filter-equipped vacuum produced 8-hour TWA employee exposures of 0.01 f/cc and peak exposures ranging from nondetectable to 0.07 f/cc: (Because this system achieved exposure levels below the standard's action level, it is described in detail below.) Data collected by the Mount Sinai Medical Center for Nilfisk of America, Inc., the manufacturer of the brake assembly enclosure system, showed that for two of three operations sampled, the exposure of mechanics to airborne asbestos fibers was nondetectable. For the third operator sampled by Mt. Sinai researchers, the exposure was 0.5 f/cc, which the authors attributed to asbestos that had contaminated the operator's clothing in the course of previous brake repair operations performed without the enclosed cylinder/vacuum system.

Some automotive repair facilities use a compressed-air hose to apply a solvent mist to remove the asbestos-containing residue from the brake drums before repair. The NIOSH data indicated that mechanics employing this method experienced exposures (8-hour TWAs) of 0.8 f/cc, with peaks of 0.25 to 0.68 f/cc. This technique, and a variant of it that OSHA believes is both less costly and more effective in reducing employee exposures, is described in greater detail in subsections (1) and (2) of this section.

(4) Summary.

In conclusion, WISHA believes that it is likely that employers in the brake and clutch repair industry will be able to avail themselves of the action level trigger built into the revised standard if they conscientiously employ one of the three control methods described above: The enclosed cylinder/HEPA vacuum system, the compressed air/solvent method, or the spray can/solvent mist system.

1 Mention of tradenames or commercial products does not constitute endorsement of recommendation for use.

NEW SECTION

WAC 296-62-07747 APPENDIX G—SUBSTANCE TECHNICAL INFORMATION FOR ASBESTOS—NONMANDATORY.

(1) Substance Identification.

(a) Substance: "Asbestos" is the name of a class of magnesium-silicate minerals that occur in fibrous form. Minerals that are included in this group are chrysotile, crocidolite, amosite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos.

(b) Asbestos, tremolite, anthophyllite, and actinolite are used in the manufacture of heat-resistant clothing, automotive brake and clutch linings, and a variety of building materials including floor tiles, roofing felts, ceiling tiles, asbestos-cement pipe and sheet, and fire-resistant drywall. Asbestos is also present in pipe and boiler insulation materials, and in sprayed-on materials located on beams, in crawlspaces, and between walls.

(c) The potential for a product containing asbestos, tremolite, anthophyllite, and actinolite to release breathable fibers depends on its degree of friability. Friable means that the material can be crumbled with hand pressure and is therefore likely to emit fibers. The fibrous or fluffy sprayed-on materials used for fireproofing, insulation, or sound proofing are considered to be friable, and they readily release airborne fibers if disturbed. Materials such as vinyl-asbestos floor tile or roofing felts are considered nonfriable and generally do not emit airborne fibers unless subjected to sanding or sawing operations. Asbestos-cement pipe or sheet can emit airborne fibers if the materials are cut or sawed, or if they are broken during demolition operations.

(d) Permissible exposure: Exposure to airborne asbestos, tremolite, anthophyllite, and actinolite fibers may not exceed 0.2 fibers per cubic centimeter of air (0.2 f/cc) averaged over the 8-hour workday.

(2) Health Hazard Data.

(a) Asbestos, tremolite, anthophyllite, and actinolite can cause disabling respiratory disease and various types of cancers if the fibers are inhaled. Inhaling or ingesting fibers from contaminated clothing or skin can also result in these diseases. The symptoms of these diseases generally do not appear for twenty or more years after initial exposure.

(b) Exposure to asbestos, tremolite, anthophyllite, and actinolite has been shown to cause lung cancer, mesothelioma, and cancer of the stomach and colon. Mesothelioma is a rare cancer of the thin membrane lining of the chest and abdomen. Symptoms of mesothelioma include shortness of breath, pain in the walls of the chest, and/or abdominal pain.

(3) Respirators and Protective Clothing.

(a) Respirators: You are required to wear a respirator when performing tasks that result in asbestos, tremolite, anthophyllite, and actinolite exposure that exceeds the permissible exposure limit (PEL) of 0.2 f/cc. These conditions can occur while your employer is in the process of installing engineering controls to reduce asbestos, tremolite, anthophyllite, and actinolite exposure, or where engineering controls are not feasible to reduce asbestos, tremolite, anthophyllite, and actinolite exposure. Air-purifying respirators equipped with a high-efficiency particulate air (HEPA) filter can be used where airborne asbestos, tremolite, anthophyllite, and actinolite fiber concentrations do not exceed 2 f/cc; otherwise, air-supplied, positive-pressure, full face-piece respirators must be used. Disposable respirators or dust masks are not permitted to be used for asbestos, tremolite, anthophyllite, and actinolite work. For effective protection, respirators must fit your face and head snugly. Your employer is required to conduct fit tests when you are first assigned a respirator and every 6 months thereafter. Respirators should not be loosened or removed in work situations where their use is required.

(b) Protective Clothing: You are required to wear protective clothing in work areas where asbestos, tremolite, anthophyllite, and actinolite fiber concentrations exceed the permissible exposure limit (PEL) of 0.2 f/cc to prevent contamination of the skin. Where protective clothing is required, your employer must provide you with clean garments. Unless you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, your employer must also provide a change room and separate lockers for your street clothes and contaminated work clothes. If you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, and where it is feasible to do so, your employer must provide a clean room, shower, and decontamination room contiguous to the work area. When leaving the work area, you must remove contaminated clothing before proceeding to the shower. If the shower is not adjacent to the work area, you must vacuum your clothing before proceeding to the change room and shower. To prevent inhaling fibers in contaminated change rooms and showers, leave your respirator on until you leave the shower and enter the clean change room.

(4) Disposal Procedures and Cleanup.

(a) Wastes that are generated by processes where asbestos, tremolite, anthophyllite, and actinolite is present include:

- (i) Empty asbestos, tremolite, anthophyllite, and actinolite shipping containers.
- (ii) Process wastes such as cuttings, trimmings, or reject material.
- (iii) Housekeeping waste from sweeping or vacuuming.
- (iv) Asbestos, tremolite, anthophyllite, and actinolite fireproofing or insulating material that is removed from buildings.
- (v) Building products that contain asbestos, tremolite, anthophyllite, and actinolite removed during building renovation or demolition.
- (vi) Contaminated disposable protective clothing.

(b) Empty shipping bags can be flattened under exhaust hoods and packed into airtight containers for disposal. Empty shipping drums are difficult to clean and should be sealed.

(c) Vacuum logs or disposable paper filters should not be cleaned, but should be sprayed with a fine water mist and placed into a labeled waste container.

(d) Process waste and housekeeping waste should be wetted with water or a mixture of water and surfactant prior to packaging in disposable containers.

(e) Material containing asbestos, tremolite, anthophyllite, and actinolite that is removed from buildings must be disposed of in leaktight 6-mil thick plastic bags, plastic-lined cardboard containers, or plastic-lined metal containers. These wastes, which are removed while wet, should be sealed in containers before they dry out to minimize the release of asbestos, tremolite, anthophyllite, and actinolite fibers during handling.

(5) Access to Information.

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for asbestos, tremolite, anthophyllite, and actinolite. In addition, your employer must instruct you in the proper work practices for handling materials containing asbestos, tremolite, anthophyllite, and actinolite, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to asbestos, tremolite, anthophyllite, and actinolite. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure, and, if you are exposed above the permissible

limit, he or she is required to inform you of the actions that are being taken to reduce your exposure to within the permissible limit.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

NEW SECTION

WAC 296-62-07749 APPENDIX H—MEDICAL SURVEILLANCE GUIDELINES FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE NONMANDATORY.

(1) Route of Entry Inhalation, Ingestion.

(2) Toxicology.

Clinical evidence of the adverse effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite, is present in the form of several well-conducted epidemiological studies of occupationally exposed workers, family contacts of workers, and persons living near asbestos, tremolite, anthophyllite, and actinolite mines. These studies have shown a definite association between exposure to asbestos, tremolite, anthophyllite, and actinolite and an increased incidence of lung cancer, pleural and peritoneal mesothelioma, gastrointestinal cancer, and asbestosis. The latter is a disabling fibrotic lung disease that is caused only by exposure to asbestos. Exposure to asbestos, tremolite, anthophyllite, and actinolite has also been associated with an increased incidence of esophageal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. As with other known chronic occupational diseases, disease associated with asbestos, tremolite, anthophyllite, and actinolite generally appears about 20 years following the first occurrence of exposure: There are no known acute effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite.

Epidemiological studies indicate that the risk of lung cancer among exposed workers who smoke cigarettes is greatly increased over the risk of lung cancer among nonexposed smokers or exposed nonsmokers. These studies suggest that cessation of smoking will reduce the risk of lung cancer for a person exposed to asbestos, tremolite, anthophyllite, and actinolite but will not reduce it to the same level of risk as that existing for an exposed worker who has never smoked.

(3) Signs and Symptoms of Exposure-Related Disease.

The signs and symptoms of lung cancer or gastrointestinal cancer induced by exposure to asbestos, tremolite, anthophyllite, and actinolite are not unique, except that a chest x-ray of an exposed patient with lung cancer may show pleural plaques, pleural calcification, or pleural fibrosis. Symptoms characteristic of mesothelioma include shortness of breath, pain in the walls of the chest, or abdominal pain. Mesothelioma has a much longer latency period compared with lung cancer (40 years versus 15-20 years), and mesothelioma is therefore more likely to be found among workers who were first exposed to asbestos at an early age. Mesothelioma is always fatal.

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Symptoms include shortness of breath, coughing, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. The diagnosis of asbestosis is based on a history of exposure to asbestos, the presence of characteristic radiologic changes, endinspiratory crackles (rales), and other clinical features of fibrosing lung disease. Pleural plaques and thickening are observed on x-rays taken during the early stages of the disease. Asbestosis is often a progressive disease even in the absence of continued exposure, although this appears to be a highly individualized characteristic. In severe cases, death may be caused by respiratory or cardiac failure.

(4) Surveillance and Preventive Considerations.

As noted above, exposure to asbestos, tremolite, anthophyllite, and actinolite has been linked to an increased risk of lung cancer, mesothelioma, gastrointestinal cancer, and asbestosis among occupationally exposed workers. Adequate screening tests to determine an employee's potential for developing serious chronic diseases, such as cancer, from exposure to asbestos, tremolite, anthophyllite, and actinolite do not presently exist. However, some tests, particularly chest x-rays and pulmonary function tests, may indicate that an employee has been overexposed to asbestos, tremolite, anthophyllite, and actinolite, increasing his or her risk of developing exposure-related chronic diseases. It is important for the physician to become familiar with the operating conditions in which occupational exposure to asbestos, tremolite, anthophyllite, and actinolite is likely to occur. This is

particularly important in evaluating medical and work histories and in conducting physical examinations. When an active employee has been identified as having been overexposed to asbestos, tremolite, anthophyllite, and actinolite, measures taken by the employer to eliminate or mitigate further exposure should also lower the risk of serious long-term consequences.

The employer is required to institute a medical surveillance program for all employees who are or will be exposed to asbestos, tremolite, anthophyllite, and actinolite at or above the action level (0.1 fiber per cubic centimeter of air) for thirty or more days per year and for all employees who are assigned to wear a negative-pressure respirator. All examinations and procedures must be performed by or under the supervision of a licensed physician, at a reasonable time and place, and at no cost to the employee.

Although broad latitude is given to the physician in prescribing specific tests to be included in the medical surveillance program, OSHA requires inclusion of the following elements in the routine examination:

(a) Medical and work histories with special emphasis directed to symptoms of the respiratory system, cardiovascular system, and digestive tract.

(b) Completion of the respiratory disease questionnaire contained in WAC 296-62-07741, Appendix D.

(c) A physical examination including a chest roentgenogram and pulmonary function test that includes measurement of the employee's forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁).

(d) Any laboratory or other test that the examining physician deems by sound medical practice to be necessary.

The employer is required to make the prescribed tests available at least annually to those employees covered; more often than specified if recommended by the examining physician; and upon termination of employment.

The employer is required to provide the physician with the following information: A copy of this standard and appendices; a description of the employee's duties as they relate to asbestos exposure; the employee's representative level of exposure to asbestos, tremolite, anthophyllite, and actinolite; a description of any personal protective and respiratory equipment used; and information from previous medical examinations of the affected employee that is not otherwise available to the physician. Making this information available to the physician will aid in the evaluation of the employee's health in relation to assigned duties and fitness to wear personal protective equipment, if required.

The employer is required to obtain a written opinion from the examining physician containing the results of the medical examination; the physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of exposure-related disease; any recommended limitations on the employee or on the use of personal protective equipment; and a statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions related to asbestos, tremolite, anthophyllite, and actinolite exposure that require further explanation or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to exposure to asbestos, tremolite, anthophyllite, and actinolite, and a copy of the opinion must be provided to the affected employee.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-07517 ASBESTOS.

Note: This standard applies to occupational exposure to nonasbestiform tremolite, anthophyllite, and actinolite during the stay of the revised standards (WAC 296-62-077 through 296-62-07749 and 296-155-175 through 296-155-193).

This standard also applies whenever all or part of the revised standards are rendered unenforceable because of a stay or judicial action. In such a case, to preclude a gap in coverage, parallel provisions of this standard will take effect. The department will publish an appropriate notice announcing each such application of this standard. This standard also applies pursuant to the requirements of WAC 296-62-07701 and 296-155-175.

(1) Definitions. For the purpose of this section, (a) "Asbestos" means chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(b) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(2) Permissible exposure to airborne concentrations of asbestos fibers. (a) The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in (5) of this section.

(b) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in (5) of this section.

(3) Methods of compliance. (a) Engineering methods. (i) Engineering controls. Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in (2) of this section.

(ii) Local exhaust ventilation. Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1971, which is incorporated by reference herein.

(iii) Particular tools. All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in (2) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with (3)(a)(ii) of this section.

(b) Work practices. (i) Wet methods. Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in (2) of this section, unless the usefulness of the product would be diminished thereby.

(ii) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in (2) of this section.

(iii) Spraying, demolition, or removal. Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with (4)(b)(iii) of this section and with special clothing in accordance with (4)(c) of this section.

(4) Personal protective equipment. (a) Compliance with the exposure limits prescribed by (2) of this section may not be achieved by the use of respirators or shift rotation of employees except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by (3) of this section.

(ii) In work situations in which the methods prescribed in (3) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by (2) of this section; or

(iii) In emergencies.

(iv) Where both respirators and personnel rotation are allowed by (4)(a)(i), (ii), or (iii) of this section, and both are practicable, personnel rotation shall be preferred and used.

(b) Where a respirator is permitted by (4)(a)(i), (ii), or (iii) of this section, it shall comply with the applicable provisions of WAC 296-62-071.

(i) Air purifying respirators. A reusable or single use air purifying respirator, or a respirator described in (4)(b)(ii) or (iii) of this section shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ((~~ceiling or the~~)) 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(ii) Powered air purifying respirators. A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in (4)(b)(iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ((~~ceiling or the~~)) 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed 10 times, but not 100 times, those limits.

(iii) Type "C" supplied-air respirators, continuous flow or pressure-demand class. A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ((~~ceiling or the~~)) 8-hour

time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(iv) Establishment of a respirator program. (A) The employer shall establish a respirator program in accordance with the requirements of chapter 296-62 WAC and shall include the respirator protection factors listed in Table 1 of this section.

(B) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such a different position is available.

(c) Special clothing: The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed ~~((the ceiling level))~~ 8-hour time-weighted average airborne concentrations of asbestos fibers prescribed in ~~(2)((b))~~ (a) of this section.

(d) Change rooms: (i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in (2) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) Clothes lockers: The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent contamination of the employee's street clothes from his work clothes.

(iii) Laundering: (A) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in (2) of this section.

(B) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in (4)(d) of this section to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in (2) of this section.

(C) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with (7)(b) of this section.

(5) Method of measurement. All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400-450 X (magnification) (4 millimeter objective) with phase contrast illumination.

(6) Monitoring. (a) Initial determinations. Every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in (2) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with (3) of this section.

(b) Personal monitoring. (i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by (6)(a) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than 6 months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by (2) of this section.

(c) Environmental monitoring. (i) Samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by (6)(a) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than 6 months for employees whose exposures to asbestos may

reasonably be foreseen to exceed the exposure limits prescribed in (2) of this section.

(d) Employee observation of monitoring. Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this ~~((paragraph))~~ subsection and shall have access to the records thereof.

(7) Caution signs and labels. (a) Caution signs. (i) Posting. Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers are reasonably expected to be released or where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in (2) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing airborne asbestos fibers.

(ii) Sign specifications. The warning signs required by (7)(a)(i) of this section shall conform to the requirements of 20" X 14" vertical format signs specified in WAC 296-24-14007(4) and to this subsection. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this subdivision.

Legend	Notation
Asbestos _____	1" Sans Serif, Gothic or Block.
Dust Hazard _____	3/4" Sans Serif, Gothic or Block.
Avoid Breathing Dust _____	1/4" Gothic.
Wear Assigned Protective Equipment _____	1/4" Gothic.
Do Not Remain In Area Unless Your Work Requires It _____	1/4" Gothic.
Breathing Asbestos Dust May Be Hazard- ous To Your Health _____	14 point Gothic.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(b) Caution labels. (i) Labeling. Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers will be released.

(ii) Label specifications. The caution labels required by (7)(b)(i) of this section shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

CAUTION
Contains Asbestos Fibers
Avoid Creating Dust
Breathing Asbestos Dust May Cause
Serious Bodily Harm

(8) Housekeeping. (a) Cleaning. All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers.

(b) Waste disposal. Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(c) Deterioration. Friable asbestos or friable asbestos containing material which has become damaged or deteriorated shall be contained, treated, or replaced.

(9) Recordkeeping. (a) Exposure records. Every employer shall maintain records of any personal or environmental monitoring required by (6) of this section. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Director of the Department of Labor and Industries.

(b) Access. Employee exposure records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) Employee notification. Any employee found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in (2) of this section shall be notified in writing of the exposure as soon as practicable but not later than 5 days of the finding. The employee shall also be timely notified of the corrective action being taken.

(10) Medical examinations. (a) General. The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this section.

(b) Preplacement. The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination, which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(c) Annual examinations. Every employer shall provide or make available on an annual basis, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(d) Termination of employment. The employer shall provide, or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(e) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this subsection within the past 1-year period.

(f) Medical records. (i) Maintenance. Employers of employees examined pursuant to this subsection shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(ii) Access. Records of the medical examinations required by this subsection shall be provided upon request to employees, designated representative and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. These records shall also be provided upon request to the director of the department of labor and industries. Any physician who conducts a medical examination required by this subsection shall furnish to the employer of the examined employee all the information specifically required by this subsection, and any other medical information related to occupational exposure to asbestos fibers.

(2) Examples of different types of asbestos and asbestos containing materials. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter respirator fit (e.g. eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, requirements on oil lubricated reciprocating piston compressors for breathing air, and selection and use of personal protective clothing.

(5) Use, storage and handling of launderable clothing, nonslip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07517, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements (~~including the requirements of WAC 296-62-07517~~) specified in WAC 296-62-07709 and 296-155-17530, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records, interpretation of air monitoring results, and analytical methods for bulk and air samples.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure and repair shall be discussed individually. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement; including electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces, noise, and heat stress.

(11) The requirements, procedures and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) Washington state department of ecology.

(c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter ((387, Laws of 1985 (Asbestos removal and encapsulation)) 49.17 RCW (Health and safety—Asbestos), and ensuing regulations.

(12) Actual worksite considerations.

(13) The instruction required by this section shall include, at a minimum, hands-on training for the following:

(a) Glove bag techniques;

(b) The opportunity to don respirators including half facepiece and full facepiece air purifying respirators, powered air purifying respirators (PAPR), and Type-C supplied-air respirators. Qualitative or quantitative fit testing shall be performed on each student in accordance with WAC 296-62-071 through 296-62-07121;

(c) Removal and repair of sprayed-on material, troweled-on material and pipe lagging;

(d) Basic construction of a decontamination unit, and proper entry and exit;

TABLE 1

RESPIRATOR PROTECTION FOR AIRBORNE CONCENTRATIONS OF ASBESTOS

Airborne concentration of asbestos (TWA)	Required respirator ¹
Not in excess of 20 f/cc (10 x PEL)	Reusable or single use air purifying respirator.
Not in excess of 100 f/cc (50 x PEL)	Full facepiece air purifying respirator.
Not in excess of 200 f/cc (100 x PEL)	Powered air purifying respirator.
Greater than 200 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

¹Respirators specified for high concentrations may be used at lower concentrations of asbestos.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-005 TRAINING COURSE CONTENT. An approved basic asbestos course shall consist of at least 30 hours of training. The initial training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(e) Suit-up in protective clothing consisting of coveralls, foot coverings and head coverings.

(14) Asbestos containing materials shall not be used for hands-on training.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-015 TRAINING COURSE CERTIFICATION. Basic and refresher asbestos training courses may be provided by any person, environmental health consulting firm, union, trade association, educational institution, public health organization, individual, governmental agency, or other entity.

(1) Each course shall be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers. Course content shall be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

(2) Sponsors of basic and refresher training courses proposed for approval must submit:

- (a) Background information about course sponsors;
- (b) Course locations and fees;
- (c) Copies of course handouts;
- (d) A detailed description of course content and the amount of time allotted to each major topic;
- (e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;
- (f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each;
- (g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;
- (h) A description of course evaluation methods; and
- (i) Any restrictions on attendance (language, class size, affiliation, etc.).

(3) Application for training course approval and course materials shall be submitted to the department at least 45 days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, ((AX-3Hy)) HC-412
((814 E. 4th Avenue))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504

(4) Upon approval of a basic or refresher asbestos training course, the department will issue the course sponsor a certificate. The certificate is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (2) and (3) of this section.

(5) To be considered timely, the training course certificate renewal must be received by the department no later than 60 days after the certificate expiration date.

(6) Any changes to a training course must be approved by the department in advance.

(7) The course sponsor shall provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after a course is completed and must include the name and address of each trainee.

(8) The course sponsor must notify the department at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(9) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(10) The department may suspend or revoke the certification of a training course if its sponsor fails to maintain the course content and quality as initially approved.

(11) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the department. To apply for an exception allowing class size to exceed

thirty, the course sponsor must submit the following information in writing to the department for evaluation and approval prior to expanding class size beyond thirty participants.

- (a) The class attendance limit;
 - (b) The teaching methods and techniques for training the proposed larger class; and
 - (c) The protocol for conducting the written examination.
- (12) The instructor to student ratio shall not exceed one-to-ten for any of the training required by WAC 296-65-005(13).

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-020 NOTIFICATION REQUIREMENTS. A copy of any notice of intention to demolish or renovate a facility required to be filed with an air pollution control agency in accordance with NESHAP (40 CFR Part 61) shall be sent directly to the department by each person whose employees, if any, are renovating or demolishing any structure. Notices must be received within the same time periods required under NESHAP and may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, ((AX-3Hy)) HC-412
((814 E. 4th Avenue))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-030 METHODS OF COMPLIANCE. (1) No contractor, employee, or other individual is eligible to work on an asbestos project unless properly issued a certificate by the department, except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.

(2) No person may assign any employee, contract with or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by a certified asbestos worker except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.

(3)(a) In cases excepted under subsections (1) and (2) of this section, the partnership, firm, corporation or sole proprietorship shall annually submit a written description to the department which includes at least the following information:

- (i) The kinds of asbestos projects expected to be undertaken during a period of time not to exceed one year from the date of submission;
- (ii) The procedures to be used in undertaking asbestos projects;
- (iii) Methods of compliance with chapters 296-62, 296-65, and ((296-62)) 296-155 WAC;
- (iv) Methods of compliance with any additional procedures required by law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos; and
- (v) The name, address and certification number of the supervising certified asbestos worker.

(b) The written description required by this section shall be submitted to the department prior to commencement of work.

(4) A further written description must be submitted to the department prior to commencing a project, if during the one year period covered by the written description submitted to the department in accordance with WAC 296-65-030(3), previously unidentified or new asbestos projects are proposed.

(5) Written descriptions, shall be mailed to:

Asbestos Certification Program,
Department of Labor and
Industries, ((AX-3Hy)) HC-412
((814 E. 4th Avenue))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-040 APPEALS—NOTICE AND FILING. (1) Any final correction order issued by the department citing a violation of the provisions of chapter ~~((387, Laws of 1985))~~ 49.26 RCW or this chapter shall only be appealed to the department. Any appeal from such an order shall be communicated in writing to the department within 30 calendar days of receipt of such order by the appealing party.

- (2) The written notice of appeal shall indicate:
- The specific correction order being appealed;
 - The name and address of the appealing party;
 - The grounds upon which the appealing party considers the correction order to be unjust or unlawful;
 - A statement of the facts asserted in support of each of the grounds for the appeal;
 - The specific relief sought; and
 - A statement that the person signing the notice of appeal has read it and to the best of his or her knowledge, information and belief there are good grounds to support the appeal.
- (3) The written notice of appeal shall be delivered to:

Asbestos Certification Program
Department of Labor and
Industries, ~~((AX-3Hy))~~ HC-412
~~((814 E. 4th Avenue))~~
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-160 GASES, VAPORS, FUMES, DUSTS, AND MISTS. (1) Exposure of employees to inhalation, ingestion, skin absorption, or contact with any material or substance at a concentration above those specified in the general occupational health standards, WAC 296-62-07515 shall be avoided.

(2) To achieve compliance with subsection (1) of this section, administrative or engineering controls must first be implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in WAC 296-62-07515. Any equipment and technical measures used for this purpose must first be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with WAC 296-155-220.

~~(3) ((Subsections (1) and (2) of this section do not apply to the exposure of employees to airborne asbestos dust. Whenever any employee is exposed to airborne asbestos dust, the requirements of the general occupational health standards, WAC 296-62-07517 shall apply.~~

~~(4))~~ Whenever internal combustion equipment exhausts in enclosed spaces, tests shall be made and recorded to ensure that employees are not exposed to unsafe concentrations of toxic gases or oxygen deficient atmospheres. See chapter 296-62 WAC, the general occupational health standards.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-775 PREPARATORY OPERATIONS. (1) Prior to permitting employees to start demolition operations, an engineering survey shall be made, by a competent person, of the structure to determine structural integrity and the possibility of unplanned collapse of any portion of the structure. Any adjacent structure where employees may be exposed shall also be similarly checked. The employer shall have in writing, evidence that such a survey has been performed.

(2) A copy of the survey report and of the plans and/or methods of operations shall be maintained at the job site for the duration of the demolition operation.

(3) Any device or equipment such as scaffolds, ladders, derricks, hoists, etc., used in connection with demolition work shall be constructed, installed, inspected, maintained and operated in accordance with the regulations governing the construction, installation, inspection, maintenance and operation of such device or equipment as specified in other parts of this chapter.

(4) Federal and state codes, safety standards, rules, regulations, and ordinances governing any and all phases of demolition work shall be observed at all times.

(5) Demolition of all buildings and structures shall be conducted under competent supervision, and safe working conditions shall be afforded the employees.

(6) When employees are required to work within a structure to be demolished which has been damaged by fire, flood, explosion, or other cause, the walls or floor shall be shored or braced.

(7) All electric, gas, water, steam, sewer, and other service lines shall be shut off, capped, or otherwise controlled, outside the building line before demolition work is started. In each case, any utility company which is involved shall be notified in advance.

(8) If it is necessary to maintain any power, water or other utilities during demolition, such lines shall be temporarily relocated, as necessary, and protected.

(9) It shall be determined whether asbestos, hazardous materials, hazardous chemicals, gases, explosives, flammable materials, or similarly dangerous substances are present at the work site. When the presence of any such substance is apparent or suspected, testing and removal or purging shall be performed and the hazard eliminated before demolition is started. Removal of such substances shall be in accordance with the requirements of WAC 296-155-175 through 296-155-193 and chapters 296-62 and 296-65 WAC.

(10) Where a hazard exists from fragmentation of glass, such hazards shall be removed.

(11) Where a hazard exists to employees falling through wall openings, the opening shall be protected to a height of between 36 and 42 inches.

(12) When debris is dropped without the use of chutes, the area onto which the material is dropped shall be completely enclosed with barricades not less than 42 inches high and not less than 20 feet back from the projected edge of the opening above. Signs, warning of the hazard of falling materials, shall be posted at each level. Removal shall not be permitted in this lower area until debris handling ceases above.

(13) All floor openings, not used as material drops, shall be covered over with material substantial enough to support the weight of any load which may be imposed. Such material shall be properly secured to prevent its accidental movement.

(14) Except for the cutting of holes in floors for chutes, holes through which to drop materials, preparation of storage space, and similar necessary preparatory work, the demolition of exterior walls and floor construction shall begin at the top of the structure and proceed downward. Each story of exterior wall and floor construction shall be removed and dropped into the storage space before commencing the removal of exterior walls and floors in the story next below.

(15) Workmen shall not be permitted to carry on a demolition operation which will expose men working on a lower level to danger.

(16) Employee entrances to multistory structures being demolished shall be completely protected by sidewalk sheds or canopies, or both, providing protection from the face of the building for a minimum of 8 feet. All such canopies shall be at least 2 feet wider than the building entrances or openings (1 foot wider on each side thereof), and shall be capable of sustaining a load of 150 pounds per square foot.

(17) Protruding nails in boards, planks and timber shall be withdrawn, driven in or bent over as soon as the same is removed from the structure being demolished.

(18) Any material to be removed which will cause dust to be formed, shall be sprinkled with water to lay the dust incidental to its removal.

Chapter 296-155 WAC
SAFETY STANDARDS FOR CONSTRUCTION WORK

Subchapters

- Part A General safety and health provisions.
(WAC 296-155-001 through 296-155-040)
- Part B-1 Occupational health and environmental control.
(WAC 296-155-100 through 296-155-170)
- Part B-2 Asbestos, tremolite, anthophyllite, and actinolite.
(WAC 296-155-175 through 296-155-193)
- Part C Personal protective and life saving equipment.
(WAC 296-155-200 through 296-155-240)
- Part D Fire protection and prevention.
(WAC 296-155-250 through 296-155-280)
- Part E Signs, signals, and barricades.
(WAC 296-155-300 through 296-155-315)
- Part F Material handling, storage, use and disposal.
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- Part G Tools—Hand and power.
(WAC 296-155-350 through 296-155-375)

- Part H Welding and cutting.
(WAC 296-155-400 through 296-155-420)
- Part I Electrical.
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- Part J Ladders, scaffolds and elevating work platforms.
(WAC 296-155-475 through 296-155-48533)
- Part K Floor openings, wall openings and stairways.
(WAC 296-155-500 through 296-155-515)
- Part L Cranes, derricks, hoists, elevators, and conveyors.
(WAC 296-155-525 through 296-155-59920)
- Part M Motor vehicles, mechanized equipment, and marine operations.
(WAC 296-155-600 through 296-155-630)
- Part N Excavation, trenching, and shoring.
(WAC 296-155-650 through 296-155-66505)
- Part O Concrete, concrete forms and shoring.
(WAC 296-155-675 through 296-155-695)
- Part P Steel erection.
(WAC 296-155-700 through 296-155-720)
- Part Q Tunnels and shafts, caissons, cofferdams, and compressed air.
(WAC 296-155-725 through 296-155-74501)
- Part R Miscellaneous construction requirements.
(WAC 296-155-750 through 296-155-770)
- Part S Demolition.
(WAC 296-155-775 through 296-155-830)
- Part T Refer to chapter 296-52 WAC, Safety standards for the possession, handling and use of explosives.
- Part U Power distribution and transmission lines. (Reserved)
- Part V Rollover protective structures and overhead protection.
(WAC 296-155-950 through 296-155-965)

Part B-2

Asbestos, tremolite, anthophyllite, and actinolite

NEW SECTION

WAC 296-155-175 SCOPE AND APPLICATION. WAC 296-155-175 through 296-155-193 applies to all construction work as defined in WAC 296-155-012(6), including but not limited to the following:

- (1) Demolition or salvage of structures where asbestos, tremolite, anthophyllite, or actinolite is present;
- (2) Removal or encapsulation of materials containing asbestos, tremolite, anthophyllite, or actinolite;
- (3) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain asbestos, tremolite, anthophyllite, or actinolite;
- (4) Installation of products containing asbestos, tremolite, anthophyllite, or actinolite;
- (5) Asbestos, tremolite, anthophyllite, and actinolite spill/emergency cleanup; and
- (6) Transportation, disposal, storage, or containment of asbestos, tremolite, anthophyllite, or actinolite or products containing asbestos, tremolite, anthophyllite, or actinolite on the site or location at which construction activities are performed.

Note: Enforcement of WAC 296-155-175 through 296-155-193 is stayed as it applies to nonasbestiform tremolite, anthophyllite, and actinolite. During the period of this stay, the provisions of WAC 296-62-07517 will remain in effect with respect to regulation of nonasbestiform tremolite, anthophyllite, and actinolite.

NEW SECTION

WAC 296-155-17505 DEFINITIONS. For the purpose of this chapter:

- (1) "Action level" means an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals of 0.1 fiber per cubic centimeter (f/cc) of air calculated as an eight-hour time-weighted average, or 0.5 fiber per cubic centimeter (f/cc) of air calculated as a ceiling concentration.
- (2) "Air lock" means a system for ingress or egress to minimize air movement between a contaminated area and an uncontaminated area, consisting of an enclosure with two curtained doorways at least six feet apart unless space prohibits.
- (3) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that has been chemically treated and/or altered.

(4) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.

(5) "Clean room" means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.

(6) "Competent person" means one who is capable of identifying existing asbestos, tremolite, anthophyllite, or actinolite hazards in the workplace and who has the authority to take prompt corrective measures to eliminate them, as specified in WAC 296-155-012(4). The duties of the competent person include at least the following: Establishing the negative-pressure enclosure, ensuring its integrity, and controlling entry to and exit from the enclosure; supervising any employee exposure monitoring required by the standard; ensuring that all employees working within such an enclosure wear the appropriate personal protective equipment, are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in the standard; and ensuring that engineering controls in use are in proper operating condition and are functioning properly.

(7) "Curtained doorway" means overlapping plastic sheeting curtains, at least 4 mils in thickness, constructed and used at entrance and exit of regulated areas, and designed to restrict the movement of air from one area to another.

(8) "Decontamination area" means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos, tremolite, anthophyllite, or actinolite.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos, tremolite, anthophyllite, or actinolite products.

(10) "Department" means the department of labor and industries.

(11) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(12) "Employee exposure" means that exposure to airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals, that would occur if the employee were not using respiratory protective equipment.

(13) "Equipment room (change room)" means a contaminated room located within the decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

(14) "Fiber" means a particulate form of asbestos, tremolite, anthophyllite, or actinolite, 5 micrometers or longer, with a length-to-diameter ratio of at least 3 to 1.

(15) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers in diameter or larger.

(16) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed or can reasonably be expected to exceed the permissible exposure limit. The regulated area may take the form of (a) a temporary enclosure, as required by subsection (6) of this section, or (b) an area demarcated in any manner that minimizes the number of employees exposed to asbestos, tremolite, anthophyllite, or actinolite.

(17) "Removal" means the taking out or stripping of asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite.

(18) "Renovation" means the modifying of any existing structure, or portion thereof, where exposure to airborne asbestos, tremolite, anthophyllite, or actinolite may result.

(19) "Repair" means overhauling, rebuilding, reconstructing, or reconditioning of structure or substrates where asbestos, tremolite, anthophyllite, or actinolite is present.

(20) "Structural member" means any load-supporting or nonload-supporting member of a facility such as beams, walls, and ceilings.

(21) "Tremolite, anthophyllite and actinolite" means the nonasbestos form of these minerals, and any of these minerals that have been chemically treated and/or altered.

NEW SECTION

WAC 296-155-17510 PERMISSIBLE EXPOSURE LIMITS (PEL). (1) The employer shall ensure that no employee is exposed to an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 0.2 fiber per cubic centimeter of air as an eight-hour time-weighted average

(TWA), as determined by the method prescribed in WAC 296-155-177, Appendix A, or by an equivalent method recognized by the department.

(2) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 1.0 fiber per cubic centimeter of air, as determined by the methods prescribed in WAC 296-155-177, Appendix A, or by an equivalent method recognized by the department.

NEW SECTION

WAC 296-155-17515 COMMUNICATION AMONG EMPLOYERS. On multi-employer worksites, an employer performing asbestos, tremolite, anthophyllite, or actinolite work requiring the establishment of a regulated area shall inform other employers on the site of the nature of the employer's work with asbestos, tremolite, anthophyllite, or actinolite and of the existence of and requirements pertaining to regulated areas.

Note: Notified employers shall ensure their employees are informed and trained as required by the hazard communication standard, WAC 296-62-054 through 296-62-05427.

NEW SECTION

WAC 296-155-17520 IDENTIFICATION. The employer shall determine if materials to be worked on or removed contain asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals. Determinations shall be documented (e.g., laboratory analysis report, manufacturer's product information), maintained on file and made available upon request to the director.

NEW SECTION

WAC 296-155-17525 REGULATED AREAS. (1) General. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed or can reasonably be expected to exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(2) Demarcation. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by WISHA or regulations issued pursuant thereto.

(4) Respirators. All persons entering a regulated area shall be supplied with and required to wear a respirator, selected in accordance with WAC 296-155-17535.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-155-17540.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated area.

(7) Requirements for asbestos removal, demolition, and renovation operations.

(a) Wherever feasible, the employer shall establish negative-pressure enclosures having a minimum of one air exchange every fifteen minutes within the enclosure before commencing removal, demolition, and renovation operations.

(b) The employer shall designate a competent person to perform or supervise the following duties:

- (i) Set up the enclosure;
- (ii) Ensure the integrity of the enclosure;
- (iii) Control entry to and exit from the enclosure;
- (iv) Supervise all employee exposure monitoring required by this section;

(v) Ensure that employees working within the enclosure wear protective clothing and respirators as required by WAC 296-155-17535 and 296-155-17540;

(vi) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;

(vii) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-155-17545; and

(viii) Ensure that engineering controls are functioning properly.

(c) In addition to the qualifications specified in WAC 296-155-17505, the competent person shall be trained in all aspects of asbestos, tremolite, anthophyllite, or actinolite abatement, the contents of this standard, the identification of asbestos, tremolite, anthophyllite, or actinolite and their removal procedures, and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course conducted by an EPA Asbestos Training Center, or an equivalent training course recognized by the department as complying with the requirements of this subsection. Every competent person shall also maintain a valid asbestos worker certificate as specified in WAC 296-65-010.

(d) Exception: For small-scale, short-duration operations as defined in WAC 296-155-189, Appendix G, the employer is not required to comply with the requirements of this subsection.

NEW SECTION

WAC 296-155-17530 EXPOSURE MONITORING. (1) General.

(a) Each employer who has a workplace or work operation covered by this standard shall perform monitoring to determine accurately the airborne concentrations of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals to which employees may be exposed.

(b) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight-hour TWA airborne concentrations and of the ceiling concentrations of each employee.

(c) Representative eight-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for employees in each work area.

(d) Representative employee ceiling exposure shall be determined on the basis of one or more samples representing the highest exposure for employees in each work area. Sampling periods for ceiling concentration evaluations shall not exceed fifteen minutes.

(2) Initial monitoring.

(a) Each employer who has a workplace or work operation covered by this standard, except as provided for in subsection (1) (c) and (d) of this section, shall perform initial monitoring at the initiation of each asbestos, tremolite, anthophyllite, actinolite job to accurately determine the airborne concentrations of asbestos, tremolite, anthophyllite, or actinolite to which employees may be exposed.

(b) The employer may demonstrate that employee exposures are below the action level by means of objective data demonstrating that product or material containing asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals cannot release airborne fibers in concentrations exceeding the action level under those work conditions having the greatest potential for releasing asbestos, tremolite, anthophyllite, or actinolite.

(c) Where the employer has monitored each asbestos, tremolite, anthophyllite, or actinolite job, and the data were obtained during work operations conducted under workplace conditions closely resembling the processes, type of material including percentage of asbestos, tremolite, anthophyllite, or actinolite, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection, except for employees engaged in removal, demolition, or renovation operations using negative-pressure enclosures as required by WAC 296-155-17525(7).

(3) Daily monitoring within regulated areas: The employer shall conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area. Exception: When all employees within a regulated area are equipped with full facepiece supplied-air respirators operated in the pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter, the employer may dispense with the daily monitoring required by this subsection.

(4) Daily monitoring outside negative-pressure enclosures: The employer shall conduct daily monitoring that is representative of the airborne fiber levels in areas adjacent to negative-pressure enclosures required by WAC 296-155-17525(7).

(5) Methods of monitoring.

(a) All samples taken to satisfy the monitoring requirements of subsections (2) and (3) of this section shall be personal samples collected following the procedures specified in WAC 296-155-177, Appendix A.

(b) Monitoring shall be performed by persons having special training that ensures thorough understanding of the monitoring principles and procedures specified in WAC 296-155-177, Appendix A, and the requirements of WAC 296-155-17565 (2)(b)(i) through (xiv).

(c) All samples taken to satisfy the monitoring requirements of this section shall be evaluated using the WISHA Reference Method specified in WAC 296-155-177, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA Reference Method is used, the employer shall ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons;

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.5 to 2.0 times the permissible exposure limit have an accuracy range of plus or minus twenty-five percent of the WISHA Reference Method results with a ninety-five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers shall rely on the results of monitoring analysis performed by laboratories that have instituted quality assurance programs that include the elements prescribed in WAC 296-155-177, Appendix A.

(6) Employee notification of monitoring results.

(a) The employer shall notify affected employees of the monitoring results that represent that employee's exposure as soon as possible following receipt of monitoring results.

(b) The employer shall notify affected employees of the results of monitoring representing the employee's exposure in writing either individually or by posting at a centrally located place that is accessible to affected employees.

(7) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite conducted in accordance with this section.

(b) When observation of the monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-155-17532 METHODS OF COMPLIANCE. (1) Engineering controls and work practices.

(a) The employer shall use the following control methods to achieve compliance with the permissible exposure limits prescribed by WAC 296-155-17510:

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) Vacuum cleaners equipped with HEPA filters;

(iii) Enclosure or isolation of processes producing asbestos, tremolite, anthophyllite, or actinolite dust;

(iv) Prompt disposal of wastes contaminated with asbestos, tremolite, anthophyllite, or actinolite handling, mixing, removal, cutting, application, and cleanup;

(v) Prompt disposal of wastes contaminated with asbestos, tremolite, anthophyllite, or actinolite in leak-tight containers; or

(vi) Use of work practices or other engineering controls that the director can show to be feasible.

(b) Wherever the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the limit prescribed in WAC 296-155-17510, the employer shall use them to reduce employee exposure to the lowest levels attainable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-155-17535.

(2) Prohibitions.

(a) High-speed abrasive disc saws that are not equipped with appropriate engineering controls shall not be used for work related to asbestos, tremolite, anthophyllite, or actinolite.

(b) Compressed air shall not be used to remove asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite,

anthophyllite, or actinolite unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air.

(c) Materials containing asbestos, tremolite, anthophyllite, or actinolite shall not be applied by spray methods.

(3) Employee rotation. The employer shall not use employees rotation as a means of compliance with the exposure limit prescribed in WAC 296-155-17510.

(4) Clean-up.

(a) After completion of asbestos, tremolite, anthophyllite, or actinolite removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any asbestos, tremolite, anthophyllite, or actinolite debris.

(b) Lock-down. Where asbestos has been removed, EPA accepted encapsulant shall be applied to ensure encapsulation of remaining fibers.

(c) The employer shall demonstrate by monitoring that the airborne fiber concentration is at or below the action level; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.

NEW SECTION

WAC 296-155-17535 RESPIRATORY PROTECTION. (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-155-175 through 296-155-193. Respirators shall be used in the following circumstances:

(a) During interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the exposure limit;

(d) In emergencies; and

(e) Whenever otherwise required by this standard.

(2) Respirator selection.

(a) Where respirators are used, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall ensure that the employee uses the respirator provided.

(b) Historical air monitoring data may be used predictively for the selection of respiratory protection except as specified in subsection (3) of this section. The predictive data shall have been obtained within six months prior to the initiation of each asbestos project for which it is used. Data obtained shall meet the requirements of WAC 296-155-17530 and 296-155-17565 (2)(b).

(c) The employer shall select respirators from among those approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CRF Part 11.

(d) The employer shall provide a powered, air-purifying respirator in lieu of any negative-pressure respirator specified in Table 1, whenever:

(i) An employee chooses to use this type of respirator; and

(ii) This respirator will provide adequate protection to the employee.

TABLE 1.—RESPIRATORY PROTECTION FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE FIBERS

Airborne eight-hour time weighted average (TWA) concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals	Required respirator ^a
Not in excess of 2 f/cc (10 X PEL-TWA)	1. Half-mask air-purifying respirator equipped with high-efficiency filters. ^b
Not in excess of 10 f/cc (50 X PEL-TWA)	1. Full facepiece air-purifying respirator equipped with high-efficiency filters.

TABLE 1.—RESPIRATORY PROTECTION FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE FIBERS

Airborne eight-hour time weighted average (TWA) concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals	Required respirator ^a
Not in excess of 20 f/cc (100 X PEL-TWA)	1. Any powered air-purifying respirator equipped with high-efficiency filters. 2. Any supplied-air respirator operated in continuous flow mode.
Not in excess of 200 f/cc (1000 X PEL-TWA)	1. Full facepiece supplied-air respirator operated in pressure demand mode.
Greater than 200 f/cc (less than 1000 X PEL-TWA) or unknown concentration.	1. Full facepiece supplied-air respirator operated in pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter.

- Note: a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.
b. A high-efficiency filter means a filter that is at least 99.97 percent efficient against monodispersed particles of 0.3 micrometers in diameter or larger.

(3) Respiratory protection for removal, demolition, and renovation operations. The employer shall provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the pressure demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter to employees engaged in asbestos removal, demolition, and renovation operations regulated by WAC 296-155-17525(7) and any dry removal of asbestos. This subsection includes operations involving removal, demolition, or disturbance of ceilings, vessels, ducts, structural members or similar building components covered or insulated with asbestos except when glove bags are properly utilized to control the asbestos containing material.

(4) Respirator program.

(a) Where respiratory protection is used, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employees shall be assigned to tasks requiring the use of respirators if, based on his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or of other employees will be impaired by the use of a respirator. Such employees shall be assigned to another job or given the opportunity to transfer to a different position the duties of which he or she is able to perform with the same employer, in the same seniority, status, and rate of pay he or she had just prior to such transfer, if such a different position is available.

(5) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing a negative-pressure respirator.

The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with WAC 296-155-181, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1.

NEW SECTION

WAC 296-155-17540 PROTECTIVE CLOTHING. (1) General. The employer shall provide and require the use of protective clothing, such as coveralls or similar whole-body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals that exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(2) Laundering.

(a) The employer shall ensure that laundering of contaminated clothing is done so as to prevent the release of airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals that exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(b) Any employer who gives contaminated clothing to another person for laundering shall inform such person of requirements in (a) of this subsection to effectively prevent the release of airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the exposure limit prescribed in WAC 296-155-17510.

(3) Contaminated clothing. Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and be labeled in accordance with WAC 296-155-17550.

(4) Protective clothing for removal, demolition, and renovation operations.

(a) The competent person shall periodically examine worksuits worn by employees for rips or tears that may occur during performance of work.

(b) When rips or tears are detected while an employee is working within a negative-pressure enclosure, rips and tears shall be immediately mended, or the worksuit shall be immediately replaced.

NEW SECTION

WAC 296-155-17545 HYGIENE FACILITIES AND PRACTICES. (1) General.

(a) The employer shall provide clean change areas for employees required to work in regulated areas or required by WAC 296-155-17540(1) to wear protective clothing. Exception: In lieu of the change area requirement specified in this subsection, the employer may permit employees in small scale, short duration operations, as described in WAC 296-155-17525 (7)(d), to clean their protective clothing with a portable HEPA-equipped vacuum before such employees leave the area where maintenance was performed.

(b) The employer shall ensure that change areas are equipped with separate storage facilities for protective clothing and street clothing, in accordance with WAC 296-24-120.

(c) Whenever food or beverages are consumed at the worksite and employees are exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit, the employer shall provide lunch areas in which the airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals are below the action level.

(2) Requirements for removal, demolition, and renovation operations.

(a) Decontamination area. Except for small scale, short duration operations, as described in WAC 296-155-17525 (7)(d), the employer shall establish a decontamination area that is adjacent and connected to the regulated area for the decontamination of employees contaminated with asbestos, tremolite, anthophyllite, or actinolite. The decontamination area shall consist of an equipment room, shower area, and clean room in series. The employer shall ensure that employees enter and exit the regulated area through the decontamination area.

(b) Clean room. The clean room shall be equipped with a locker or appropriate storage container for each employee's use.

(c) Shower area. Where feasible, shower facilities shall be provided which comply with WAC 296-24-12009(3). The showers shall be contiguous both to the equipment room and the clean change room, unless the employer can demonstrate that this location is not feasible. Where the employer can demonstrate that it is not feasible to locate

the shower between the equipment room and the clean change room, the employer shall ensure that employees:

(i) Remove asbestos, tremolite, anthophyllite, or actinolite contamination from their worksuits using a HEPA vacuum before proceeding to a shower that is not contiguous to the work area; or

(ii) Remove their contaminated worksuits, don clean worksuits, and proceed to a shower that is not contiguous to the work area.

(d) Equipment room. The equipment room shall be supplied with impermeable, labeled bags and containers for the containment and disposal of contaminated protective clothing and equipment.

(e) Decontamination area entry procedures.

(i) The employer shall ensure that employees;

(A) Enter the decontamination area through the clean room;

(B) Remove and deposit street clothing within a locker provided for their use; and

(C) Put on protective clothing and respiratory protection before leaving the clean room.

(ii) Before entering the enclosure, the employer shall ensure that employees pass through the equipment room.

(f) Decontamination area exit procedures.

(i) Before leaving the regulated area, the employer shall ensure the employees remove all gross contamination and debris from their protective clothing.

(ii) The employer shall ensure that employees remove their protective clothing in the equipment room and deposit the clothing in labeled impermeable bags or containers.

(iii) The employer shall ensure that employees do not remove their respirators in the equipment room.

(iv) The employer shall ensure that employees shower prior to entering the clean room.

(v) The employer shall ensure that, after showering, employees enter the clean room before changing into street clothes.

(g) Decontamination area for personnel shall not be used for the transportation of asbestos, tremolite, anthophyllite, or actinolite debris.

(h) Waste load-out procedure. The waste load-out area as required by WAC 296-155-17555(3) shall be used as an area for final preparation and external decontamination of waste containers, as a short term storage area for bagged waste, and as a port for transporting waste.

The employer shall ensure waste containers be free of all gross contaminated material before removal from the negative pressure enclosure. Gross contamination shall be wiped, scraped off, or washed off containers before they are placed into the air lock which is adjacent to the negative pressure enclosure. The exterior of the waste container shall be decontaminated or placed within a second waste container, and moved into the second air lock for temporary storage or transferred outside of the regulated area. The second waste container shall not be reused unless thoroughly decontaminated.

NEW SECTION

WAC 296-155-17550 COMMUNICATION OF HAZARDS TO EMPLOYEES. (1) Signs.

(a) Warning signs that demarcate the regulated area shall be provided and displayed at each location where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals may be in excess of the exposure limit prescribed in WAC 296-155-17510. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(b) The warning signs required by (a) of this subsection shall bear the following information:

**DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA**

(c) Where minerals in the regulated area are only tremolite, anthophyllite or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(2) Labels.

(a) Labels shall be affixed to all products containing asbestos, tremolite, anthophyllite, or actinolite and to all containers containing such products, including waste containers. Where feasible, installed asbestos, tremolite, anthophyllite, or actinolite products shall contain a visible label.

(b) Labels shall be printed in large, bold letters on a contrasting background.

(c) Labels shall be used in accordance with the requirements of WAC 296-62-05411, and shall contain the following information:

**DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD**

(d) Where minerals to be labeled are only tremolite, anthophyllite and actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(e) Labels shall contain a warning statement against breathing airborne asbestos, tremolite, anthophyllite, or actinolite fibers.

(f) The provisions for labels required by (a) and (d) of this subsection do not apply where:

(i) Asbestos, tremolite, anthophyllite, or actinolite fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that, during any reasonable foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these mineral fibers in excess of the action level will be released, or

(ii) Asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals is present in a product in concentrations less than 0.1 percent by weight.

(3) Employee information and training.

(a) The employer shall institute a training program for all employees exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the action level and shall ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(c) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each such employee is informed of the following:

(i) Methods of recognizing asbestos, tremolite, anthophyllite, and actinolite;

(ii) The health effects associated with asbestos, tremolite, anthophyllite, or actinolite exposure;

(iii) The relationship between smoking and asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer;

(iv) The nature of operations that could result in exposure to asbestos, tremolite, anthophyllite, and actinolite, the importance of necessary protective controls to minimize exposure including, as applicable, engineering controls, work practices, respirators, housekeeping procedures, hygiene facilities, protective clothing, decontamination procedures, emergency procedures, and waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(v) The purpose, proper use, fitting instructions, and limitations of respirators as required by WAC 296-62-071;

(vi) The appropriate work practices for performing the asbestos, tremolite, anthophyllite, or actinolite job;

(vii) Medical surveillance program requirements; and

(viii) A review of this standard, including appendices.

(4) Access to training materials.

(a) The employer shall make readily available to all affected employees without cost all written materials relating to the employee training program, including a copy of this regulation.

(b) The employer shall provide to the director, upon request, all information and training materials relating to the employee information and training program.

(5) Certification.

(a) All individuals working on asbestos projects, as defined in WAC 296-65-003(4), shall be certified as required by WAC 296-65-010 and 296-65-030.

(b) In cases excepted under sections WAC 296-65-030 (1) and (2), all employees shall be trained according to subsection (3) of this section.

NEW SECTION

WAC 296-155-17555 HOUSEKEEPING. (1) Vacuuming. Where vacuuming methods are selected, HEPA filtered vacuuming equipment must be used. The equipment shall be used and emptied in a manner that minimizes the reentry of asbestos, tremolite, anthophyllite, or actinolite into the workplace.

(2) Waste disposal. Asbestos waste, scrap, debris, bags, containers, equipment, and contaminated clothing consigned for disposal shall be collected and disposed of in sealed, labeled, impermeable bags or other closed, labeled, impermeable containers. To avoid breakage, bags shall be at least six mils in thickness and shall not be dragged or slid across rough or abrasive surfaces.

(3) Waste removal. Whenever a negative-pressure enclosure is required by WAC 296-155-17525(7), the employer shall establish a waste-load-out area that is adjacent and connected to the negative-pressure enclosure, constructed of a two chamber air lock, for the decontamination and removal of asbestos, tremolite, anthophyllite, or actinolite debris.

(4) Deterioration. Asbestos, tremolite, anthophyllite, or actinolite which has become damaged or deteriorated shall be enclosed, encapsulated, or removed.

NEW SECTION

WAC 296-155-17560 MEDICAL SURVEILLANCE. (1) General.

(a) Employees covered. The employer shall institute a medical surveillance program for all employees engaged in work involving levels of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals, at or above the action level for thirty or more days per year, or who are required by this section to wear negative pressure respirators.

(b) Examination by a physician.

(i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided at no cost to the employee and at a reasonable time and place.

(ii) Persons other than such licensed physicians who administer the pulmonary function testing required by this section shall complete a training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Medical examinations and consultations.

(a) Frequency. The employer shall make available medical examinations and consultations to each employee covered under subsection (1)(a) of this section on the following schedules:

(i) Prior to assignment of the employee to an area where negative-pressure respirators are worn;

(ii) When the employee is assigned to an area where exposure to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals may be at or above the action level for thirty or more days per year, a medical examination must be given within ten working days following the thirtieth day of exposure;

(iii) And at least annually thereafter, except that no medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with WAC 296-155-17560 within the past one-year period;

(iv) If the examining physician determines that any of the examinations should be provided more frequently than specified, the employer shall provide such examinations to affected employees at the frequencies specified by the physician.

(b) Content. Medical examinations made available pursuant to (a)(i) through (iii) of this subsection shall include:

(i) A medical and work history with special emphasis directed to the pulmonary, cardiovascular, and gastrointestinal systems.

(ii) On initial examination, the standardized questionnaire contained in WAC 296-155-183, Appendix D, Part 1, and, on annual examination, the abbreviated standardized questionnaire contained in WAC 296-155-183, Appendix D, Part 2.

(iii) A physical examination directed to the pulmonary and gastrointestinal systems, including a chest roentgenogram to be administered at the discretion of the physician, and pulmonary function tests of forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁). Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-155-185, Appendix E.

(iv) Any other examinations or tests deemed necessary by the examining physician.

(3) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D, E, and I;

(b) A description of the affected employee's duties as they relate to the employee's exposure;

(c) The employee's representative exposure level or anticipated exposure level;

(d) A description of any personal protective and respiratory equipment used or to be used; and

(e) Information from previous medical examination of the affected employee that is not otherwise available to the examining physician.

(4) Physician's written opinion.

(a) The employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos, tremolite, anthophyllite, or actinolite;

(ii) Any recommended limitations on the employee or on the use of personal protective equipment such as respirators; and

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions that may result from asbestos, tremolite, anthophyllite, or actinolite exposure.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos, tremolite, anthophyllite, or actinolite.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

NEW SECTION

WAC 296-155-17565 RECORDKEEPING. (1) Objective data for exempted operations.

(a) Where the employer has relied on objective data that demonstrate that products made from or containing asbestos, tremolite, anthophyllite, or actinolite are not capable of releasing fibers of asbestos, tremolite, anthophyllite, or actinolite or a combination of these minerals, in concentrations at or above the action level under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under WAC 296-155-17530. The employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following information:

(i) The product qualifying for exemption;

(ii) The source of the objective data;

(iii) The testing protocol, results of testing, and/or analysis of the material for the release of asbestos, tremolite, anthophyllite, or actinolite;

(iv) A description of the operation exempted and how the data support the exemption; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to asbestos, tremolite, anthophyllite, or actinolite as prescribed in WAC 296-155-17530.

Note: The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(b) This record shall include at least the following information:

(i) Name of employer;

(ii) Name of person conducting monitoring;

(iii) Date of monitoring;

(iv) Address of asbestos operation;

(v) The operation involving exposure to asbestos, tremolite, anthophyllite, or actinolite which is being monitored;

(vi) Description of sampling strategies;

(vii) Personal or area sample;

(viii) Employee name, social security number, and asbestos worker certificate number if the project requires certified workers;

(ix) Type of engineering control, if any;

(x) Type of respirator used;

(xi) Type of protective clothing used;

(xii) Pump calibration date and data;

(xiii) Pump serial number and flow rate;

(xiv) Sampling on and off time and total volume of air sampled;

(xv) Name, address and telephone number of analytical laboratory;

(xvi) Name of microscopists;

(xvii) Date of analysis;

(xviii) Analytical method;
 (xix) Total number of fibers counted and total number of fields counted;

(xx) Average concentration in fibers per cubic centimeter of air;

(xxi) Evidence of analytical method accuracy.

(c) The employer shall maintain this record for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-155-17560, in accordance with WAC 296-155-052.

(b) The record shall include at least the following information:

(i) The name and social security number of the employee;

(ii) A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physician's recommendations;

(iii) Physician's written opinions;

(iv) Any employee medical complaints related to exposure to asbestos, tremolite, anthophyllite, or actinolite; and

(v) A copy of the information provided to the physician as required by WAC 296-155-17560.

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(4) Training records. The employer shall maintain all employee training records for one year beyond the last date of employment by that employer.

(5) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying.

(b) The employer, upon request, shall make any exposure records required by WAC 296-155-17530 and this section available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) The employer, upon request, shall make employee medical records required by WAC 296-155-17560 and this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the director, in accordance with WAC 296-62-052.

(6) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal and, upon request, transmit them to the director.

NEW SECTION

WAC 296-155-17570 DATES. The requirements of the asbestos standard issued in May, 1973, as amended, and published in WAC 296-62-07517, remain in effect until compliance is achieved with the parallel provisions of WAC 296-155-175 through 296-155-193.

NEW SECTION

WAC 296-155-17575 APPENDICES. (1) The following Appendices to this section are incorporated as part of this section and the contents of these Appendices are mandatory.

(a) WAC 296-155-177, Appendix A: WISHA Reference Method, Mandatory.

(b) WAC 296-155-181, Appendix C: Qualitative and Quantitative Fit Testing Procedures, Mandatory.

(c) WAC 296-155-183, Appendix D: Medical Questionnaires, Mandatory.

(d) WAC 296-155-185, Appendix E: Interpretation and Classification of Chest Roentgenograms, Mandatory.

(e) WAC 296-155-189, Appendix G: Work Practices and Engineering Controls for Small-Scale, Short-Duration Asbestos Renovation and Maintenance Activities, Mandatory.

(2) The following Appendices to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(a) WAC 296-155-179, Appendix B: Detailed Procedure for Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis, Nonmandatory.

(b) WAC 296-155-187, Appendix F: Work Practices and Engineering Controls for Major Asbestos Removal, Renovation, and Demolition Operations, Nonmandatory.

(c) WAC 296-155-191, Appendix H: Substance Technical Information for Asbestos, Nonmandatory.

(d) WAC 296-155-193, Appendix I: Medical Surveillance Guidelines for Asbestos, Tremolite, Anthophyllite, and Actinolite, Nonmandatory.

NEW SECTION

WAC 296-155-177 APPENDIX A—WISHA REFERENCE METHOD—MANDATORY. This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described in subsection (1) of this section represent the elements of the available monitoring methods (such as the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under WAC 296-155-17530 are required to utilize analytical laboratories that use this procedure, or an equivalent method recognized by the department, for collecting and analyzing samples.

(1) Sampling and analytical procedure.

(a) The sampling medium for air samples shall be mixed cellulose ester filter membranes. These shall be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device shall be the 25-mm diameter cassette with an open-faced 50-mm extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record.

(c) An air flow rate between 0.5 liter/min and 4.0 liters/min shall be selected for the 25/mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min shall be selected.

(d) Where possible, a sufficient air volume for each air sample shall be collected to yield between 100 and 1,300 fibers per square millimeter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample shall be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples shall be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts shall be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope shall be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of 100 micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope shall be about 3 degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets one to seven, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six and seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that

fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include ten percent blanks or a minimum of two blanks. The blank results shall be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of seven fibers/100 fields shall be rejected.

(l) The samples shall be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than five micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of 3:1 or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field shall receive a count of 1. Fibers crossing the boundary once, having one end within the circle, shall receive the count of one half. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) For a 25mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 10 fibers are found after counting 100 fields and the sample air volume is less than 60 liters, count a total number of fields calculated from the following formulas:

$$N = 6000/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 2400/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 25mm filter

V = Air volume of sample in liters

QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

(vi) For a 37mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 100 fibers are found after counting 100 fields and the sample air volume is less than 133 liters, count a total number of fields calculated from the following formulas:

$$N = 13300/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 5320/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 37mm filter

V = Air volume of sample in liters

QL = Limit of reliable quantification in fibers/cc

(n) Blind recounts shall be conducted at the rate of ten percent.

(2) Quality control procedures.

(a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting slides shall establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program shall include all laboratories, and shall also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program. Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory shall participate in round robin testing at least once every six months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory shall submit slides typical of its own workload for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope shall be evaluated and the microscope shall be replaced, as necessary.

(e) Current results of these quality assurance programs shall be posted in each laboratory to keep the microscopists informed.

NEW SECTION

WAC 296-155-179 APPENDIX B—DETAILED PROCEDURE FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE SAMPLING AND ANALYSIS—NON-MANDATORY. This appendix contains a detailed procedure for sampling and analysis and includes those critical elements specified in Appendix A. Employers are not required to use this procedure, but they are required to use Appendix A. The purpose of Appendix B is to provide a detailed step-by-step sampling and analysis procedure that conforms to the elements specified in Appendix A. Since this procedure may also standardize the analysis and reduce variability, WISHA encourages employers to use this appendix.

Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis Method.

Technique: Microscopy, phase contrast.

Analyte: Fibers (manual count).

Sample Preparation: Acetone/triacetin method.

Calibration: Phase-shift detection limit about 3 degrees.

Range: 100 to 1300 fibers/mm² filter area.

Estimated limit of detection: 7 fibers/mm² filter area.

Sampler: Filter (0.8-1.2 um mixed cellulose ester membrane, 25-mm diameter).

Flow rate: 0.5 l/min to 4.0 l/min (25-mm cassette); 1.0 l/min to 4.0 l/min (37-mm cassette).

Sample volume: Adjust to obtain 100 to 1300 fibers/mm².

Shipment: Routine.

Sample stability: Indefinite.

Blanks: 10% of samples (minimum 2).

Standard analytical error: 0.25.

Applicability: The working range is 0.02 f/cc (1920-L air sample) to 1.25 f/cc (400-L air sample). The method gives an index of airborne asbestos, tremolite, anthophyllite, and actinolite fibers but may be used for other materials such as fibrous glass by inserting suitable parameters into the counting rules. The method does not differentiate between asbestos, tremolite, anthophyllite, and actinolite and other fibers. Asbestos, tremolite, anthophyllite, and actinolite fibers less than ca. 0.25 um diameter will not be detected by this method.

Interferences: Any other airborne fiber may interfere since all particles meeting the counting criteria are counted. Chain-like particles may appear fibrous. High levels of nonfibrous dust particles may obscure fibers in the field of view and raise the detection limit.

(1) Reagents.

(a) Acetone.

(b) Triacetin (glycerol triacetate), reagent grade.

Special precautions: Acetone is an extremely flammable liquid and precautions must be taken not to ignite it. Heating of acetone must be done in a ventilated laboratory fume hood using a flameless, spark-free heat source.

(2) Equipment.

(a) Collection device: 25-mm cassette with 50-mm extension cowl with cellulose ester filter, 0.8 to 1.2 mm pore size and backup pad.

Note: Analyze representative filters for fiber background before use and discard the filter lot if more than 5 fibers/100 fields are found.

(b) Personal sampling pump, greater than or equal to 0.5 L/min. with flexible connecting tubing.

(c) Microscope, phase contrast, with green or blue filter, 8 to 10 X eyepiece, and 40 to 45 X phase objective (total magnification ca. 400 X); numerical aperture = 0.65 to 0.75.

(d) Slides, glass, single-frosted, pre-cleaned, 25 x 75 mm.

(e) Cover slips, 25 x 25 mm, No. 1 1/2 unless otherwise specified by microscope manufacturer.

(f) Knife, No. 1 surgical steel, curved blade.

(g) Tweezers.

(h) Flask, Guth-type, insulated neck, 250 to 500 mL (with single-hole rubber stopper and elbow-jointed glass tubing, 16 to 22 cm long).

(i) Hotplate, spark-free, stirring type; heating mantle; or infrared lamp and magnetic stirrer.

(j) Syringe, hypodermic, with 22-gauge needle.

(k) Graticule, Walton-Beckett type with 100 μm diameter circular field at the specimen plane (area = 0.00785 mm^2), (Type G-22).

Note: The graticule is custom-made for each microscope.

(l) HSE/NPL phase contrast test slide, Mark 11.

(m) Telescope, ocular phase-ring centering.

(n) Stage micrometer (0.01 mm divisions).

(3) Sampling.

(a) Calibrate each personal sampling pump with a representative sampler in line.

(b) Fasten the sampler to the worker's lapel as close as possible to the worker's mouth. Remove the top cover from the end of the cowl extension (open face) and orient face down. Wrap the joint between the extender and the monitor's body with shrink tape to prevent air leaks.

(c) Submit at least two blanks (or 10% of the total samples, whichever is greater) for each set of samples. Remove the caps from the field blank cassettes and store the caps and cassettes in a clean area (bag or box) during the sampling period. Replace the caps in the cassettes when sampling is completed.

(d) Sample at 0.5 L/min or greater. Do not exceed 1 mg total dust loading on the filter. Adjust sampling flow rate, Q (L/min), and time to produce a fiber density, E (fibers/ mm^2), of 100 to 1300 fibers/ m^2 (3.85×10^4 to 5×10^5 fibers per 25-mm filter with effective collection area ($A_c = 385 \text{ mm}^2$)) for optimum counting precision (see subsection (7)(a) of this section). Calculate the minimum sampling time, t_{minimum} at the action level (one-half of the current standard), L (f/cc) of the fibrous aerosol being sampled:

$$t_{\text{minimum}} = \frac{(A_c)(E)}{(Q)(L)10^3}$$

(e) Remove the field monitor at the end of sampling, replace the plastic top cover and small end caps, and store the monitor.

(f) Ship the samples in a rigid container with sufficient packing material to prevent jostling or damage.

Note: Do not use polystyrene foam in the shipping container because of electrostatic forces which may cause fiber loss from the sampler filter.

(4) Sample preparation.

Note: The object is to produce samples with a smooth (nongrainy) background in a medium with a refractive index equal to or less than 1.46. The method below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. Other mounting techniques meeting the above criteria may also be used, e.g., the nonpermanent field mounting technique used in P & CAM 239.

(a) Ensure that the glass slides and cover slips are free of dust and fibers.

(b) Place 40 to 60 ml of acetone into a Guth-type flask. Stopper the flask with a single-hole rubber stopper through which a glass tube extends 5 to 8 cm into the flask. The portion of the glass tube that exits the top of the stopper (8 to 10 cm) is bent downward in an elbow that makes an angle of 20 to 30 degrees with the horizontal.

(c) Place the flask in a stirring hotplate or wrap in a heating mantle. Heat the acetone gradually to its boiling temperature (ca. 58°C).

Caution: The acetone vapor must be generated in a ventilated fume hood away from all open flames and spark sources. Alternate heating methods can be used, providing no open flame or sparks are present.

(d) Mount either the whole sample filter or a wedge cut from the sample filter on a clean glass slide.

(i) Cut wedges of ca. twenty-five percent of the filter area with a curved-blade steel surgical knife using a rocking motion to prevent tearing.

(ii) Place the filter or wedge, dust side up, on the slide. Static electricity will usually keep the filter on the slide until it is cleared.

(iii) Hold the glass slide supporting the filter approximately 1 to 2 cm from the glass tube port where the acetone vapor is escaping from the heated flask. The acetone vapor stream should cause a condensation spot on the glass slide ca. 2 to 3 cm in diameter. Move the glass slide gently in the vapor stream. The filter should clear in 2 to 5 sec. If the filter curls, distorts, or is otherwise rendered unusable, the vapor stream is probably not strong enough. Periodically wipe the outlet port with tissue to prevent liquid acetone dripping onto the filter.

(iv) Using the hypodermic syringe with a 22-gauge needle, place 1 to 2 drops of triacetin on the filter. Gently lower a clean 25-mm

square cover slip down onto the filter at a slight angle to reduce the possibility of forming bubbles. If too many bubbles form or the amount of triacetin is insufficient, the cover slip may become detached within a few hours.

(v) Glue the edges of the cover slip to the glass slide using a lacquer or nail polish.

Note: If clearing is slow, the slide preparation may be heated on a hotplate (surface temperature 50°C) for 15 min. to hasten clearing. Counting may proceed immediately after clearing and mounting are completed.

(5) Calibration and quality control.

(a) Calibration of the Walton-Beckett graticule. The diameter, d_c (mm), of the circular counting area and the disc diameter must be specified when ordering the graticule.

(i) Insert any available graticule into the eyepiece and focus so that the graticule lines are sharp and clear.

(ii) Set the appropriate interpupillary distance and, if applicable, re-set the binocular head adjustment so that the magnification remains constant.

(iii) Install the 40 to 45 X phase objective.

(iv) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(v) Measure the magnified grid length, L_o (μm) using the stage micrometer.

(vi) Remove the graticule from the microscope and measure its actual grid length, L_a (mm). This can best be accomplished by using a stage fitted with verniers.

(vii) Calculate the circle diameter, d_c (mm), for the Walton-Beckett graticule:

$$d_c = \frac{L_a \times D}{L_o}$$

Example: If $L_o = 108 \mu\text{m}$, $L_a = 2.93 \text{ mm}$ and $D = 100 \mu\text{m}$, then $d_c = 2.71 \text{ mm}$.

(viii) Check the field diameter, D (acceptable range 100 mm \pm 2 mm) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine field area (mm^2).

(b) Microscope adjustments. Follow the manufacturer's instructions and also the following:

(i) Adjust the light source for even illumination across the field of view at the condenser iris.

Note: Kohler illumination is preferred, where available.

(ii) Focus on the particulate material to be examined.

(iii) Make sure that the field iris is in focus, centered on the sample, and open only enough to fully illuminate the field of view.

(iv) Use the telescope ocular supplied by the manufacturer to ensure that the phase rings (annular diaphragm and phase-shifting elements) are concentric.

(c) Check the phase-shift detection limit of the microscope periodically.

(i) Remove the HSE/NPL phase-contrast test slide from its shipping container and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooves (ca. 20 grooves to each block) in descending order of visibility from sets 1 to 7. The requirements for counting are that the microscope optics must resolve the grooved lines in set 3 completely, although they may appear somewhat faint, and that the grooved lines in sets 6 to 7 must be invisible. Sets 4 and 5 must be at least partially visible but may vary slightly in visibility between microscopes. A microscope which fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image quality deteriorates, clean the microscope optics and, if the problem persists, consult the microscope manufacturer.

(d) Quality control of fiber counts.

(i) Prepare and count field blanks along with the field samples. Report the counts on each blank. Calculate the mean of the field blank counts and subtract this value from each sample count before reporting the results.

Note 1: The identity of the blank filters should be unknown to the counter until all counts have been completed.

Note 2: If a field blank yields fiber counts greater than 7 fibers/100 fields, report possible contamination of the samples.

(ii) Perform blind recounts by the same counter on 10 percent of filters counted (slides relabeled by a person other than the counter).

(e) Use the following test to determine whether a pair of counts on the same filter should be rejected because of possible bias. This statistic estimates the counting repeatability at the 95% confidence level. Discard the sample if the difference between the two counts exceeds $2.77(F)S_r$, where F = average of the two fiber counts and S_r = relative standard deviation, which should be derived by each laboratory based on historical in-house data.

Note: If a pair of counts is rejected as a result of this test, recount the remaining samples in the set and test the new counts against the first counts. Discard all rejected paired counts.

(f) Enroll each new counter in a training course that compares performance of counters on a variety of samples using this procedure.

Note: To ensure good reproducibility, all laboratories engaged in asbestos, tremolite, anthophyllite, and actinolite counting are required to participate in the Proficiency Analytical Testing (PAT) Program and should routinely participate with other asbestos, tremolite, anthophyllite, and actinolite fiber counting laboratories in the exchange of field samples to compare performance of counters.

(6) Measurement.

(a) Place the slide on the mechanical stage of the calibrated microscope with the center of the filter under the objective lens. Focus the microscope on the plane of the filter.

(b) Regularly check phase-ring alignment and Kohler illumination.

(c) The following are the counting rules:

(i) Count only fibers longer than 5 μ m. Measure the length of curved fibers along the curve.

(ii) Count only fibers with a length-to-width ratio equal to or greater than 3:1.

(iii) For fibers that cross the boundary of the graticule field, do the following:

(A) Count any fiber longer than 5 μ m that lies entirely within the graticule area.

(B) Count as 1/2 fiber any fiber with only one end lying within the graticule area.

(C) Do not count any fiber that crosses the graticule boundary more than once.

(D) Reject and do not count all other fibers.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of a fiber.

(v) For a 25mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 10 fibers are found after counting 100 fields and the sample air volume is less than 60 liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 6000/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 2400/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 25mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

(vi) For a 37mm filter, count enough graticule fields to yield 100 fibers by counting a minimum of 20 fields. If less than 100 fibers are found after counting 100 fields and the sample air volume is less than 133 liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 13300/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 5320/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 37mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc

(d) Start counting from one end of the filter and progress along a radial line to the other end, shift either up or down on the filter, and continue in the reverse direction. Select fields randomly by looking away from the eyepiece briefly while advancing the mechanical stage. When an agglomerate covers ca. 1/6 or more of the field of view, reject the field and select another. Do not report rejected fields in the number of total fields counted.

Note: When counting a field, continuously scan a range of focal planes by moving the fine focus knob to detect very fine fibers which have become embedded in the filter. The small-diameter fibers will be very faint but are an important contribution to the total count.

(7) Calculations.

(a) Calculate and report fiber density on the filter, E (fibers/mm²), by dividing the total fiber count, F , minus the mean field blank count, B , by the number of fields, n ; and the field area, $A_f(0.00785 \text{ mm}^2$ for a properly calibrated Walton-Beckett graticule):

$$E = \frac{F-B}{(n)(A_f)} \text{ fibers/mm}^2$$

(b) Calculate the concentration, C (f/cc), of fibers in the air volume sampled, V (L), using the effective collection area of the filter, $A_c(385 \text{ mm}^2$ for a 25-mm filter):

$$C = \frac{(E)(A_c)}{V(10^3)}$$

Note: Periodically check and adjust the value of A_c , if necessary.

Bulk Sample Collection and Analysis.

Bulk samples should be collected as specified in Appendix G, Section 1 of the United States Environmental Protection Agency (EPA) publication No. 560/5-85-024 (June 1985) entitled Guidance for Controlling Asbestos-Containing Materials in Buildings.

Analysis of the samples should be conducted by polarizing light microscopy in a qualified laboratory. In certain cases, x-ray diffraction may be required to confirm the presence of asbestos. Qualified laboratories must be participants in the EPA bulk asbestos quality assurance program or other bulk asbestos quality assurance program recognized by the department.

NEW SECTION

WAC 296-155-181 APPENDIX C—QUALITATIVE AND QUANTITATIVE FIT TESTING PROCEDURES—MANDATORY. (1) Qualitative fit test protocols.

(a) Isoamyl Acetate Protocol.

(i) Odor threshold screening:

(A) Three 1-liter glass jars with metal lids (e.g., Mason or Bell jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labelled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from

different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (I) Positioning of mask on nose.
- (II) Room for eye protection.
- (III) Room to talk.
- (IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (I) Chin properly placed.
- (II) Strap tension.
- (III) Fit across nose bridge.
- (IV) Distance from nose to chin.
- (V) Tendency to slip.
- (VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear 55 gal. drum liner suspended inverted over a 2 foot diameter frame, so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and rainbow passage shall be taped to the inside of the test chamber:

Test exercises.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a 6 inch by 5 inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 10 times the PEL of airborne asbestos. In atmospheres greater than 10 times, and less than 100 times the PEL (up to 100 ppm), the subject must pass the IAA test using a full face negative pressure respirator. (The concentration of the IAA inside the test chamber must be increased by ten times for QLFT of the full facepiece.)

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of the test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(b) Saccharin solution aerosol protocol.

(i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.

(ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in 100 cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after 30 squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 10 times the PEL of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(c) Irritant fume protocol.

(i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the face area of the test subject. The person conducting the test shall begin with the tube at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of 20 pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a 10 percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed 2 seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, Norton M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least 5 minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half-mask and 1 percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least 5 seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least 5 seconds. Perform for at least three complete cycles.

(v) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least 15 seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least 30 seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least 30 seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half-masks and 1 percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate. (See (d)(ii) of this subsection.)

(g) Calculation of fit factors.

(i) The fit factor determined by the quantitative fit test equals the average concentration inside the respirator.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three protection factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of 100 or 1,000, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

- (A) Name.
(B) Date of fit test.
(C) Protection factors obtained through each manufacturer, model and approval number of respirator tested.
(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

- (i) Weight change of 20 pounds or more,
(ii) Significant facial scarring in the area of the facepiece seal,
(iii) Significant dental changes; i.e.; multiple extractions without prosthesis, or acquiring dentures,
(iv) Reconstructive or cosmetic surgery, or
(v) Any other condition that may interfere with facepiece sealing.
(k) Recordkeeping.

A summary of all test results shall be maintained for 3 years. The summary shall include:

- (i) Name of test subject.
(ii) Date of testing.
(iii) Name of the test conductor.
(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

NEW SECTION

WAC 296-155-183 APPENDIX D-MEDICAL QUESTIONNAIRES; MANDATORY. This mandatory appendix contains the medical questionnaires that must be administered to all employees who are exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the action level, and who will therefore be included in their employer's medical surveillance program.

Part 1 INITIAL MEDICAL QUESTIONNAIRE

1. NAME
2. SOCIAL SECURITY #
3. CLOCK NUMBER
4. PRESENT OCCUPATION
5. PLANT
6. ADDRESS
7. (Zip Code)
8. TELEPHONE NUMBER
9. INTERVIEWER
10. DATE
11. Date of Birth
12. Place of Birth
13. Sex
14. What is your marital status?

15. Race
1. White
2. Black
3. Asian
4. Hispanic
5. Indian
6. Other

16. What is the highest grade completed in school?
(For example 12 years is completion of high school)

OCCUPATIONAL HISTORY

17A. Have you ever worked full-time (30 hours per week or more) for 6 months or more?
1. Yes
2. No

IF YES TO 17A:

B. Have you ever worked for a year or more in any dusty job?
Specify job/industry
Total Years Worked
Was dust exposure: 1. Mild 2. Moderate 3. Severe

C. Have you ever been exposed to gas or chemical fumes in your work?
Specify job/industry
Total Years Worked
Was exposure: 1. Mild 2. Moderate 3. Severe

D. What has been your usual occupation or job—the one you have worked at the longest?
1. Job occupation
2. Number of years employed in this occupation
3. Position/job title
4. Business, field or industry
(Record on lines the years in which you have worked in any of these industries, e.g., 1960-1969)

Have you ever worked:

E. In a mine?
F. In a quarry?
G. In a foundry?
H. In a pottery?
I. In a cotton, flax or hemp mill?
J. With asbestos?

18. PAST MEDICAL HISTORY

A. Do you consider yourself to be in good health?
B. Have you any defect in vision?
C. Have you any hearing defect?
D. Are you suffering from or have you ever suffered from:
a. Epilepsy (or fits, seizures, convulsions)?
b. Rheumatic fever?
c. Kidney disease?
d. Bladder disease?
e. Diabetes?
f. Jaundice?

19. CHEST COLDS AND CHEST ILLNESSES

19A. If you get a cold, does it usually go to your chest?
20A. During the past 3 years, have you had any chest illnesses that have kept you off work, indoors at home, or in bed?
B. Did you produce phlegm with any of these chest illnesses?
C. In the last 3 years, how many such illnesses with (increased) phlegm did you have which lasted a week or more?
21. Did you have any lung trouble before the age of 16?
22. Have you ever had any of the following?
1A. Attacks of bronchitis?
B. Was it confirmed by a doctor?

- C. At what age was your first attack? Age in Years ____
Does Not Apply ____
- 2A. Pneumonia (include broncho-pneumonia)? 1. Yes ____ 2. No ____
IF YES TO 2A:
B. Was it confirmed by a doctor? 1. Yes ____ 2. No ____
3. Does Not Apply ____
C. At what age did you first have it? Age in Years ____
Does Not Apply ____
- 3A. Hay Fever? 1. Yes ____ 2. No ____
IF YES TO 3A:
B. Was it confirmed by a doctor? 1. Yes ____ 2. No ____
3. Does Not Apply ____
C. At what age did it start? Age in Years ____
Does Not Apply ____
- 23A. Have you ever had chronic bronchitis? 1. Yes ____ 2. No ____
IF YES TO 23A:
B. Do you still have it? 1. Yes ____ 2. No ____
3. Does Not Apply ____
C. Was it confirmed by a doctor? 1. Yes ____ 2. No ____
3. Does Not Apply ____
D. At what age did it start? Age in years ____
Does Not Apply ____
- 24A. Have you ever had emphysema? 1. Yes ____ 2. No ____
IF YES TO 24A:
B. Do you still have it? 1. Yes ____ 2. No ____
3. Does Not Apply ____
C. Was it confirmed by a doctor? 1. Yes ____ 2. No ____
3. Does Not Apply ____
D. At what age did it start? Age in years ____
Does Not Apply ____
- 25A. Have you ever had asthma? 1. Yes ____ 2. No ____
IF YES TO 25A:
B. Do you still have it? 1. Yes ____ 2. No ____
3. Does Not Apply ____
C. Was it confirmed by a doctor? 1. Yes ____ 2. No ____
3. Does Not Apply ____
D. At what age did it start? Age in years ____
Does Not Apply ____
E. If you no longer have it, at what age did it stop? Age stopped ____
Does Not Apply ____
26. Have you ever had:
A. Any other chest illness? 1. Yes ____ 2. No ____
If yes, please specify _____
B. Any chest operations? 1. Yes ____ 2. No ____
If yes, please specify _____
C. Any chest injuries? 1. Yes ____ 2. No ____
If yes, please specify _____
- 27A. Has a doctor ever told you that you had heart trouble? 1. Yes ____ 2. No ____
IF YES TO 27A:
B. Have you ever had treatment for heart trouble in the past 10 years? 1. Yes ____ 2. No ____
3. Does Not Apply ____
- 28A. Has a doctor ever told you that you had high blood pressure? 1. Yes ____ 2. No ____
IF YES TO 28A:
B. Have you had any treatment for high blood pressure (hypertension) in the past 10 years? 1. Yes ____ 2. No ____
3. Does Not Apply ____

29. When did you last have your chest x-rayed? (Year) ____
x-rayed? 25 26 27 28
30. Where did you last have your chest x-rayed (if known)? _____
What was the outcome? _____

FAMILY HISTORY

31. Were either of your natural parents ever told by a doctor that they had a chronic lung condition such as:
- | | FATHER | | | MOTHER | | |
|----------------------------------|--------------------|-------------------|-----------------|--------------------|-------------------|-----------------|
| | 1. Yes | 2. No | 3. Don't Know | 1. Yes | 2. No | 3. Don't Know |
| A. Chronic Bronchitis? | ____ | ____ | ____ | ____ | ____ | ____ |
| B. Emphysema? | ____ | ____ | ____ | ____ | ____ | ____ |
| C. Asthma? | ____ | ____ | ____ | ____ | ____ | ____ |
| D. Lung cancer? | ____ | ____ | ____ | ____ | ____ | ____ |
| E. Other chest conditions? | ____ | ____ | ____ | ____ | ____ | ____ |
| F. Is parent currently alive? | ____ | ____ | ____ | ____ | ____ | ____ |
| G. Please specify | ____ Age if Living | ____ Age at Death | ____ Don't Know | ____ Age if Living | ____ Age at Death | ____ Don't Know |
| H. Please specify cause of death | _____ | | | | | |

COUGH

- 32A. Do you usually have a cough? (Count a cough with first smoke or on first going out of doors. Exclude clearing of throat.) (If no, skip to question 32C.) 1. Yes ____ 2. No ____
- B. Do you usually cough as much as 4 to 6 times a day 4 or more days out of the week? 1. Yes ____ 2. No ____
- C. Do you usually cough at all on getting up or first thing in the morning? 1. Yes ____ 2. No ____
- D. Do you usually cough at all during the rest of the day or at night? 1. Yes ____ 2. No ____

IF YES TO ANY OF ABOVE (32A, B, C, OR D), ANSWER THE FOLLOWING. IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO NEXT PAGE

- E. Do you usually cough like this on most days for 3 consecutive months or more during the year? 1. Yes ____ 2. No ____
3. Does Not Apply ____
- F. For how many years have you had the cough? Number of years ____
Does Not Apply ____
- 33A. Do you usually bring up phlegm from your chest? 1. Yes ____ 2. No ____
(Count phlegm with the first smoke or on first going out of doors. Exclude phlegm from the nose. Count swallowed phlegm.) (If no, skip to 33C)
- B. Do you usually bring up phlegm like this as much as twice a day 4 or more days out of the week? 1. Yes ____ 2. No ____
- C. Do you usually bring up phlegm at all on getting up or first thing in the morning? 1. Yes ____ 2. No ____
- D. Do you usually bring up phlegm at all during the rest of the day or at night? 1. Yes ____ 2. No ____

IF YES TO ANY OF THE ABOVE (33A, B, C, OR D), ANSWER THE FOLLOWING: IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO 34A.

- E. Do you bring up phlegm like this on most days for 3 consecutive months or more during the year? 1. Yes ____ 2. No ____
3. Does Not Apply ____
- F. For how many years have you had trouble with phlegm? Number of years ____
Does Not Apply ____

EPISODES OF COUGH AND PHLEGM

34A. Have you had periods or episodes of (increased*) cough and phlegm lasting for 3 weeks or more each year?
*(For persons who usually have cough and/or phlegm)

1. Yes ___ 2. No ___

IF YES TO 34A:

B. For how long have you had at least 1 such episode per year?

Number of years ___
Does Not Apply ___

WHEEZING

35A. Does your chest ever sound wheezy or whistling:

- 1. When you have a cold?
2. Occasionally apart from colds?
3. Most days or nights?

1. Yes ___ 2. No ___
1. Yes ___ 2. No ___
1. Yes ___ 2. No ___

IF YES TO 1, 2, OR 3 IN 35A:

B. For how many years has this been present?

Number of years ___
Does Not Apply ___

36A. Have you ever had an attack of wheezing that has made you feel short of breath?

1. Yes ___ 2. No ___

IF YES TO 36A:

B. How old were you when you had your first such attack?

Age in Years ___
Does Not Apply ___

C. Have you had 2 or more such episodes?

1. Yes ___ 2. No ___
3. Does Not Apply ___

D. Have you ever required medicine or treatment for the(se) attack(s)?

1. Yes ___ 2. No ___
3. Does Not Apply ___

BREATHLESSNESS

37. If disabled from walking by any condition other than heart or lung disease, please describe and proceed to question 39A. Nature of condition(s) _____

38A. Are you troubled by shortness of breath when hurrying on the level or walking up a slight hill?

1. Yes ___ 2. No ___

IF YES TO 38A:

B. Do you have to walk slower than people of your age on the level because of breathlessness?

1. Yes ___ 2. No ___
3. Does Not Apply ___

C. Do you ever have to stop for breath when walking at your own pace on the level?

1. Yes ___ 2. No ___
3. Does Not Apply ___

D. Do you ever have to stop for breath after walking about 100 yards (or after a few minutes) on the level?

1. Yes ___ 2. No ___
3. Does Not Apply ___

E. Are you too breathless to leave the house or breathless on dressing or climbing one flight of stairs?

1. Yes ___ 2. No ___
3. Does Not Apply ___

TOBACCO SMOKING

39A. Have you ever smoked cigarettes? (No means less than 20 packs of cigarettes or 12 oz. of tobacco in a lifetime or less than 1 cigarette a day for 1 year.)

1. Yes ___ 2. No ___

IF YES TO 39A:

B. Do you now smoke cigarettes (as of one month ago)?

1. Yes ___ 2. No ___
3. Does Not Apply ___

C. How old were you when you first started regular cigarette smoking?

Age in Years ___
Does Not Apply ___

D. If you have stopped smoking cigarettes completely, how old were you when you stopped?

Aged stopped ___
Check if still smoking ___
Does Not Apply ___

E. How many cigarettes do you smoke per day now?

Cigarettes per day ___
Does Not Apply ___

F. On the average of the entire time you smoked, how many cigarettes did you smoke per day?

Cigarettes per day ___
Does Not Apply ___

G. Do or did you inhale the cigarette smoke?

- 1. Does Not Apply ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

40A. Have you ever smoked a pipe regularly? (Yes means more than 12 oz. of tobacco in a lifetime.)

1. Yes ___ 2. No ___

IF YES TO 40A:

FOR PERSONS WHO HAVE EVER SMOKED A PIPE

B. 1. How old were you when you started to smoke a pipe regularly?

Age ___

2. If you have stopped smoking a pipe completely, how old were you when you stopped?

Age stopped ___
Check if still smoking pipe ___
Does Not Apply ___

C. On the average over the entire time you smoked a pipe, how much pipe tobacco did you smoke per week?

___ oz. per week (a standard pouch of tobacco contains 1 1/2 oz.)
___ Does Not Apply

D. How much pipe tobacco are you smoking now?

oz. per week ___
Not currently ___
Smoking a pipe ___

E. Do you or did you inhale the pipe smoke?

- 1. Never smoked ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

41A. Have you ever smoked cigars regularly? (Yes means more than 1 cigar a week for a year)

1. Yes ___ 2. No ___

IF YES TO 41A:

FOR PERSONS WHO HAVE EVER SMOKED CIGARS

B. 1. How old were you when you started smoking cigars regularly?

Age ___

2. If you have stopped smoking cigars completely, how old were you when you stopped?

Age stopped ___
Check if still smoking cigars ___
Does Not Apply ___

C. On the average over the entire time you smoked cigars, how many cigars did you smoke per week?

Cigars per week ___
Does Not Apply ___

D. How many cigars are you smoking per week now?

Cigars per week ___
Check if not smoking cigars currently ___

E. Do or did you inhale the cigar smoke?

- 1. Never smoked ___
2. Not at all ___
3. Slightly ___
4. Moderately ___
5. Deeply ___

Signature _____ Date _____

Part 2 PERIODIC MEDICAL QUESTIONNAIRE

1. NAME _____

2. SOCIAL SECURITY # _____
1 2 3 4 5 6 7 8 9

3. CLOCK NUMBER _____
10 11 12 13 14 15

4. PRESENT OCCUPATION _____

5. PLANT _____

6. ADDRESS _____

7. _____ (Zip Code)

8. TELEPHONE NUMBER _____

9. INTERVIEWER _____

10. DATE _____ 16 17 18 19 20 21

11. What is your marital status? 1. Single ___ 4. Separate/ Divorced ___
 2. Married ___
 3. Widowed ___

12. OCCUPATIONAL HISTORY

12A. In the past year, did you work full time (30 hours per week or more) for 6 months or more? 1. Yes ___ 2. No ___

IF YES TO 12A:

12B. In the past year, did you work in a dusty job? 1. Yes ___ 2. No ___
 3. Does Not Apply ___

12C. Was dust exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

12D. In the past year, were you exposed to gas or chemical fumes in your work? 1. Yes ___ 2. No ___

12E. Was exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

12F. In the past year, what was your: 1. Job/occupation? _____
 2. Position/job title? _____

13. RECENT MEDICAL HISTORY

13A. Do you consider yourself to be in good health? Yes ___ No ___
 If NO, state reason _____

13B. In the past year, have you developed: Yes No
 Epilepsy? ___ ___
 Rheumatic fever? ___ ___
 Kidney disease? ___ ___
 Bladder disease? ___ ___
 Diabetes? ___ ___
 Jaundice? ___ ___
 Cancer? ___ ___

14. CHEST COLDS AND CHEST ILLNESS

14A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time) 1. Yes ___ 2. No ___
 3. Don't get colds ___

14A. During the past year, have you had any chest illnesses that have kept you off work, indoors at home, or in bed? 1. Yes ___ 2. No ___
 3. Does Not Apply ___

IF YES TO 14A:

14B. Did you produce phlegm with any of these chest illnesses? 1. Yes ___ 2. No ___
 3. Does Not Apply ___

14C. In the past year, how many such illnesses with (increased) phlegm did you have which lasted a week or more? Number of illnesses ___
 No such illnesses ___

16. RESPIRATORY SYSTEM

In the past year have you had:

	<u>Yes or No</u>	<u>Further Comment on Positive Answers</u>
Asthma	___	
Bronchitis	___	
Hay Fever	___	
Other Allergies	___	

	<u>Yes or No</u>	<u>Further Comment on Positive Answers</u>
Pneumonia	___	
Tuberculosis	___	
Chest Surgery	___	
Other Lung Problems	___	
Heart Disease	___	

Do you have:

	<u>Yes or No</u>	<u>Further Comment on Positive Answers</u>
Frequent colds	___	
Chronic cough	___	
Shortness of breath when walking or climbing one flight of stairs	___	
Do you:		
Wheeze	___	
Cough up phlegm	___	
Smoke cigarettes	___	Packs per day ___ How many years ___

Date _____ Signature _____

NEW SECTION

WAC 296-155-185 APPENDIX E—INTERPRETATION AND CLASSIFICATION OF CHEST ROENTGENOGRAMS—MANDATORY. (1) Chest roentgenograms shall be interpreted and classified in accordance with a professionally accepted classification system and recorded on a Roentgenographic Interpretation Form. *Form CSD/NIOSH (M) 2.8.

(2) Roentgenograms shall be interpreted and classified only by a B-reader, a board eligible/certified radiologist, or an experienced physician with known expertise in pneumoconioses.

(3) All interpreters, whenever interpreting chest roentgenograms made under this section, shall have immediately available for reference a complete set of the ILO-U/C International Classification of Radiographs for Pneumoconioses, 1980.

*Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

NEW SECTION

WAC 296-155-187 APPENDIX F—WORK PRACTICES AND ENGINEERING CONTROLS FOR MAJOR ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION OPERATIONS—NONMANDATORY. This is a nonmandatory appendix designed to provide guidelines to assist employers in complying with the requirements of WAC 296-155-175 through 296-155-193. Specifically, this appendix describes the equipment, methods, and procedures that should be used in major asbestos removal projects conducted to abate a recognized asbestos hazard or in preparation for building renovation or demolition. These projects require the construction of negative-pressure temporary enclosures to contain the asbestos material and to prevent the exposure of bystanders and other employees at the worksite. WAC 296-155-17525(7) of the standard requires that " Whenever feasible, the employer shall establish negative-pressure enclosures before commencing asbestos removal, demolition, or renovation operations." Employers should also be aware that, when conducting asbestos removal projects, they may be required under the National Emissions Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Part 61, Subpart M, or EPA regulations under the Clean Water Act.

(1) Introduction. Construction of a negative-pressure enclosure is a simple but time-consuming process that requires careful preparation and execution; however, if the procedures below are followed, contractors should be assured of achieving a temporary barricade that will protect employees and others outside the enclosure from exposure to asbestos and minimize to the extent possible the exposure of asbestos workers inside the barrier as well.

The equipment and materials required to construct these barriers are readily available and easily installed and used. In addition to an enclosure around the removal site, the standard requires employers to provide hygiene facilities that ensure that their asbestos contaminated employees do not leave the worksite with asbestos on their persons or clothing; the construction of these facilities is also described below. The steps in the process of preparing the asbestos removal site, building the enclosure, constructing hygiene facilities, removing the asbestos-containing material, and restoring the site include:

- (a) Planning the removal project;
- (b) Procuring the necessary materials and equipment;
- (c) Preparing the work area;
- (d) Removing the asbestos-containing material;
- (e) Cleaning the work area; and

(f) Disposing of the asbestos-containing waste.

(2) Planning the removal project. The planning of an asbestos removal project is critical to completing the project safely and cost-effectively. A written asbestos removal plan should be prepared that describes the equipment and procedures that will be used throughout the project. The asbestos abatement plan will aid not only in executing the project but also in complying with the reporting requirements of the USEPA asbestos regulations (40 CFR 61, Subpart M), which call for specific information such as a description of control methods and control equipment to be used and the disposal sites the contractor proposes to use to dispose of the asbestos-containing materials.

The asbestos abatement plan should contain the following information:

- (a) A physical description of the work area;
- (b) A description of the approximate amount of material to be removed;
- (c) A schedule for turning off and sealing existing ventilation systems;
- (d) Personnel hygiene procedures;
- (e) Labeling procedures;
- (f) A description of personal protective equipment and clothing to be worn by employees;
- (g) A description of the local exhaust ventilation systems to be used;
- (h) A description of work practices to be observed by employees;
- (i) A description of the methods to be used to remove the asbestos-containing material;
- (j) The wetting agent to be used;
- (k) A description of the sealant to be used at the end of the project;
- (l) An air monitoring plan;
- (m) A description of the method to be used to transport waste material; and
- (n) The location of the dump site.

(3) Materials and equipment necessary for asbestos removal. Although individual asbestos removal projects vary in terms of the equipment required to accomplish the removal of the material, some equipment and materials are common to most asbestos removal operations. Equipment and materials that should be available at the beginning of each project are: (a) Rolls of polyethylene sheeting; (b) rolls of gray duct tape or clear plastic tape; (c) HEPA-filtered vacuum(s); (d) HEPA-filtered portable ventilation system(s); (e) a wetting agent; (f) an airless sprayer; (g) a portable shower unit; (h) appropriate respirators; (i) disposable coveralls; (j) signs and labels; (k) preprinted disposal bags; and (l) a manometer or pressure gauge.

(a) and (b) Rolls of polyethylene plastic and tape. Rolls of polyethylene plastic (6 mil in thickness) should be available to construct the asbestos removal enclosure and to seal windows, doors, ventilation systems, wall penetrations, and ceilings and floors in the work area. Gray duct tape or clear plastic tape should be used to seal the edges of the plastic and to seal any holes in the plastic enclosure. Polyethylene plastic sheeting can be purchased in rolls up to 12-20 feet in width and up to 100 feet in length.

(c) HEPA-filtered vacuum. A HEPA-filtered vacuum is essential for cleaning the work area after the asbestos has been removed. Such vacuums are designed to be used with a HEPA (high-efficiency particulate air) filter, which is capable of removing 99.97 percent of the asbestos particles from the air. Various sizes and capacities of HEPA vacuums are available. One manufacturer, Nilfisk of America, Inc.*, produces three models that range in capacity from 5.25 gallons to 17 gallons (see Figure F-1). All of these models are portable, and all have long hoses capable of reaching out-of-the-way places, such as areas above ceiling tiles, behind pipes, etc.

(d) Exhaust air filtration system. A portable ventilation system is necessary to create a negative-pressure within the asbestos removal enclosure. Such units are equipped with a HEPA filter and are designed to exhaust and clean the air inside the enclosure before exhausting it to the outside of the enclosure (see Figure F-2). Systems are available from several manufacturers. One supplier, Micro-Trap, Inc.* has two ventilation units that range in capacity from 600 cubic feet per minute (CFM) to 1,700 CFM. According to the manufacturer's literature, Micro-Trap* units filter particles of 0.3 micron in size with an efficiency of 99.99 percent. The number and capacity of units

required to ventilate an enclosure depend on the size of the area to be ventilated.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

Figure F-1. HEPA-filtered vacuums

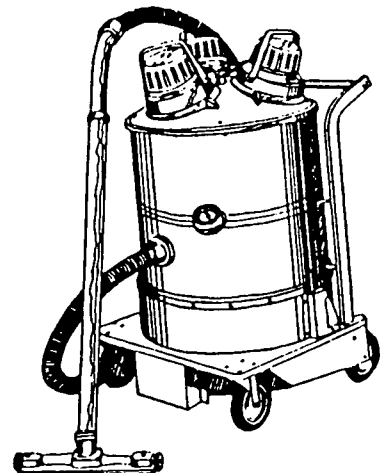
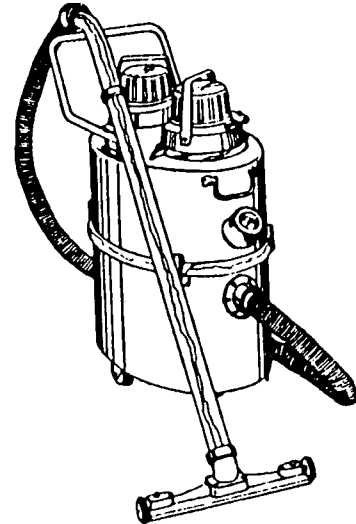
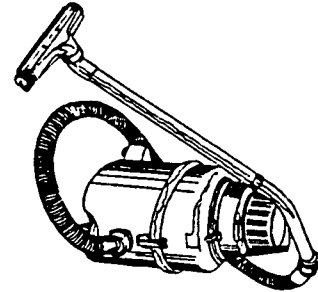
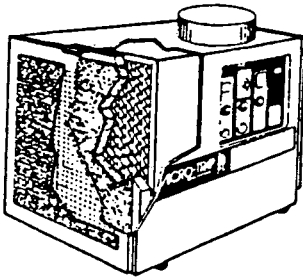


Figure F-2. Portable exhaust ventilation system with HEPA filter



Source: Product Catalog, Asbestos Control Technologies, Inc., Maple Shade, N.J., 1985.

(e) Wetting agents. Wetting agents (surfactants) are added to water (which is then called amended water) and used to soak asbestos-containing materials; amended water penetrates more effectively than plain water and permits more thorough soaking of the asbestos-containing materials. Wetting the asbestos-containing material reduces the number of fibers that will break free and become airborne when the asbestos-containing material is handled or otherwise disturbed. Asbestos-containing materials should be thoroughly soaked before removal is attempted; the dislodged material should feel spongy to the touch. Wetting agents are generally prepared by mixing 1 to 3 ounces of wetting agent to 5 gallons of water.

One type of asbestos, amosite, is relatively resistant to soaking, either with plain or amended water. The work practices of choice when working with amosite-containing material are to soak the material as much as possible and then to bag it for disposal immediately after removal, so that the material has no time to dry and be ground into smaller particles that are more likely to liberate airborne asbestos.

In a very limited number of situations, it may not be possible to wet the asbestos-containing material before removing it. Examples of such rare situations are: (i) Removal of asbestos material from a "live" electrical box that was oversprayed with the material when the rest of the area was sprayed with asbestos-containing coating; and (ii) removing asbestos-containing insulation from a live steam pipe. In both of these situations, the preferred approach would be to turn off the electricity or steam, respectively, to permit wet removal methods to be used. However, where removal work must be performed during working hours, i.e., when normal operations cannot be disrupted, the asbestos-containing material must be removed dry. Immediate bagging is then the only method of minimizing the amount of airborne asbestos generated.

(f) Airless sprayer. Airless sprayers are used to apply amended water to asbestos-containing materials. Airless sprayers allow the amended water to be applied in a fine spray that minimizes the release of asbestos fibers by reducing the impact of the spray on the material to be removed. Airless sprayers are inexpensive and readily available.

(g) Portable shower. Unless the site has available a permanent shower facility that is contiguous to the removal area, a portable shower system is necessary to permit employees to clean themselves after exposure to asbestos and to remove any asbestos contamination from their hair and bodies. Taking a shower prevents employees from leaving the work area with asbestos on their clothes and thus prevents the spread of asbestos contamination to areas outside the asbestos removal area. This measure also protects members of the families of asbestos workers from possible exposure to asbestos. Showers should be supplied with warm water and a drain. A shower water filtration system to filter asbestos fibers from the shower water is recommended. Portable shower units are readily available, inexpensive, and easy to install and transport.

(h) Respirators. Employees involved in asbestos removal projects should be provided with appropriate NIOSH-approved respirators. Selection of the appropriate respirator should be based on the concentration of asbestos fibers in the work area. If the concentration of asbestos fibers is unknown, employees should be provided with respirators that will provide protection against the highest concentration of asbestos fibers that can reasonably be expected to exist in the work area. For all work within an enclosure, employees should wear supplied air respirators (see WAC 296-155-17535(3)).

(i) Disposable coveralls. Employees involved in asbestos removal operations should be provided with disposable impervious coveralls that are equipped with head and foot covers. Such coveralls are typically made of Tyvek.¹ The coverall has a zipper front and elastic wrists and ankles.

(j) Signs and labels. Before work begins, a supply of signs to demarcate the entrance to the work area should be obtained. Signs are available that have the wording required by the final OSHA standard. The required labels are also commercially available as press-on labels and pre-printed on the 6-mil polyethylene plastic bags used to dispose of asbestos-containing waste material.

(4) Preparing the work area. Preparation for constructing negative-pressure enclosures should begin with the removal of all movable objects from the work area, e.g., desks, chairs, rugs, and light fixtures, to ensure that these objects do not become contaminated with asbestos. When objects or surfaces are contaminated or are suspected of being contaminated, they should be vacuumed with a HEPA vacuum and cleaned with amended water, unless they are made of material that will be damaged by the wetting agent; wiping with plain water is recommended in those cases where amended water will damage the object. Before the asbestos removal work begins, objects that cannot be removed from the work area should be covered with a 6-mil-thick polyethylene plastic sheeting that is securely taped with duct tape or plastic tape to achieve an air-tight seal around the object.

(5) Constructing the enclosure. When all objects have either been removed from the work area or covered with plastic, all penetrations of the floor, walls, and ceiling should be sealed with 6-mil polyethylene plastic and tape to prevent airborne asbestos from escaping into areas outside the work area or from lodging in cracks around the penetrations. Penetrations that require sealing are typically found around electrical conduits, telephone wires, and water supply and drain pipes. A single entrance to be used for access and egress to the work area should be selected, and all other doors and windows should be sealed with tape or be covered with 6-mil polyethylene plastic sheeting and securely taped. Covering windows and unnecessary doors with a layer of polyethylene before covering the walls provides a second layer of protection and saves time in installation because it reduces the number of edges that must be cut and taped. All other surfaces such as support columns, ledges, pipes, and other surfaces should also be covered with polyethylene plastic sheeting and taped before the walls themselves are completely covered with sheeting.

Next a thin layer of spray adhesive should be sprayed along the top of all walls surrounding the enclosed work area, close to the wall-ceiling interface, and a layer of polyethylene plastic sheeting should be stuck to this adhesive and taped. The entire inside surfaces of all wall areas are covered in this manner, and the sheeting over the walls is extended across the floor area until it meets in the center of the area, where it is taped to form a single layer of material encasing the entire room except for the ceiling. A final layer of plastic sheeting is then laid across the plastic-covered floor area and up the walls to a level of 2 feet or so; this layer provides a second protective layer of plastic sheeting over the floor, which can then be removed and disposed of easily after the asbestos-containing material that has dropped to the floor has been bagged and removed.

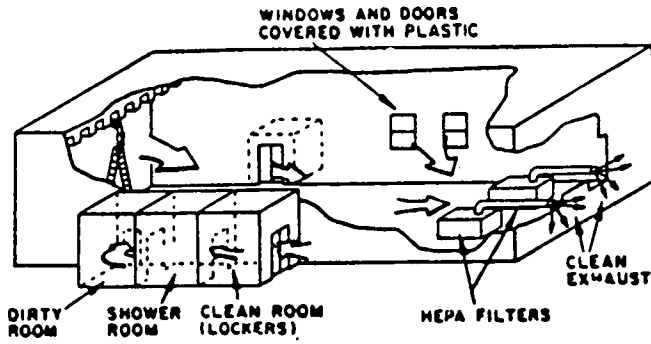
(6) Building hygiene facilities. Paragraph (i) of the final standard mandates that employers involved in asbestos removal, demolition, or renovation operations provide their employees with hygiene facilities to be used to decontaminate asbestos-exposed workers, equipment, and clothing before such employees leave the work area. These decontamination facilities consist of:

- (a) A clean change room;
- (b) A shower; and
- (c) An equipment room.

The clean change room is an area in which employees remove their street clothes and don their respirators and disposable protective clothing. The clean room should have hooks on the wall or be equipped with lockers for the storage of workers' clothing and personal articles. Extra disposable coveralls and towels can also be stored in the clean change room.

The shower should be contiguous with both the clean and dirty change room (see Figure F-3) and should be used by all workers leaving the work area. The shower should also be used to clean asbestos-contaminated equipment and materials, such as the outsides of asbestos waste bags and hand tools used in the removal process.

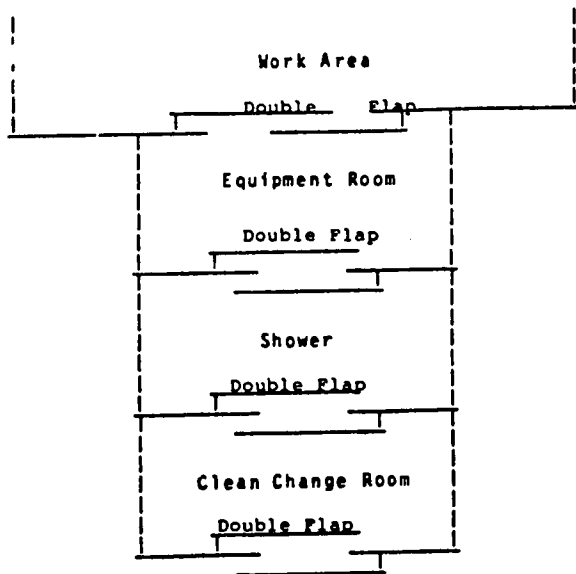
Figure F-3. Cutaway view of enclosure and hygiene facilities



Source: EPA 1985. Asbestos Waste Management Guidance (EPA/530 SW-85-007).

The equipment room (also called the dirty change room) is the area where workers remove their protective coveralls and where equipment that is to be used in the work area can be stored. The equipment room should be lined with 6-mil-thick polyethylene plastic sheeting in the same way as was done in the work area enclosure. Two layers of 6-mil polyethylene plastic sheeting that are not taped together from a double flap or barrier between the equipment room and the work area and between the shower and the clean change room (see Figure F-4).

Figure F-4. Typical hygiene facility layout



When feasible, the clean change room, shower, and equipment room should be contiguous and adjacent to the negative-pressure enclosure surrounding the removal area. In the overwhelming number of cases, hygiene facilities can be built contiguous to the negative-pressure enclosure. In some cases, however, hygiene facilities may have to be located on another floor of the building where removal of asbestos-containing materials is taking place. In these instances, the hygiene facilities can in effect be made to be contiguous to the work area by constructing a polyethylene plastic "tunnel" from the work area to the hygiene facilities. Such a tunnel can be made even in cases where the hygiene facilities are located several floors above or below the work area; the tunnel begins with a double flap door at the enclosure, extends through the exit from the floor, continues down the necessary number of flights of stairs and goes through a double flap entrance to the hygiene facilities, which have been prepared as described above. The tunnel is constructed of 2-inch by 4-inch lumber or aluminum struts and covered with 6-mil-thick polyethylene plastic sheeting.

In the rare instances when there is not enough space to permit any hygiene facilities to be built at the worksite, employees should be directed to change into a clean disposable worksuit immediately after exiting the enclosure (without removing their respirators) and to proceed immediately to the shower. Alternatively, employees could be directed to vacuum their disposable coveralls with a HEPA-filtered vacuum before proceeding to a shower located a distance from the enclosure.

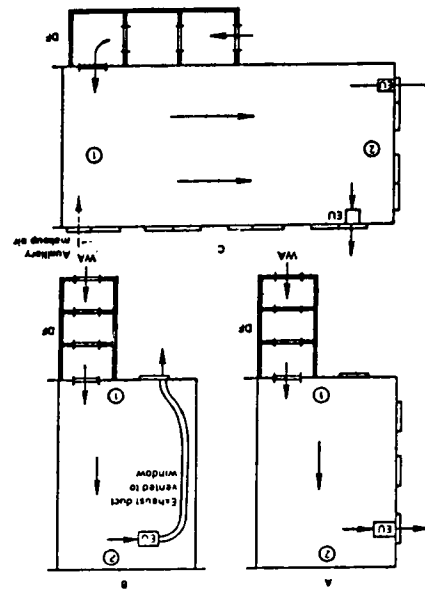
The clean room, shower, and equipment room must be sealed completely to ensure that the sole source of air flow through these areas originates from uncontaminated areas outside the asbestos removal, demolition, or renovation enclosure. The shower must be drained properly after each use to ensure that contaminated water is not released to uncontaminated areas. If waste water is inadvertently released, it should be cleaned up as soon as possible to prevent any asbestos in the water from drying and becoming airborne in areas outside the work area.

(7) Establishing negative-pressure within the enclosure. After construction of the enclosure is completed, a ventilation system(s) should be installed to create a negative-pressure within the enclosure with respect to the area outside the enclosure. Such ventilation systems must be equipped with HEPA filters to prevent the release of asbestos fibers to the environment outside the enclosure and should be operated twenty-four hours per day during the entire project until the final cleanup is completed and the results of final air samples are received from the laboratory. A sufficient amount of air should be exhausted to create a pressure of -0.02 inches of water within the enclosure with respect to the area outside the enclosure.

These ventilation systems should exhaust the HEPA-filtered clean air outside the building in which the asbestos removal, demolition, or renovation is taking place (see Figure F-5). If access to the outside is not available, the ventilation system can exhaust the HEPA-filtered asbestos-free air to an area within the building that is as far away as possible from the enclosure. Care should be taken to ensure that the clean air is released either to an asbestos-free area or in such a way as not to disturb any asbestos-containing materials.

Figure F-5. Examples of Negative Pressure Systems. DF, Decontamination Facility; EU, Exhaust Unit; WA, Worker Access; A, Single-room work area with multiple windows; B, Single-room work area with single window near entrance; C, Large single-room work area with windows and auxiliary makeup air source (dotted arrow).

Arrows denote direction of air flow. Circled numbers indicate progression of removal sequence.



Source: EPA 1985. Guidance for Controlling Asbestos-Containing materials in Buildings (EPA 560/5-85-024).

A manometer or pressure gauge for measuring the negative pressure within the enclosure should be installed and should be monitored frequently throughout all work shifts during which asbestos removal, demolition, or renovation takes place. Several types of manometers and pressure gauges are available for this purpose.

All asbestos removal, renovation, and demolition operations should have a program for monitoring the concentration of airborne asbestos and employee exposures to asbestos. Area samples should be collected inside the enclosure (approximately four samples for 5000 square feet of enclosure area). At least two samples should be collected outside the work area, one at the entrance to the clean change room and one at the exhaust of the portable ventilation system. In addition, several breathing zone samples should be collected from those workers who can reasonably be expected to have the highest potential exposure to asbestos.

(8) Removing asbestos materials. Employers involved in asbestos removal, demolition, or renovation operations designate a competent person to:

- (a) Set up the enclosure;
- (b) Ensure the integrity of the enclosure;
- (c) Control entry to and exit from the enclosure;
- (d) Supervise all employee exposure monitoring required by this section;
- (e) Ensure the use of protective clothing and equipment;
- (f) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;
- (g) Ensure the use of hygiene facilities and the observance of proper decontamination procedures; and
- (h) Ensure that engineering controls are functioning properly.

The competent person will generally be a certified industrial hygienist, an industrial hygienist with training and experience in the handling of asbestos, or a person who has such training and experience as a result of on-the-job training and experience.

Ensuring the integrity of the enclosure is accomplished by inspecting the enclosure before asbestos removal work begins and prior to each work shift throughout the entire period work is being conducted in the enclosure. The inspection should be conducted by locating all areas where air might escape from the enclosure; this is best accomplished by running a hand over all seams in the plastic enclosure to ensure that no seams are ripped and the tape is securely in place.

The competent person should also ensure that all unauthorized personnel do not enter the enclosure and that all employees and other personnel who enter the enclosure have the proper protective clothing and equipment. He or she should also ensure that all employees and other personnel who enter the enclosure use the hygiene facilities and observe the proper decontamination procedures (described below).

Proper work practices are necessary during asbestos removal, demolition, and renovation to ensure that the concentration of asbestos fibers inside the enclosure remains as low as possible. One of the most important work practices is to wet the asbestos-containing material before it is disturbed. After the asbestos-containing material is thoroughly wetted, it should be removed by scraping (as in the case of sprayed-on or troweled-on ceiling material) or removed by cutting the metal bands or wire mesh that support the asbestos-containing material on boilers or pipes. Any residue that remains on the surface of the object from which asbestos is being removed should be wire brushed and wet wiped.

Bagging asbestos waste material promptly after its removal is another work practice control that is effective in reducing the airborne concentration of asbestos within the enclosure. Whenever possible, the asbestos should be removed and placed directly into bags for disposal rather than dropping the material to the floor and picking up all of the material when the removal is complete. If a significant amount of time elapses between the time that the material is removed and the time it is bagged, the asbestos material is likely to dry out and generate asbestos-laden dust when it is disturbed by people working within the enclosure. Any asbestos-contaminated supplies and equipment that cannot be decontaminated should be disposed of in pre-labeled bags; items in this category include plastic sheeting, disposable work clothing, respirator cartridges, and contaminated wash water.

A checklist is one of the most effective methods of ensuring adequate surveillance of the integrity of the asbestos removal enclosure. Such a checklist is shown in Figure F-6. Filling out the checklist at the beginning of each shift in which asbestos removal is being performed will serve to document that all the necessary precautions will be taken

during the asbestos removal work. The checklist contains entries for ensuring that:

- The work area enclosure is complete;
- The negative-pressure system is in operation;
- Necessary signs and labels are used;

Asbestos Removal, Renovation, and Demolition Checklist

Date: _____ Location: _____

Supervisor _____ Project # _____

Work Area (sq. ft.) _____

		Yes	No
I. Work site barrier			
Floor covered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Walls covered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Area ventilation off	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All edges sealed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Penetrations sealed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Entry curtains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. Negative Air Pressure			
HEPA Vac _____ Ventilation system _____			
Constant operation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Negative pressure achieved	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
III. Signs			
Work area entrance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bags labeled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
IV. Work Practices			
Removed material promptly bagged	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Material worked wet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HEPA vacuum used	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No smoking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No eating, drinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work area cleaned after completion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personnel decontaminated each departure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
V. Protective Equipment			
Disposable clothing used one time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Proper NIOSH-approved respirators	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VII. Showers			
On site	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Functioning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Soap and towels	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Used by all personnel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Figure F-6. Checklist

- Appropriate work practices are used;
- Necessary protective clothing and equipment are used; and
- Appropriate decontamination procedures are being followed.

(9) Cleaning the work area. After all of the asbestos-containing material is removed and bagged, the entire work area should be cleaned until it is free of all visible asbestos dust. All surfaces from which asbestos has been removed should be cleaned by wire brushing the surfaces, HEPA vacuuming these surfaces, and wiping them with amended water. The inside of the plastic enclosure should be vacuumed with a HEPA vacuum and wet wiped until there is no visible dust in the enclosure. Particular attention should be given to small horizontal surfaces such as pipes, electrical conduits, lights, and support tracks for drop ceilings. All such surfaces should be free of visible dust before the final air samples are collected.

Additional sampling should be conducted inside the enclosure after the cleanup of the work area has been completed. Approximately four area samples should be collected for each 5000 square feet of enclosure area. The enclosure should not be dismantled unless the final samples show asbestos concentrations of less than the action level.

A clearance checklist is an effective method of ensuring that all surfaces are adequately cleaned and the enclosure is ready to be dismantled. Figure F-7 shows a checklist that can be used during the final inspection phase of asbestos abatement, removal, or renovation operations.

Final Inspection of Asbestos Removal, Renovation, and Demolition Projects

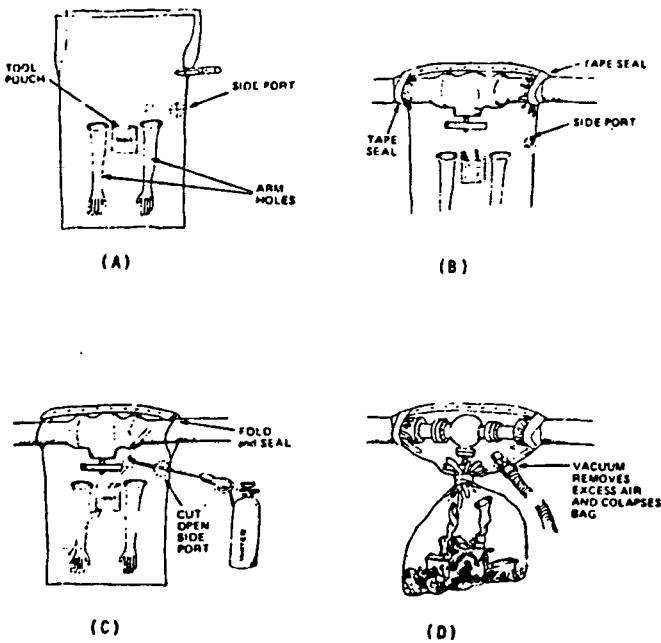
Date: _____

Project: _____

Location: _____

Building: _____

Figure G-1. Diagrams Showing Proper Use of Glove Bags in Small-Scale, Short-Duration Maintenance and Renovation Operations.



These bags are single use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with arms of Tyvek* material (the same material used to make the disposable protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bags come pre-labeled with the asbestos warning label prescribed by WISHA and EPA for bags used to dispose of asbestos waste.

(b) Glove bag equipment and supplies. Supplies and materials that are necessary to use glove bags effectively include:

- (i) Tape to seal the glove bag to the area from which asbestos is to be removed;
- (ii) Amended water or other wetting agents;
- (iii) An airless sprayer for the application of the wetting agent;
- (iv) Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed;
- (v) Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wire, etc.);
- (vi) A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag; and
- (vii) HEPA-equipped dust cartridge respirators for use by the employees involved in the removal of asbestos with the glove bag.

(c) Glove bag work practices. The proper use of glove bags requires the following steps:

(i) Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from the bag that may result from a defect in the bottom seam (Figure G-1(B)).

(ii) The employee who is performing the asbestos removal with the glove bag must don a half-mask dual-cartridge HEPA-equipped respirator; respirators should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.

(iii) The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most glove bags or applied through a small hole cut in the bag) (Figure G-1(C)).

(iv) Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and removed.

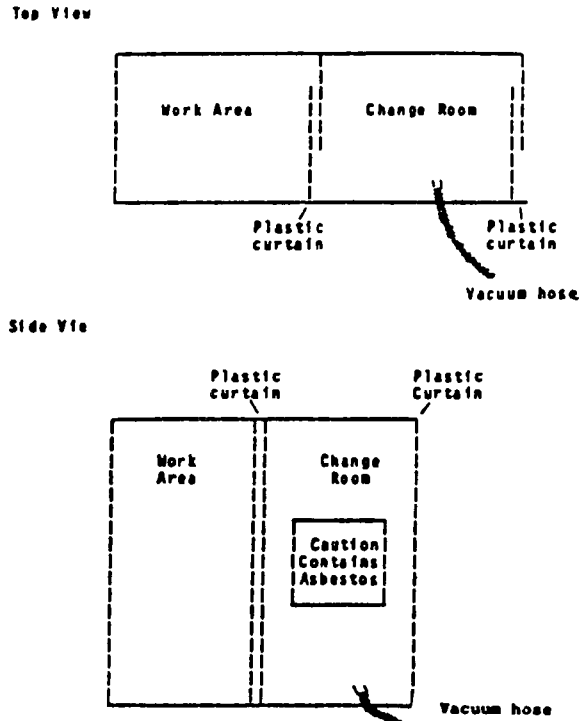
A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

(v) After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wet wiped with a wetting agent until no traces of the asbestos-containing material can be seen.

(vi) Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.

(vii) When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA-filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly (Figure G-1(D)).

Figure G-2. Schematic of Mini-enclosure



(6) Mini-enclosures. In some instances, such as removal of asbestos from a small ventilation system or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a mini-enclosure can be built around

area where small-scale, short-duration asbestos maintenance or renovation work is to be performed (Figure G-2). Such an enclosure should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a mini-enclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

- (a) Affixing plastic sheeting to the walls with spray adhesive and tape;
- (b) Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls;
- (c) Sealing any penetrations such as pipes or electrical conduits with tape; and
- (d) Constructing a small change room (approximately 3 feet square) made of 6-mil-thick polyethylene plastic supported by 2-inch by 4-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the mini enclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear Tyvek¹ disposable coveralls and use the appropriate HEPA filtered dual cartridge respiratory protection.

The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(7) Removal of entire structures. When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

(8) Enclosure. The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (airtight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be reopened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

(9) Maintenance program. An asbestos maintenance program must be initiated in all facilities that have asbestos-containing materials. Such a program should include:

Development of an inventory of all asbestos-containing materials in the facility;

Periodic examination of all asbestos-containing materials to detect deterioration;

Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities;

Written procedures for asbestos disposal; and

Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

Information regarding types of asbestos and its various uses and forms;

Information on the health effects associated with asbestos exposure;

Descriptions of the proper methods of handling asbestos-containing materials; and

Information on the use of HEPA-equipped dual cartridge respiratory and other personal protection during maintenance activities.

(10) Prohibited activities. The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

Not to drill holes in asbestos-containing materials;

Not to hang plants or pictures on structures covered with asbestos-containing materials;

Not to sand asbestos-containing floor tile;

Not to damage asbestos-containing materials while moving furniture or other objects;

Not to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials;

Not to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom;

Not to use an ordinary vacuum to clean up asbestos-containing debris;

Not to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures;

Not to remove ventilation system filters dry; and

Not to shake ventilation system filters.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

¹ Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

NEW SECTION

WAC 296-155-191 APPENDIX H—SUBSTANCE TECHNICAL INFORMATION FOR ASBESTOS, NONMANDATORY.

(1) Substance identification.

(a) Substance: "Asbestos" is the name of a class of magnesium-silicate minerals that occur in fibrous form. Minerals that are included in this group are chrysotile, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, and actinolite asbestos.

(b) Asbestos, tremolite, anthophyllite, and actinolite are used in the manufacture of heat-resistant clothing, automotive brake and clutch linings, and a variety of building materials including floor tiles, roofing felts, ceiling tiles, asbestos-cement pipe and sheet, and fire-resistant drywall. Asbestos, tremolite, anthophyllite and actinolite are also present in pipe and boiler insulation materials, and in sprayed-on materials located on beams, in crawlspaces, and between walls.

(c) The potential for an asbestos-containing product to release breathable fibers depends on its degree of friability. Friable means that the material can be crumbled with hand pressure and is therefore likely to emit fibers. The fibrous or fluffy sprayed-on materials used for fireproofing, insulation, or sound proofing are considered to be friable, and they readily release airborne fibers if disturbed. Materials such as vinyl-asbestos floor tile or roofing felts are considered nonfriable and generally do not emit airborne fibers unless subjected to sanding or

sawing operations. Asbestos-cement pipe or sheet can emit airborne fibers if the materials are cut or sawed, or if they are broken during demolition operations.

(d) Permissible exposure: Exposure to airborne asbestos, tremolite, anthophyllite, and actinolite fibers may not exceed 0.2 fibers per cubic centimeter of air (0.2 f/cc) averaged over the 8-hour workday.

(2) Health hazard data.

(a) Asbestos, tremolite, anthophyllite, and actinolite can cause disabling respiratory disease and various types of cancers if the fibers are inhaled. Inhaling or ingesting fibers from contaminated clothing or skin can also result in these diseases. The symptoms of these diseases generally do not appear for 20 or more years after initial exposure.

(b) Exposure to asbestos, tremolite, anthophyllite and actinolite has been shown to cause lung cancer, mesothelioma, and cancer of the stomach and colon. Mesothelioma is a rare cancer of the thin membrane lining of the chest and abdomen. Symptoms of mesothelioma include shortness of breath, pain in the walls of the chest, and/or abdominal pain.

(3) Respirators and protective clothing.

(a) Respirators: You are required to wear a respirator when performing tasks that result in asbestos, tremolite, anthophyllite, and actinolite exposure that exceeds the permissible exposure limit (PEL) of 0.2 f/cc. These conditions can occur while your employer is in the process of installing engineering controls to reduce asbestos, tremolite, anthophyllite, and actinolite exposure, or where engineering controls are not feasible to reduce asbestos, tremolite, anthophyllite, and actinolite exposure. Air-purifying respirators equipped with a high-efficiency particulate air (HEPA) filter can be used where airborne asbestos, tremolite, anthophyllite and actinolite fiber concentrations do not exceed 0.2 f/cc; otherwise, air-supplied, positive-pressure, full facepiece respirators must be used. Disposable respirators or dust masks are not permitted to be used for asbestos, tremolite, anthophyllite, and actinolite work. For effective protection, respirators must fit your face and head snugly. Your employer is required to conduct fit tests when you are first assigned a respirator and every 6 months thereafter. Respirators should not be loosened or removed in work situations where their use is required.

(b) Protective clothing: You are required to wear protective clothing in work areas where asbestos, tremolite, anthophyllite, and actinolite fiber concentrations exceed the permissible exposure limit (PEL) of 0.2 f/cc to prevent contamination of the skin. Where protective clothing is required, your employer must provide you with clean garments. Unless you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, your employer must also provide a change room and separate lockers for your street clothes and contaminated work clothes. If you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, and where it is feasible to do so, your employer must provide a clean room, shower, and decontamination room contiguous to the work area. When leaving the work area, you must remove contaminated clothing before proceeding to the shower. If the shower is not adjacent to the work area, you must vacuum your clothing before proceeding to the change room and shower. To prevent inhaling fibers in contaminated change rooms and showers, leave your respirator on until you leave the shower and enter the clean change room.

(4) Disposal procedures and cleanup.

(a) Wastes that are generated by processes where asbestos, tremolite, anthophyllite, and actinolite is present include:

(i) Empty asbestos, tremolite, anthophyllite, and actinolite shipping containers.

(ii) Process wastes such as cuttings, trimmings, or reject materials.

(iii) Housekeeping waste from sweeping or vacuuming.

(iv) Asbestos fireproofing or insulating material that is removed from buildings.

(v) Asbestos-containing building products removed during building renovation or demolition.

(vi) Contaminated disposable protective clothing.

(b) Empty shipping bags can be flattened under exhaust hoods and packed into airtight containers for disposal. Empty shipping drums are difficult to clean and should be sealed.

(c) Vacuum logs or disposable paper filters should not be cleaned, but should be sprayed with a fine water mist and placed into a labeled waste container.

(d) Process waste and housekeeping waste should be wetted with water or a mixture of water and surfactant prior to packaging in disposable containers.

(e) Asbestos-containing material that is removed from buildings must be disposed of in leak-tight 6-mil-thick plastic bags, plastic-lined cardboard containers, or plastic-lined metal containers. These wastes, which are removed while wet, should be sealed in containers before they dry out to minimize the release of asbestos, tremolite, anthophyllite, and actinolite fibers during handling.

(5) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for asbestos. In addition, your employer must instruct you in the proper work practices for handling asbestos-containing materials, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to asbestos. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure, and, if you are exposed above the permissible limit, he or she is required to inform you of the actions that are being taken to reduce your exposure to within the permissible limit.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

NEW SECTION

WAC 296-155-193 APPENDIX I—MEDICAL SURVEILLANCE GUIDELINES FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE NONMANDATORY.

(1) Route of entry. Inhalation, ingestion.

(2) Toxicology. Clinical evidence of the adverse effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite, is present in the form of several well-conducted epidemiological studies of occupationally exposed workers, family contacts of workers, and persons living near asbestos, tremolite, anthophyllite, and actinolite mines. These studies have shown a definite association between exposure to asbestos, tremolite, anthophyllite, and actinolite and an increased incidence of lung cancer, pleural and peritoneal mesothelioma, gastrointestinal cancer, and asbestosis. The latter is a disabling fibrotic lung disease that is caused only by exposure to asbestos. Exposure to asbestos, tremolite, anthophyllite, and actinolite has also been associated with an increased incidence of esophageal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. As with other known chronic occupational diseases, disease associated with asbestos, tremolite, anthophyllite, and actinolite generally appears about 20 years following the first occurrence of exposure: There are no known acute effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite.

Epidemiological studies indicate that the risk of lung cancer among exposed workers who smoke cigarettes is greatly increased over the risk of lung cancer among nonexposed smokers or exposed nonsmokers. These studies suggest that cessation of smoking will reduce the risk of lung cancer for a person exposed to asbestos, tremolite, anthophyllite, and actinolite but will not reduce it to the same level of risk as that existing for an exposed worker who has never smoked.

(3) Signs and symptoms of exposure-related disease. The signs and symptoms of lung cancer or gastrointestinal cancer induced by exposure to asbestos, tremolite, anthophyllite, and actinolite are not unique, except that a chest x-ray of an exposed patient with lung cancer may show pleural plaques, pleural calcification, or pleural fibrosis. Symptoms characteristic of mesothelioma include shortness of breath, pain in the walls of the chest, or abdominal pain. Mesothelioma has a much longer latency period compared with lung cancer (40 years versus 15-20 years), and mesothelioma is therefore more likely to be found among workers who were first exposed to asbestos at an early age. Mesothelioma is always fatal.

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Symptoms include shortness of breath, coughing, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. The diagnosis of asbestosis is based on a history of exposure to asbestos, the presence of characteristic radiologic changes, endinspiratory crackles (rales), and other clinical features of fibrosing lung disease. Pleural plaques and thickening are observed on x-rays taken during the early stages of the disease. Asbestosis is often a progressive disease even in the absence of

continued exposure, although this appears to be a highly individualized characteristic. In severe cases, death may be caused by respiratory or cardiac failure.

(4) Surveillance and preventive considerations. As noted above, exposure to asbestos, tremolite, anthophyllite, and actinolite has been linked to an increased risk of lung cancer, mesothelioma, gastrointestinal cancer, and asbestosis among occupationally exposed workers. Adequate screening tests to determine an employee's potential for developing serious chronic diseases, such as a cancer, from exposure to asbestos, tremolite, anthophyllite, and actinolite do not presently exist. However, some tests, particularly chest x-rays and pulmonary function tests, may indicate that an employee has been overexposed to asbestos, tremolite, anthophyllite, and actinolite, increasing his or her risk of developing exposure-related chronic diseases. It is important for the physician to become familiar with the operating conditions in which occupational exposure to asbestos, tremolite, anthophyllite, and actinolite is likely to occur. This is particularly important in evaluating medical and work histories and in conducting physical examinations. When an active employee has been identified as having been overexposed to asbestos, tremolite, anthophyllite, and actinolite, measures taken by the employer to eliminate or mitigate further exposure should also lower the risk of serious long-term consequences.

The employer is required to institute a medical surveillance program for all employees who are or will be exposed to asbestos, tremolite, anthophyllite, and actinolite at or above the action level (0.1 fiber per cubic centimeter of air) for thirty or more days per year and for all employees who are assigned to wear a negative-pressure respirator. All examinations and procedures must be performed by or under the supervision of a licensed physician, at a reasonable time and place, and at no cost to the employee.

Although broad latitude is given to the physician in prescribing specific tests to be included in the medical surveillance program, OSHA requires inclusion of the following elements in the routine examination:

(a) Medical and work histories with special emphasis directed to symptoms of the respiratory system, cardiovascular system, and digestive tract.

(b) Completion of the respiratory disease questionnaire contained in WAC 296-62-07741, Appendix D.

(c) A physical examination including a chest roentgenogram and pulmonary function test that includes measurement of the employee's forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁).

(d) Any laboratory or other test that the examining physician deems by sound medical practice to be necessary.

The employer is required to make the prescribed tests available at least annually to those employees covered; more often than specified if recommended by the examining physician; and upon termination of employment.

The employer is required to provide the physician with the following information: A copy of this standard and appendices; a description of the employee's duties as they relate to asbestos exposure; the employee's representative level of exposure to asbestos, tremolite, anthophyllite, and actinolite; a description of any personal protective and respiratory equipment used; and information from previous medical examinations of the affected employee that is not otherwise available to the physician. Making this information available to the physician will aid in the evaluation of the employee's health in relation to assigned duties and fitness to wear personal protective equipment, if required.

The employer is required to obtain a written opinion from the examining physician containing the results of the medical examination; the physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of exposure-related disease; any recommended limitations on the employee or on the use of personal protective equipment; and a statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions related to asbestos, tremolite, anthophyllite, and actinolite exposure that require further explanation or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to exposure to asbestos, tremolite, anthophyllite, and actinolite, and a copy of the opinion must be provided to the affected employee.

WSR 87-05-056

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning this notice proposes to establish a new section calling for solicitation of proposals from private vocational rehabilitation providers to aid the department in selection of providers for referrals;

that the agency will at 10:00 a.m., Monday, April 6, 1987, in the First Floor Auditorium, 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 May 6, 1987.

The authority under which these rules are proposed is RCW 51.32.090 and 51.04.030.

The specific statute these rules are intended to implement is WAC 296-18A-465 [RCW 51.32.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

Dated: February 18, 1987

By: Joseph A. Dear

Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-18A WAC, Vocational rehabilitation rules, includes WAC 296-18A-465 Request for proposal.

Statutory Authority: RCW 51.32.090 and 51.04.030.

Specific Statute that Rule is Intended to Implement: RCW 51.32.090.

Summary of the Rule(s): To establish a new section calling for solicitation of proposals from private vocational rehabilitation providers to aid the department in selection of providers for referrals.

Reasons Supporting the Proposed Rule(s): At the onset of chapter 51.41 RCW (now repealed), the selection process for private vocational rehabilitation providers was broad. New firms and counselors were continuously added to a "register" requiring no information from the firm other than the name of one qualified counselor. The result was 800 firms and 1800 counselors on the register at the time chapter 51.41 RCW was repealed (May 1985). All of the firms and counselors were "grandfathered" into the new "provider list." Selecting firms for referrals from such a large population about whom so little is known is an arduous task. Using a request for proposal process, the department can obtain adequate information about providers. Combined with performance information, informed selections of providers for referrals can be made.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Karla Siedschlag, Administrator, Office of Rehabilitation Services, HC-291, Olympia, Washington 98504, (206) 753-0556.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

There will be no economic impact to small business.

NEW SECTION

WAC 296-18A-465 REQUEST FOR PROPOSAL. In order to select providers for referrals and adequately evaluate performance, the office of rehabilitation services shall solicit proposals from providers on the department's provider list through a request for proposal process. Contracts will be awarded after evaluation of proposals.

WSR 87-05-057

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

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 the changes in WAC 296-18A-490 remove specific billing codes and charge the department with developing and maintaining billing codes and procedures and providing these codes and procedures to providers. The changes also specify more clearly and in more detail items and services which cannot be billed to the department. The current codes do not allow for tracking results and are cumbersome;

that the agency will at 10:00 a.m., Monday, April 6, 1987, in the First Floor Auditorium, 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 May 6, 1987.

The authority under which these rules are proposed is RCW 51.32.090 and 51.04.030.

The specific statute these rules are intended to implement is WAC 296-18A-490 [RCW 51.32.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

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

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

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

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

Karla Siedschlag, Administrator
Office of Rehabilitation Services, HC-291
Olympia, WA 98504
(206) 753-0556

Dated: February 18, 1987

By: Joseph A. Dear
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-18A WAC, Vocational rehabilitation rules, includes WAC 296-18A-490 Billing for vocational services.

Statutory Authority: RCW 51.32.090 and 51.04.030.

Specific Statute that Rule is Intended to Implement: RCW 51.32.090.

Summary of the Rule(s): To remove specific billing codes and charge the department with developing and maintaining billing codes and procedures and providing these codes and procedures to providers. The changes also specify more clearly and in more detail items and services which cannot be billed to the department. The current codes do not allow for tracking results and are cumbersome.

Reasons Supporting the Proposed Rule(s): Vocational rehabilitation services are not standardized. A fee schedule similar to the medical aid fee schedule is not workable at this time. The department needs to review services and develop procedures and fees reflective of the services needed and desired outcomes.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Karla Siedschlag, Administrator, Office of Rehabilitation Services, HC-291, Olympia, Washington 98504, (206) 753-0556.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

There will be no economic impact to small business.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85, effective 9/12/85)

WAC 296-18A-490 BILLING FOR VOCATIONAL SERVICES. (1) Vocational rehabilitation providers must comply with the rules contained in chapter 296-20 WAC as they pertain.

(2) Vocational rehabilitation providers must carry general liability insurance, automobile liability insurance, ((and)) errors and omission/malpractice insurance(:), and industrial insurance if required by Title 51 RCW.

(3) All vocational services must be prior authorized by the referral source, except immediate job placement. If immediate job placement activities exceed 30 days, authorization must be obtained for further services.

(4) Charges for the following are considered overhead and will not be paid:

- ((a) Typing of reports and copies of reports;
- (b) Long distance phone call charges and unanswered phone calls;
- (c) In-house staffing time;
- (d) Postage;))
- (a) administrative and supervisory salaries and related personnel expenses;
- (b) office rent;
- (c) depreciation;
- (d) equipment purchase and rental;
- (e) telephone expenses;
- (f) postage;
- (g) shipping;
- (h) expendable supplies;
- (i) printing costs;
- (j) copier costs;
- (k) maintenance and repair;
- (l) taxes;
- (m) automobile costs and maintenance;
- (n) insurance;
- (o) dues and subscriptions;
- (p) professional services;
- (q) vacation, sick leave, and other expenses of a similar nature;
- (r) internal staffing time;
- (s) filing of material in case files, setting up files;
- (t) activities associated with reports other than writing or dictating original draft of the report (e.g., editing, filing, distribution, revising, typing, and mailing);
- (u) generating and keeping internal recordkeeping forms;
- (v) time spent on any administrative and clerical activity, including typing, copying, mailing, distributing, filing, payroll, recordkeeping, delivering mail, picking up mail;
- (w) activities associated with counselor training, general discussion regarding office procedures, internal case file reviews by supervisors, meetings, and seminars;
- (x) unanswered phone calls, or phone contacts where a message was left;
- (y) any other item or service not specifically identified and separately billable.

(5) All bills must be itemized on referral source approved bill forms. The billed charges must be justified in the provider's case records and be consistent with written reports. ((Any exception to these rules must be thoroughly documented:)) If charges are not documented, or justified, or consistent, payment ((with)) may be reduced, ((or)) denied, or recouped.

(6) Vocational services must be billed using ((the following)) procedure codes((-)), fees, and methods provided by the department of labor and industries. The department will publish codes, fees, and procedures and provide this information to all vocational rehabilitation providers receiving department referrals. Fees shall be established by the department and reviewed at regular intervals. ((units of service are to be stated in tenth of hour blocks or six minutes per time unit. Mileage units of service are to be stated in total miles for the round trip to the nearest mile. Unless otherwise specifically noted, reimbursement rates are achieved by multiplying the total units of service by the relative value unit for the procedure code and then multiplying the total by the current conversion factor for medicine (WAC 296-20-135).))

CODE	DESCRIPTION	((RELATIVE VALUE UNITS
VO205	Job modification consultant.	4.1
VO210	Consult with doctor, attorney, employer, persons other than the claimant;))	4.1
VO212	Review case claim file.	4.1
VO222	Vocational exploration (services provided in conjunction with the injured worker);	4.1
VO223	Vocational counseling (i.e., plan development, placement, etc.);	4.1
VO225	Job analysis (on-site survey of a specific job);	4.1
VO226	Identify and analyze past work skills for transferability.	4.1
VO227	Labor market survey (determination of jobs available in geographic location);	4.1
VO228	Work evaluation - individual.	4.1
VO229	Work evaluation - group, up to	1.8

CODE	DESCRIPTION	((RELATIVE VALUE UNITS
VO231	a group of five persons: Vocational test administration and scoring.	4.1
VO233	Interpretation of vocational testing and work evaluation.	4.1
VO238	Job placement/job development services to individual injured workers.	4.1
VO239	Job seeking skills instruction-groups (motivation and personal skills training to a group of injured workers) (2-10 workers, Maximum 40 billing hours per worker:))	1.8
VO242	Monitor, approved rehabilitation plan.	4.1
VO245	Coordination of services with (specify) job station, work evaluation, vocational testing, ancillary service.	4.1
VO251	Report Preparation: Initial Contact Report.	Flat Fee \$5
VO252	Progress Report.	Flat Fee \$25
VO253	Report Preparation for reports other than VO251, 252, 258 and 259.	4.1
VO258	Employability Statement form with Initial Evaluation completed.	4.1 up to max. of \$150
VO259	Employability Statement form without Initial Evaluation completed.	4.1 up to max. of \$450
VO260	Travel/wait time (waiting time is limited to one hour): If more than one client is being served in the area, travel time must be split among all clients.	1.8
VO261	Bridge and ferry tolls.	Reimbursement
VO262	Mileage per mile: If more than one client is being served in the area, mileage must be split among clients.	18¢ per mile
VO263	Provide and monitor a "job station" (a work activity program designed to evaluate or increase an individual's vocational abilities:))	4.1
VO264	Work behavior modification.	4.1
VO274	Conducting a job club - maximum 40 billable hours. (A structured search for work programs for groups of injured workers.)	1.8
VO280	Placement by evaluation (placement agencies only) maximum of two hours assessment of placement potential; includes report to department or VRC.	2.9
VO282	Placement made (employment agencies) flat fee paid on placement.	\$300 Fixed Fee
RO310	Tuition and training fee	
RO312	Training supplies	
RO315	Training equipment	
RO320	Examination and license fees	
RO330	Transportation/mileage	
RO332	Parking	Reimbursement
RO334	Bridge and Ferry Tolls	Reimbursement
RO336	Commercial Fares	Reimbursement
RO340	Books	
RO350	Other))	

((RETRAINING SERVICE (Fees vary by specific plans)

RO360	Board	
RO370	Room	
RO380	Job Modification	

The department or self-insurer will authorize child care as part of a department or self-insurer approved formal program. Payment for child care services will be made to licensed day care providers or family members other than the injured worker or his/her spouse.

RO390	Child care/licensed day center: Hourly rate per child six hours or less	1.1
RO392	Child care/licensed day center: Daily rate per child seven to nine hours	7.5
RO395	Child care/nonlicensed provider: Hourly rate per child six hours or less	0.9
RO397	Child care/nonlicensed provider: Daily rate per child seven to nine hours	6.4))

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 87-05-058
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

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 vocational rehabilitation disputes. The proposed rule change expands the vocational rehabilitation issues a worker or employer can dispute. The change also expands timeframes for filing and resolving disputes to allow adequate time for a disputant to review relevant claim information and to allow for more extensive use of conferences for dispute resolution;

that the agency will at 10:00 a.m., Monday, April 6, 1987, in the First Floor Auditorium, 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 May 6, 1987.

The authority under which these rules are proposed is RCW 51.32.090 and 51.04.030.

The specific statute these rules are intended to implement is WAC 296-18A-470 [RCW 51.32.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

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

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

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

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

Karla Siedschlag, Administrator
 Office of Rehabilitation Services, HC-291
 Olympia, WA 98504
 (206) 753-0556

Dated: February 18, 1987

By: Joseph A. Dear
 Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-18A WAC, Vocational rehabilitation rules, includes WAC 296-18A-470 Disputes.

Statutory Authority: RCW 51.32.090 and 51.04.030.

Specific Statute that Rule is Intended to Implement: RCW 51.32.090.

Summary of the Rule(s): Expands the vocational rehabilitation issues a worker or employer can dispute. The change also expands timeframes for filing and resolving disputes to allow adequate time for a disputant to review relevant claim information and to allow for more extensive use of conferences for dispute resolution.

Reasons Supporting the Proposed Rule(s): The Governor's Committee on Employment of the Handicapped conducted a review of the department's vocational rehabilitation dispute procedures. Expanding the issues which can be disputed was a major recommendation. The only issues currently disputable are employability determinations and approved plans. By allowing a procedure for resolving other vocational rehabilitation disagreements, the worker and employer can have a more active role. Workers and their attorneys have frequently commented that the 15 days allowed for filing a dispute does not allow them to obtain relevant information from the claim file to provide with their dispute. Thus a change to 30 days for filing is proposed. Allowing more issues to be disputed also increases the need for use of conferences sometimes involving mediation and for fact finding to resolve disputes. Meeting with the parties requires more than 30 days to resolve a dispute. Thus a change to 60 days is proposed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Karla Siedschlag, Administrator, Office of Rehabilitation Services, HC-291, Olympia, Washington 98504, (206) 753-0556.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

There will be no economic impact to small business.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85, effective 9/12/85)

WAC 296-18A-470 DISPUTES. (1) In order to avoid delay in the vocational rehabilitation process and to allow resolution of disputes between the injured workers, employers and the referral source, a dispute resolution process is provided. When appropriate, conferences will be held to resolve disputes and may include mediation and/or arbitration techniques. The time limits in this section may be extended by the office of rehabilitation services when good cause is shown. Filing a dispute does not relieve a worker of his or her responsibility to cooperate in evaluation or examination for vocational rehabilitation or other reasonable vocational rehabilitation efforts.

(2) Plans approved by the department of labor and industries or reviewed by the self-insurance section of the department and employability determinations made by the department or reviewed by the self-insurance section of the department are disputable to ((F))the director. These disputes must ((receive a dispute of the employability determination or formal plan)) be submitted to the department in writing, within ((fifteen calendar)) thirty days ((from)) of receipt of notification by the disputing party. ((to the worker or employer.)) The dispute must include reasons for the request. The director, at his or her

sole discretion, may initiate an investigation to determine further action on the request. Upon receipt of a written dispute, ((A)) a copy ((of all disputes received)) shall be sent to all other interested parties.

(3) In the event a worker who has been determined eligible for vocational services, or the worker's employer at the time of injury, disagree with aspects of vocational services other than the employability determination or the approved plan, the worker or the employer may submit a disagreement to the state fund claims unit responsible for the claim or the self-insurance section, if a self-insured claim. Such a disagreement must be submitted prior to the completion or termination of vocational services. Only after a good faith effort is made to resolve vocational rehabilitation disagreements with the state fund claims unit or self-insurance section, may a formal written dispute be submitted to the director. Such a dispute must be submitted within 15 days of receipt of notification of the outcome of the disagreement submitted to the claims unit or self-insurance section. The dispute must include the reasons for the dispute and clearly describe the efforts made to resolve the disagreement.

((3)) (4) When determined necessary to resolve a dispute submitted to the director, the office of rehabilitation services will communicate with the aggrieved parties to attempt to resolve the dispute. When appropriate, and upon agreement of the parties, the office of rehabilitation services will hold a conference to aid the parties in reaching a resolution. If the dispute is not resolved by the parties, the director, in his or her sole discretion, may take such other action that he or she considers ((appropriate to)) will properly determine the matter and protect the rights of the parties. The director shall inform the aggrieved parties of what action, if any was taken within ((thirty)) sixty calendar days of receipt of the dispute from the aggrieved party.

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

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

WSR 87-05-059

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

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 the proposed changes will clarify some confusing language about the processes for interns, counselor[s], and providers (firms) applying for inclusion on the department's vocational rehabilitation provider list;

that the agency will at 10:00 a.m., Monday, April 6, 1987, in the First Floor Auditorium, 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 May 6, 1987.

The authority under which these rules are proposed is RCW 51.32.090 and 51.04.030.

The specific statute these rules are intended to implement is WAC 296-18A-510 [RCW 51.32.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

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

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

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

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

Karla Siedschlag, Administrator
Office of Rehabilitation Services, HC-291
Olympia, WA 98504
(206) 753-0556

Dated: February 18, 1987

By: Joseph A. Dear
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-18A WAC, Vocational rehabilitation rules, includes WAC 296-18A-510 Vocational rehabilitation counselor qualifications.

Statutory Authority: RCW 51.32.090 and 51.04.030.

Specific Statute that Rule is Intended to Implement: RCW 51.32.090.

Summary of the Rule(s): To clarify some confusing language about the processes for interns, counselor[s], and providers (firms) applying for inclusion on the department's vocational rehabilitation provider list.

Reasons Supporting the Proposed Rule(s): Previous language appeared to encourage interns to become providers (firms) when they complete internships. The new language also requires the applying provider (firm) to provide the names and signatures of counselors employed by the provider. This is to avoid providers indicating they employ a counselor without the counselor's knowledge. The previous language also called for resubmission of transcripts by counselors from whom transcripts are on file. Emphasis is placed on the fact both the counselor and provider (firm) have responsibilities to be familiar with industrial insurance laws and rules and to act in a professional, ethical manner.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Karla Siedschlag, Administrator, Office of Rehabilitation Services, HC-291, Olympia, Washington 98504, (206) 753-0556.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

There will be no economic impact to small business.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85, effective 9/12/85)

WAC 296-18A-510 VOCATIONAL REHABILITATION COUNSELOR QUALIFICATIONS. (1) All vocational rehabilitation counselors who were registered by the department prior to May 16, 1985, will remain on the list and be eligible to receive referrals. The department is not obligated to make referrals to anyone on this list.

(2) When it is determined an injured worker is eligible for vocational rehabilitation services, the referral source shall authorize such services. Selection of the appropriate provider of vocational services is at the sole discretion of the referral source. Selected vocational rehabilitation counselors must meet one or more of the following categories of experience and education:

(a) A doctorate or masters degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of one year of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers;

(b) A masters degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers;

(c) A bachelors degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers; or

(d) A bachelors degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of three years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services; with industrially injured workers;

(e) Has been a registered vocational counselor in Washington state.

(3) An intern is an individual who meets the minimum educational requirements as set forth in subsection (2)(a) through (e) of this section, but not the experience requirements. When the intern is employed, the vocational rehabilitation provider shall provide the name of the intern's supervisor. The intern supervisor will be responsible for all rehabilitation work done by the intern. The intern supervisor will co-sign all reports submitted by the intern. The intern must be designated as such on all reports. At the end of the time requirement the intern may apply for ((a vendor)) an identification number as a fully qualified vocational rehabilitation ((provider:)) counselor.

(4) In order to receive or maintain a provider account number, the provider shall submit an application form provided by the department. The owner or legal representative of the provider must sign the application form. The provider shall also submit the names and signatures of all counselors working for the provider. The provider shall also submit official sealed ((certified)) copies of each counselor's college transcripts unless the counselor is already on the department's provider list, the department having completed a check of qualifications and having sent written notice of their acceptance. ((showing the degree last obtained. A)) If counselors employed by the provider are not on the department's provider list, completed applications signed by each counselor must be submitted on a form provided by the department. The application form must include a statement of each counselor's ((past)) experience ((in counseling of)) providing vocational rehabilitation to industrially injured workers ((must also be submitted. The statement must include)) and the names of former and current employers and supervisors. ((vocational counselors and firms the individual was employed by:))

(5) It is the responsibility of the vocational counselor and provider to be familiar with the industrial insurance rules and laws of the state of Washington. The vocational counselor and provider must act in a professional manner and comply with the code of professional ethics for vocational rehabilitation counselors.

WSR 87-05-060

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 18, 1987]

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 performance criteria for vocational rehabilitation providers. The changes would enable the department to do more effective quality control over vocational rehabilitation services provided to injured workers;

that the agency will at 10:00 a.m., Monday, April 6, 1987, in the First Floor Auditorium, 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 May 6, 1987.

The authority under which these rules are proposed is RCW 51.32.090 and 51.04.030.

The specific statute these rules are intended to implement is WAC 296-18A-460 [RCW 51.32.090].

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 6, 1987.

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

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

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

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

Karla Siedschlag, Administrator
Office of Rehabilitation Services, HC-291
Olympia, WA 98504
(206) 753-0556

Dated: February 18, 1987

By: Joseph A. Dear
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 296-18A WAC, Vocational rehabilitation rules, includes WAC 296-18A-460 Performance criteria.

Statutory Authority: RCW 51.32.090 and 51.04.030.

Specific Statute that Rule is Intended to Implement: RCW 51.32.090.

Summary of the Rule(s): To enable the department to do more effective quality control over vocational rehabilitation services provided to injured workers.

Reasons Supporting the Proposed Rule(s): To clarify the performance criteria and specify an additional means of making performance based referrals to private vocational rehabilitation providers. The change also eliminates a requirement for the department to develop a case

difficulty screening tool. Many states, agencies, and companies have tried to develop such a tool without complete success. Since vocational rehabilitation in the state fund is necessarily a part of claims management, any screening tools must include all elements of a claim and should lead to improved claims management.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Karla Siedschlag, Administrator, Office of Rehabilitation Services, HC-291, Olympia, Washington 98504, (206) 753-0556.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Labor and Industries.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

There will be no economic impact to small business.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85, effective 9/12/85)

WAC 296-18A-460 PERFORMANCE CRITERIA. (1) Vocational rehabilitation providers offering services under RCW 51.32.095 for state fund referrals shall be selected by the department, at the department's sole discretion, based upon providers' performance according to the following criteria.

(2) There shall be objective evaluation by the department's office of rehabilitation services, which shall address:

(a) Cost to medical aid fund including fees paid to vocational providers or other providers at the request of the vocational rehabilitation counselor;

(b) Cost to accident fund including time loss compensation, ~~((paid after vocational rehabilitation services begin less interruptions for medical instability))~~ loss of earning power payments, and "training" costs pursuant to RCW 51.32.095(3), paid during the time vocational rehabilitation services are provided;

(c) Cost to second injury fund due to approved job site modifications; ;

(d) Length of services provided, from time of referral to date of issuance of closing report;

(e) Ratio of referrals to completed plans;

(f) The outcome of the claim at the time of closure of vocational rehabilitation services which identifies the injured worker as (i) employable; (ii) returned to work; or (iii) other.

(3) The office of rehabilitation services shall also weigh the various objective criteria listed above by addressing the following subjective criteria:

~~((a) The ease difficulty utilizing a screening tool developed by the office of rehabilitation services;))~~

~~((b))~~ (a) The ability of the vocational rehabilitation provider and counselor to comply with the rules contained in chapter 296-18A WAC and the law as contained in RCW 51.32.095;

~~((c))~~ (b) The adequacy of the vocational rehabilitation provider's facilities shall also be considered.

(4) The office of rehabilitation services shall solicit proposals, on forms provided by the office of rehabilitation services, from all providers on the department's provider list and shall utilize these in contracting with providers for referrals.

~~((4))~~ (5) Audits. In order to ensure compliance with the above listed criteria, every vocational rehabilitation provider used by the department shall be subject to an audit of their facilities and files. Audits may be conducted upon petition or upon the department's own initiative. Audits may be for cause or at random and may consist of, but not be limited to, an on-site evaluation of each provider's facilities, files

and records, including the accuracy of the records and the accuracy of billing for services. The vocational rehabilitation provider shall receive written notice at least forty-eight hours in advance of such audit.

The audit of vocational rehabilitation providers at locations outside the state of Washington shall be at the expense of the provider and the expense incurred in making such audit shall be paid by the provider.

Such expenses shall be calculated at the usual and normal per diem and travel expense rates established by law and in effect at the time the expenses are incurred.

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 87-05-061
PROPOSED RULES
DEPARTMENT OF LICENSING
(Board of Physical Therapy)
[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Physical Therapy Board intends to adopt, amend, or repeal rules concerning the examination of applicants, amending WAC 308-42-040;

that the agency will at 1:30 p.m., Saturday, March 28, 1987, in the Sea-Tac Hilton, 17620 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.74.023.

The specific statute these rules are intended to implement is chapter 18.74 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 28, 1987.

Dated: February 17, 1987

By: John H. Keith
Assistant Attorney General
Board Counsel

STATEMENT OF PURPOSE

Name of Agency: State of Washington Board of Physical Therapy.

Purpose and Reason Proposed: To revise the examinations scheduling to reflect the national examination scheduling criteria.

Summary: WAC 308-42-040 Examinations—When held, to provide for conducting two or more examinations on dates established by the board.

Statutory Authority: RCW 18.74.024(6) [18.74.023(6)].

Responsible Departmental Personnel: In addition to members of the Physical Therapy Board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Sydney Beckett, Executive Secretary, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-3129 comm, 234-3129 scan.

Proponents: The subject matter of this rule hearing has been proposed by the Washington State Board of Physical Therapy.

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

AMENDATORY SECTION (Amending Order 704207 [PL 455], filed 8/7/70 [1/18/84])

WAC 308-42-040 EXAMINATIONS—WHEN HELD. (1) Examinations of applicants for licensure as physical therapists shall be held at least twice a year at the time and location prescribed by the board.

~~((2)) If for religious or other reasons acceptable to the board, an applicant is unable to be examined on the appointed day, another examination may be given within a reasonable time on a day approved by the board:))~~

((3)) (2) Physical therapy students in their last year may apply for licensure by examination prior to graduation under the following circumstances:

(a) Receipt of a letter from an official, of their physical therapy school, verifying the probability of graduation prior to the date of the examination for which they are applying.

(b) Results of the examination will be withheld until a diploma, official transcript or certification letter from the registrar's office certifying completion of all requirements for degree or certificate in physical therapy is received by the department.

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

WSR 87-05-062

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Occupational Therapy Practice)

[Filed February 18, 1987]

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

- Amd WAC 308-171-001 Definitions.
- Amd WAC 308-171-002 Persons exempt from the definition of an occupational therapy aide.
- New WAC 308-171-003 Occupational therapists acting in a consulting capacity.
- Amd WAC 308-171-010 Recognized educational programs—Occupational therapists.
- Amd WAC 308-171-020 Recognized educational programs—Occupational therapy assistants;

that the agency will at 9:00 a.m., Wednesday, March 25, 1987, in St. Joseph's Hospital, Room 2A, Tacoma, Washington, conduct a public hearing on the proposed rules.

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

WAC 308-171-001 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement RCW 18.59.020 (4) and (5), WAC 308-171-002 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement RCW 18.59.020(5), WAC 308-171-003 is proposed under authority of RCW 18.59.130(2) and 18.130.050(1) and is intended to implement RCW 18.59.020(5) and 18.130.180, WAC 308-171-010 is proposed under authority of RCW 18.59.130(2) and is

intended to implement RCW 18.59.050 (1)(b), WAC 308-171-020 is proposed under authority of RCW 18.59.130(2) and is intended to implement RCW 18.59.050 (1)(b).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 24, 1987.

Dated: February 3, 1987

By: Joyce R. Dolliver
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 308-171-001 Definitions; 308-171-002 Persons exempt from the definition of an occupational therapy aide; 308-171-003 Occupational therapists acting in a consulting capacity; 308-171-010 Recognized educational programs—Occupational therapists; and 308-171-020 Recognized educational programs—Occupational therapy assistants.

Statutory Authority and Specific Statute(s) that Rule(s) are Intended to Implement: See above.

Summary of the Rules: WAC 308-171-001 clarifies the supervision and consultation definition; 308-171-002 clarifies the supervisory responsibilities of an occupational therapist over an occupational therapy aide in the school setting; 308-171-003 defines what is a consulting capacity for an occupational therapist and establishes what documentation is necessary when an occupational therapist is acting in a consulting capacity; 308-171-010 updates the schedule of recognized educational programs for occupational therapists; and 308-171-020 updates the schedule of recognized educational programs for occupational therapy assistants.

Reasons Supporting the Proposed Rules: WAC 308-171-001 clarifies the definition of supervision and consultation; 308-171-002 recognizes that occupational therapists act in a consulting capacity in school settings and clarifies the supervisory responsibilities of occupational therapists engaged in consulting services only; 308-171-003 defines when an occupational therapist is acting in a consulting capacity and what documentation must be retained by an occupational therapist acting in a consulting capacity; 308-171-010 updates the schedule of recognized educational programs for occupational therapists; and 308-171-020 updates the schedule of recognized educational programs for occupational therapy assistants.

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

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

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

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

Small Business Economic Impact Statement: Not required for these rules. The board has reviewed the impact that these rules would have on occupational therapists and occupational therapy assistants. The board finds that a small business impact statement is not required. Occupational therapists and occupational therapy assistants are classed in SIC Code 804, Offices of Other Health Care Practitioners. As such, they account for less than 10 percent of the health practitioners in this area. Also, they are less than 20 percent of all industries. Finally, any impact that these proposed rules may have is intended to fall equally on all occupational therapists and occupational therapy assistants.

AMENDATORY SECTION (Amending Order PM 610, filed 8/19/86)

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

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

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

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

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

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

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

(3) "Professional supervision" of an occupational therapy aide in RCW 18.59.020(5) shall mean:

(a) Documented training by the occupational therapist of the occupational therapy aide in each specific occupational therapy technique

for each specific client and the training shall be performed on the client;

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

(c) The occupational therapist shall observe the occupational therapy aide perform on the client the specific occupational therapy techniques for which the occupational therapy aide was trained at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once a month.

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

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

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

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

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

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

AMENDATORY SECTION (Amending Order PM 630, filed 12/22/86)

WAC 308-171-002 PERSONS EXEMPT FROM THE DEFINITION OF AN OCCUPATIONAL THERAPY AIDE. An "occupational therapy aide" for whom an occupational therapist must provide professional supervision pursuant to RCW 18.59.020(5) does not include persons employed at a facility who are performing services under the supervision or direction of another licensed health care practitioner or certified teacher if the occupational therapist serves solely in a consulting capacity to the facility. (~~"Consulting capacity" shall mean the providing of information and recommendations which the facility or licensed health care practitioners employed at that facility may accept, reject, or modify at the election of the facility or the election of the licensed health care practitioners and if the occupational therapist's recommendations are accepted or modified then the recommendations shall be incorporated into the patient's health care plan as part of the nursing or physician's care plan and not held out as the providing of occupational therapy services to the patients or public or billed by the facility as the providing of occupational therapy services to the patients.~~)

NEW SECTION

WAC 308-171-003 OCCUPATIONAL THERAPISTS ACTING IN A CONSULTING CAPACITY. (1) "Consulting capacity" shall mean the providing of information and recommendations which the facility, licensed health care practitioners, or certified teachers employed at that facility may accept, reject, or modify at the election of the facility, the licensed health care practitioners, or certified teachers and if the occupational therapist's recommendations are accepted or modified then the recommendations shall be incorporated into the patient's health care plan as part of the nursing or physician's care plan or educational care plan and not held out as the providing of occupational therapy services to the patients or public or billed by the facility as the providing of occupational therapy services to the patients.

(2) An occupational therapist acting in a consulting capacity shall include the following information in the occupational therapist's documentation:

- (a) Date of consultation;
- (b) To whom the consultation is provided;
- (c) Description of services provided;
- (d) Consultation recommendation; and
- (e) Recommendations concerning who should implement the consultation recommendations.

The documentation described above shall be retained by the consulting occupational therapist.

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

WAC 308-171-010 **RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPISTS.** The board recognizes and approves courses of instruction conducted by schools that have obtained accreditation of the program in occupational therapy from the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the American Occupational Therapy Association as recognized in the ~~((1984-1985))~~ 1986-1987 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc.

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

WAC 308-171-020 **RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPY ASSISTANTS.** The board recognizes and approves courses of instruction conducted by schools that have obtained approval of the occupational therapy assistant associate degree programs and occupational therapy assistant certificate programs from the American Occupational Therapy Association as recognized in the ~~((1984-1985))~~ 1986-1987 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc.

WSR 87-05-063
PROPOSED RULES
BOARD OF PHARMACY
[Filed February 18, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pharmacy intends to adopt, amend, or repeal rules concerning pharmacist internship requirements, pharmacy inspections, poison control and repeal of WAC 360-16-240;

that the agency will at 9:30 a.m., Wednesday, March 25, 1987, in the Highline Community College, Library Board Room, South 240th Street and Pacific Highway South, 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 RCW 18.64.005.

The specific statute these rules are intended to implement is RCW 18.64.005.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 25, 1987.

Dated: February 17, 1987
By: John H. Keith
Assistant Attorney General
Board Counsel

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Pharmacy.

Summary, Purpose of Rule and Reason Proposed: Amending WAC 360-10-010 through 360-10-080 would revise the internship requirements to improve the procedures and update the internship program; new WAC 360-16-235 Pharmacy inspections, would revise the inspection procedures for pharmacies and provide new enforcement action for substandard pharmacies; amending WAC 360-16-245 Poison control, would consolidate the poison control regulations; and WAC 360-16-240 General, would be repealed as it would no longer be necessary.

Statutory Authority: RCW 18.64.005(11).

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents of the Proposed Rule: Washington State Board of Pharmacy.

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

Small Business Economic Impact Statement: Not necessary since this rule does not impact small businesses as that term was defined by RCW 43.31.920.

Chapter 360-10 WAC INTERNSHIP REQUIREMENTS

WAC	
360-10-010	General requirements.
360-10-020	Registration of interns ((and preceptors)) .
360-10-030	Rules for the pharmacy intern.
360-10-040	Intern training reports.
360-10-050	Requirements for preceptor certification.
360-10-060	Rules for preceptors.
360-10-080	Special internship approval.

AMENDATORY SECTION (Amending Order 139, filed 12/9/77)

WAC 360-10-010 **GENERAL REQUIREMENTS.** (1) RCW 18.64.080 ~~((5))~~(3) states: "Any person enrolled as a student of pharmacy in an accredited college may file with the state board of pharmacy an application for registration as a pharmacy intern——." A student of pharmacy shall be defined as any person enrolled in a college or school of pharmacy accredited by the board of pharmacy or any ~~((person enrolled in a prepharmacy program at an accredited college, and whose credits are acceptable for transfer by accredited colleges))~~ graduate of any accredited college or school of pharmacy.

(2) As provided for in RCW 18.64.080 ~~((3))~~(4) the board ~~((may specify not more than one year of internship requirement. The board))~~ of pharmacy hereby establishes fifteen hundred hours for the internship requirement. Credit may be allowed for up to: (a) Three hundred hours for the completion of approved clinically oriented classes within a college or school of pharmacy; ~~((provided further that an additional))~~ and/or (b) five hundred hours of credit for the internship shall be granted to graduates prior to February 1988 of schools or colleges of pharmacy approved by the board; and/or (c) five hundred hours of credit while a student in a college or school of pharmacy; provided further that any intern not able to take the five hundred hour credit set forth in (b) of this subsection will be allowed one thousand hours of credit while a student.

(3) An applicant for licensure as a pharmacist who has completed seven hundred internship hours will be permitted to take the state board examination for licensure; however, no pharmacist license will be

issued to the applicant until the fifteen hundred internship hours have been completed.

(4) ~~((Credit for up to five hundred hours at the rate of no more than fifteen hours per week may be allowed for part-time experience gained during the period while a student is regularly enrolled in a college; and full-time experience allowed while a student is enrolled for less than six quarter credit hours or four semester credit hours. This shall not exclude experience gained during regular student holiday and vacation periods:~~

~~((5)) To retain a certificate as a pharmacy intern ((for the six year period prescribed by law)), the intern must make continuing satisfactory progress in completing the pharmacy course.~~

~~((6)) (5) Experience must be obtained under the guidance of a preceptor who has met certification requirements prescribed in WAC 360-10-050 and has a certificate except as hereinafter provided for experience gained outside the state of Washington.~~

~~((7)) (6) Experience obtained in another state may be accepted toward the fulfillment of the fifteen hundred hour requirement provided that a letter is received from the board of pharmacy of that state in which the experience is gained and such letter indicates the experience gained would have been acceptable internship experience to the board of pharmacy in that state.~~

~~((8)) (7) A pharmacy intern shall not receive credit for any hours which predate his ((enrollment in a school of pharmacy, which does not include enrollment in a prepharmacy educational program: PROVIDED HOWEVER, That any pharmacy internship hours which predate this amendatory regulation shall be acceptable for any intern taking the state pharmacy board examination prior to July 1, 1972)) /her completion of the first unit of pharmacy education.~~

AMENDATORY SECTION (Amending Order 175, filed 8/30/83)

WAC 360-10-020 REGISTRATION OF INTERNS ((AND PRECEPTORS)). ((+)) In order to be registered as a pharmacy intern, the ((qualified)) applicant ((in WAC 360-12-010)) must file with the board of pharmacy an application for registration as a pharmacy intern as provided for in RCW 18.64.080. The application shall be accompanied by a fee as specified in WAC 360-18-020.

~~((2) A pharmacist who has met the certification requirements prescribed in WAC 360-10-050 and presented proper application to, and has been accepted by the board of pharmacy shall be certified as a preceptor. The board shall issue a certificate to qualified applicants and the certificate shall be in the pharmacy during the period that the intern is receiving training in the pharmacy.~~

~~((3) Registration as a preceptor shall be valid until July 31 of the odd-numbered year following registration. Said registration can be renewed by filing a renewal registration form supplied by the board of pharmacy no later than July 31st of the odd-numbered year. Said form shall indicate that the renewal applicant has the necessary qualifications to continue as a preceptor.))~~

AMENDATORY SECTION (Amending Regulation 48, filed 6/17/66)

WAC 360-10-030 RULES FOR THE PHARMACY INTERN.
(1) The intern shall send notification to the board of pharmacy on or before the first day of beginning of his/her training. Such notification shall consist of the date, the name of the pharmacy, and the name of the preceptor where the intern expects to begin his/her internship. The board of pharmacy shall promptly notify the intern of the acceptability of the preceptor under whom the intern expects to gain experience. Internship credit will not be accepted until the preceptor has been certified.

(2) The pharmacy intern shall engage in the ((compounding and dispensing of pharmaceutical preparations)) practice of pharmacy, and the selling of items restricted to sale under the supervision of a registered pharmacist, only while he/she is under the direct and personal supervision of a certified preceptor.

AMENDATORY SECTION (Amending Order 106, filed 6/3/71)

WAC 360-10-040 INTERN TRAINING REPORTS. (1) The intern shall file with the board on forms provided by the board an internship evaluation report ((with the board)) at the completion of internship training ((and at the termination of any employment. The evaluation report shall include the following: Evaluation of:

(a) The preceptors under whom internship was served.

(b) Evaluation of the entire program.

(2) Upon completion of the intern's fifteen hundred hours of experience, the last preceptor under whom this experience was obtained shall file a report with the board. Such report shall briefly describe the type of professional experience received under the preceptor's supervision and the preceptor's opinion on the ability of the intern to practice pharmacy)) experience at each site.

~~((3)) (2) The board of pharmacy shall provide the necessary affidavit forms to ((certify)) the intern for the purpose of certification of the hours of experience, which shall only include hours under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board of pharmacy not later than thirty days ((prior to examination and the termination of any employment)) after the completion of any site internship experience; provided that certification of at least seven hundred hours must be submitted to the board thirty days prior to licensing examination.~~

~~((4)) (3) The intern's report and all or part of the hours covered by the period of the report can be rejected by the board if, for the period involved, the pharmacy intern has not performed ((adequate pharmaceutical services)) the practice of pharmacy adequately.~~

AMENDATORY SECTION (Amending Order 106, filed 6/3/71)

WAC 360-10-050 REQUIREMENTS FOR PRECEPTOR CERTIFICATION. (1) A pharmacist who is ((registered)) licensed and actively engaged in practice in a Class A pharmacy in the state of Washington, and who has met certification requirements prescribed in this section of the regulation and who has ((been certified by the board of pharmacy shall be known as a "pharmacy preceptor.") completed the board approved training program within the last two years, and who has been certified by the board of pharmacy shall be known as "pharmacist preceptor." The board shall give consideration to extenuating circumstances that make attendance at a training program an excessive burden for the pharmacist. The requirement for attendance of the approved training program becomes effective January 1, 1988.

(2) The ((pharmacy)) pharmacist preceptor must have completed twelve months as a ((registered)) licensed pharmacist engaged in the ((compounding and dispensing of pharmaceuticals)) practice of pharmacy as defined in RCW 18.64.011(11).

(3) Any preceptor or preceptor applicant who has been found guilty of a drug or narcotic violation or whose pharmacist license has been revoked ((or)), suspended, or placed on probation by the state board of pharmacy shall not be eligible for certification as a preceptor, ((unless special permission is obtained from the board of pharmacy)) until completion of the probationary period, and a showing of good cause for certification as a pharmacist preceptor.

(4) ((The pharmacy preceptor shall subscribe the following professional standards:

(a) The preceptor shall use every precaution to safeguard the public when dispensing any drugs or preparations, he shall make no attempt to prescribe for or to treat disease.

(b) The preceptor shall keep his pharmacy clean, neat, and sanitary, and well equipped with accurate measuring and weighing devices and other apparatus suitable for the proper performance of his professional duties.

(c) The preceptor shall be a good citizen and uphold and defend the laws of the states and nation; he shall keep himself informed concerning pharmacy and drug laws, and other laws pertaining to health and sanitation, and shall cooperate with the enforcement authorities.

(d) The preceptor shall willingly make available his expert knowledge of drugs to the intern and other health professions.

(e) The preceptor shall strive to perfect and enlarge his professional knowledge. He shall keep himself informed regarding professional matters by reading current pharmaceutical, scientific, and medical literature, attending seminars and other means.

(f) The preceptor shall seek to attract to his profession, youth of good character and intellectual capacity and aid in their instruction.

(g)) The preceptor shall be responsible for the quality of the internship training under his/her supervision and he/she shall ((insure)) assure that the intern actually engages in pharmaceutical activities during that training period.

(5) The board of pharmacy shall withdraw a preceptor's certification upon proof that the preceptor failed to meet or maintain the requirements as stated in this section.

AMENDATORY SECTION (Amending Order 102, filed 12/5/69)

WAC 360-10-060 RULES FOR PRECEPTORS. (1) The ((pharmacy)) pharmacist preceptor shall supervise the pharmacy intern and shall be responsible for the sale of restricted items, and the compounding and dispensing of pharmaceuticals dispensed by an intern.

(2) The pharmacist preceptor must use the workbook plan of instruction for interns obtained at the training program offered by the board, in addition to any other material or workbook they choose to use.

(3) Upon completion of the intern's experience at each site, the preceptor under whom this experience was obtained shall file a report with the board. Such report shall briefly describe the type of professional experience received under the preceptor's supervision and the preceptor's evaluation of the intern's ability to practice pharmacy at that stage of internship.

(4) The board of pharmacy shall provide the necessary affidavit forms to certify hours of experience under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board not later than thirty days after the completion of any site intern experience; provided that any experience necessary for eligibility to take the licensing examination must be in the board office no later than thirty days prior to the examination.

(5) The ((pharmacy)) pharmacist preceptor may supervise more than one intern during a given time period; however, two interns may not dispense concurrently under the direct supervision of the preceptor. This is to say that two interns may dispense and record internship experience in the same day under one preceptor's direct supervision; however, they may not dispense and record internship experience during the same hour of the day.

AMENDATORY SECTION (Amending Order 114, filed 6/28/73)

WAC 360-10-080 SPECIAL INTERNSHIP APPROVAL. (1) The board will consider applications for approval of special internship programs. Such programs may be approved when the board determines that they offer a significant educational opportunity.

(2) Applications for special internship approval must be submitted at least ((fifteen)) thirty days prior to the next board meeting which will afford the board an opportunity to review the program.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 360-10-070 REPEAL OF PRIOR REGULATIONS.

NEW SECTION

WAC 360-16-235 PHARMACY INSPECTIONS. (1) All pharmacies shall be subject to periodic inspections to determine compliance with the laws regulating the practice of pharmacy.

(2) Each inspected pharmacy shall receive a classification rating which will depend upon the extent of that pharmacy's compliance with the inspection standards.

(3) There shall be three rating classifications:

- (a) "Class A" - for inspection scores of 90 to 100;
- (b) "Conditional" - for inspection scores of 80 to 89; and,
- (c) "Unsatisfactory" - for inspection scores below 80.

(4) Any pharmacy receiving a conditional rating shall have sixty days to raise its inspection score rating to 90 or better. If upon reinspection after sixty days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.

(5) Any pharmacy receiving an unsatisfactory rating shall have fourteen days to raise its inspection score rating to 90 or better. If upon reinspection after fourteen days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.

(6) The certificate of inspection must be posted in conspicuous view of the general public and shall not be removed or defaced.

(7) Noncompliance with the provisions of chapter RCW 18.64A (Pharmacy Assistants) and, Title 360-52 WAC (Pharmacy Assistants) resulting in a deduction of at least five points shall result in an automatic unsatisfactory rating regardless of the total point score.

(8) Pharmacies receiving an unsatisfactory rating which represent a clear and present danger to the public health, safety and welfare will be subject to summary suspension of the pharmacy license.

AMENDATORY SECTION (Amending Order 120, filed 3/11/74)

WAC 360-16-245 POISON CONTROL. (1) A list of antidotes for poisoning shall be posted or otherwise readily available for reference. The telephone number of the nearest poison control center shall be readily available.

(2) Each pharmacy shall maintain at least one ounce bottle of Ipecac syrup in stock at all times.

REPEALER

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

WAC 360-16-240 GENERAL.

WSR 87-05-064**ADOPTED RULES****CHIROPRACTIC DISCIPLINARY BOARD**

[Order PM 640—Filed February 18, 1987]

Be it resolved by the Washington State Chiropractic Disciplinary Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to the practice of chiropractic.

This action is taken pursuant to Notice No. WSR 87-01-086 filed with the code reviser on December 22, 1986. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.130.050(1) which directs that the Chiropractic Disciplinary Board has authority to implement the provisions of RCW 18.130.180.

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 January 29, 1987.

By Leslie B. White, D.C.
Chairman

AMENDATORY SECTION (Amending Order PL 235, filed 12/31/75)

WAC 113-12-115 ACUPUNCTURE. No chiropractor shall: (1) Employ the use of needles in the treatment of a patient; or

(2) Hold himself or herself out as practicing acupuncture in any form((-)); PROVIDED, That this prohibition shall not restrict a chiropractor who is also a certified acupuncturist pursuant to chapter 18.06 RCW from practicing acupuncture, provided that the chiropractor differentiates chiropractic care from acupuncture care at all times as is required by RCW 18.26.030.

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

NEW SECTION

WAC 113-12-087 INTRAVAGINAL ADJUSTMENT RESTRICTED. It shall be considered unprofessional conduct for a chiropractor to perform an adjustment of the coccyx through the vagina unless the following conditions are met:

(a) The coccyx cannot be adjusted rectally or the patient is offered and declines the option of the rectal technique;

(b) The coccyx adjustment is performed with the use of a disposable finger cot or rubber glove; and,

(c) A female attendant is present at all times the patient is examined and the coccyx adjustment is being performed.

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 497, filed 11/15/84)

WAC 113-12-195 FULL DISCLOSURE OF COST OF SERVICES. (1) This rule will apply to all representations made in public advertising regarding the provision of chiropractic services, including x-rays or chiropractic examinations, on a free basis or at a reduced cost. This rule will also apply to all billings or other written or oral communications regarding charges for chiropractic services whether made to patients, third party health care payors, or to any other person, firm, or governmental agency.

(2) When a chiropractic service is represented in public advertising as available without cost or at a reduced cost that service must be made available to everyone who wishes to take advantage of the offer on an equal basis. No charge may be made to any individual or third party health care payor for any services which have been provided on a free basis. ~~((Billings to patients or to third party health care payors should accurately reflect the actual charge to the patient, including any discounts, reduced fees or waiver of co-payment.))~~

(3) All billings to third party payors for patients who are also being treated for an unrelated condition must fully disclose the additional treatment being provided and the charges for that treatment.

(4) Billings to patients or to third party health care payors should accurately reflect the actual charge to the patient, including any discounts, reduced fees, or waiver of co-payment.

NEW SECTION

WAC 113-12-197 IMPROPER BILLING PRACTICES. The following acts shall constitute grounds for which disciplinary action may be taken:

(1) Rebating or offering to rebate to an insured any payment to the licensee by the third-party payor of the insured for services or treatments rendered under the insured's policy.

(2) Submitting to any third-party payor a claim for a service or treatment at a greater or an inflated fee or charge than the usual fee the licensee charges for that service or treatment when rendered without third-party reimbursement.

(3) Advertising any reduced or discounted fees for services or treatments or advertising any free services or treatments without prominently stating in the advertisement the usual fee of the licensee for the service or treatment which is the subject of the discount or free offering.

WSR 87-05-065**ADOPTED RULES****DEPARTMENT OF LICENSING**

[Order PM 639—Filed February 18, 1987—Eff. April 1, 1987]

I, Theresa Anna Aragon, director of the Washington State Department of Licensing, do promulgate and adopt at the [Highways-]Licenses Building, Fourth Floor, Olympia, Washington, the annexed rules relating to disclosure of agency representation, amending WAC 308-124D-040.

This action is taken pursuant to Notice No. WSR 87-01-089 filed with the code reviser on December 22, 1986. These rules shall take effect at a later date, such date being April 1, 1987.

This rule is promulgated pursuant to RCW 18.85.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 17, 1987.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order PM 617, filed 9/16/86)

WAC 308-124D-040 DISCLOSURE OF AGENCY REPRESENTATION. A licensee acting as the listing and selling agent or as a selling agent must make an oral and/or written disclosure of agency representation to buyer(s) in a real estate or business opportunity transaction. The disclosure must have been made at least once prior to preparing the purchase and sale agreement, including options to purchase, lease purchase agreements and exchange agreements.

The seller shall be provided disclosure of the selling agent's agency representation by the listing agent or the selling agent at least once prior to presenting the agreement.

The disclosure shall be confirmed in a separate paragraph titled "Agency Disclosure" in the agreement, which shall be as follows:

AGENCY DISCLOSURE: At the signing of this agreement the selling agent represented _____.

Each party signing this document confirms that prior oral and/or written disclosure of agency was provided to him/her in this transaction.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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180-75-043	NEW-P	87-05-048	180-79-386	NEW-P	87-05-050	220-57-215	AMD-P	87-03-056
180-75-044	NEW-P	87-05-048	180-79-388	NEW-P	87-05-050	220-57-220	AMD-P	87-03-056
180-75-065	AMD-P	87-05-048	180-79-390	NEW-P	87-05-050	220-57-235	AMD-P	87-03-056
180-75-070	AMD-P	87-05-048	180-79-392	NEW-P	87-05-050	220-57-240	AMD-P	87-03-056
180-75-075	AMD-P	87-05-048	180-79-394	NEW-P	87-05-050	220-57-250	AMD-P	87-03-056
180-75-080	AMD-P	87-05-048	180-79-396	NEW-P	87-05-050	220-57-270	AMD-P	87-03-056
180-75-081	NEW-P	87-05-048	180-79-398	NEW-P	87-05-050	220-57-280	AMD-P	87-03-056
180-75-082	NEW-P	87-05-048	180-85-045	AMD-P	87-05-051	220-57-290	AMD-P	87-03-056
180-75-083	NEW-P	87-05-048	180-85-220	AMD-P	87-05-051	220-57-300	AMD-P	87-03-056
180-75-084	NEW-P	87-05-048	180-85-225	AMD-P	87-05-051	220-57-310	AMD-P	87-03-056
180-75-085	AMD-P	87-05-048	180-90-125	NEW-P	87-05-052	220-57-315	AMD-P	87-03-056
180-75-086	NEW-P	87-05-048	180-90-141	NEW-P	87-05-052	220-57-335	AMD-P	87-03-056
180-75-087	AMD-P	87-05-048	180-90-160	AMD-P	87-05-052	220-57-380	AMD-P	87-03-056
180-75-199	NEW-P	87-05-048	182-12-210	AMD-E	87-04-016	220-57-385	AMD-P	87-03-056
180-78	AMD-P	87-05-049	182-12-210	AMD-P	87-04-039	220-57-410	AMD-P	87-03-056
180-78-003	NEW-P	87-05-049	192-12-158	NEW	87-03-006	220-57-415	AMD-P	87-03-056
180-78-005	AMD-P	87-05-049	204-65-010	NEW	87-04-065	220-57-445	AMD-P	87-03-056
180-78-010	AMD-P	87-05-049	204-65-020	NEW	87-04-065	220-57-460	AMD-P	87-03-056
180-78-025	AMD-P	87-05-049	204-65-030	NEW	87-04-065	220-57-473	AMD-P	87-03-056
180-78-191	NEW-P	87-05-049	204-65-040	NEW	87-04-065	220-57-495	AMD-P	87-03-056
180-78-192	NEW-P	87-05-049	204-65-050	NEW	87-04-065	220-57-505	AMD-P	87-03-056
180-78-193	NEW-P	87-05-049	204-65-060	NEW	87-04-065	220-57-510	AMD-P	87-03-056

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
220-57-520	AMD-P	87-03-056	261-50-050	AMD	87-04-008	296-23-357	REP-E	87-02-042
220-57-525	AMD-P	87-03-056	261-50-050	AMD-P	87-05-007	296-23-357	REP	87-03-005
220-57A-175	AMD-P	87-03-056	261-50-060	AMD	87-04-008	296-23-725	AMD-P	87-02-057
220-57A-180	AMD-P	87-03-056	261-50-060	AMD-P	87-05-007	296-23-980	AMD-P	87-02-057
220-76-030	REP-P	87-04-071	261-50-070	NEW-P	87-05-007	296-23A-100	NEW-E	87-02-042
220-77-010	NEW-P	87-04-071	261-50-090	AMD	87-04-008	296-23A-100	NEW	87-03-005
220-77-020	NEW-P	87-04-071	261-50-090	AMD-P	87-05-007	296-23A-105	NEW-E	87-02-042
220-77-030	NEW-P	87-04-071	275-19-030	AMD-P	87-05-021	296-23A-105	NEW	87-03-005
220-77-040	NEW-P	87-04-071	275-19-040	AMD-P	87-05-021	296-23A-110	NEW-E	87-02-042
220-77-050	NEW-P	87-04-071	275-19-050	AMD-P	87-05-021	296-23A-110	NEW	87-03-005
220-77-060	NEW-P	87-04-071	275-19-075	AMD	87-03-016	296-23A-115	NEW-E	87-02-042
220-77-070	NEW-P	87-04-071	275-19-110	AMD-P	87-05-021	296-23A-115	NEW	87-03-005
220-87-010	NEW	87-04-003	275-30-010	NEW-P	87-04-023	296-23A-120	NEW-E	87-02-042
220-87-020	NEW	87-04-003	275-30-020	NEW-P	87-04-023	296-23A-120	NEW	87-03-005
230-02-350	AMD-P	87-03-024	275-30-030	NEW-P	87-04-023	296-23A-125	NEW-E	87-02-042
230-04-145	AMD-P	87-03-024	275-30-040	NEW-P	87-04-023	296-23A-125	NEW	87-03-005
230-04-201	AMD-P	87-03-024	275-30-050	NEW-P	87-04-023	296-23A-130	NEW-E	87-02-042
230-20-064	AMD-P	87-03-024	275-30-060	NEW-P	87-04-023	296-23A-130	NEW	87-03-005
230-20-380	AMD-P	87-03-024	275-30-070	NEW-P	87-04-023	296-23A-135	NEW-E	87-02-042
230-30-060	AMD	87-03-023	284-07-010	NEW-P	87-02-065	296-23A-135	NEW	87-03-005
230-30-070	AMD	87-03-023	284-07-010	NEW	87-05-011	296-23A-140	NEW-E	87-02-042
232-12-169	NEW-P	87-05-030	284-07-014	NEW-P	87-02-065	296-23A-140	NEW	87-03-005
232-28-61519	NEW-E	87-03-042	284-07-014	NEW	87-05-011	296-23A-145	NEW-E	87-02-042
232-28-61601	NEW-E	87-02-046	284-07-024	NEW-P	87-02-065	296-23A-145	NEW	87-03-005
232-28-808	REP-P	87-05-031	284-07-024	NEW	87-05-011	296-23A-150	NEW-E	87-02-042
232-28-809	NEW-P	87-05-031	284-12-080	NEW	87-03-055	296-23A-150	NEW	87-03-005
248-14-080	AMD	87-03-018	284-74-010	NEW-P	87-02-066	296-23A-200	NEW-E	87-02-042
248-14-090	AMD	87-03-018	284-74-010	NEW	87-05-046	296-23A-200	NEW	87-03-005
248-18-031	AMD	87-03-020	284-74-100	NEW-P	87-02-066	296-23A-205	NEW-E	87-02-042
248-18-312	NEW	87-03-030	284-74-100	NEW	87-05-046	296-23A-205	NEW	87-03-005
248-18-320	REP	87-03-030	286-16-035	AMD-P	87-05-026	296-23A-210	NEW-E	87-02-042
248-18-321	NEW	87-03-030	289-15-225	AMD	87-05-040	296-23A-210	NEW	87-03-005
248-18-662	NEW	87-03-030	296-08-025	NEW	87-02-037	296-23A-215	NEW-E	87-02-042
248-18-663	NEW	87-03-030	296-15-030	AMD	87-05-008	296-23A-215	NEW	87-03-005
248-18-99902	AMD	87-04-061	296-17-920	AMD	87-04-006	296-23A-220	NEW-E	87-02-042
250-20-021	AMD-P	87-04-076	296-18A-450	AMD-P	87-02-057	296-23A-220	NEW	87-03-005
250-40-050	AMD-P	87-04-077	296-18A-460	AMD-P	87-05-060	296-23A-225	NEW-E	87-02-042
251-01-190	AMD	87-02-036	296-18A-465	NEW-P	87-05-056	296-23A-225	NEW	87-03-005
251-01-300	AMD	87-02-036	296-18A-470	AMD-P	87-05-060	296-23A-230	NEW-E	87-02-042
251-01-400	AMD	87-02-036	296-18A-480	AMD-P	87-02-057	296-23A-230	NEW	87-03-005
251-04-040	AMD	87-02-036	296-18A-490	AMD-P	87-05-057	296-23A-235	NEW-E	87-02-042
251-05-060	AMD	87-02-036	296-18A-510	AMD-P	87-05-059	296-23A-235	NEW	87-03-005
251-07-010	NEW-P	87-04-055	296-20-022	NEW	87-03-004	296-23A-240	NEW-E	87-02-042
251-07-020	NEW-P	87-04-055	296-20-035	AMD-P	87-02-057	296-23A-240	NEW	87-03-005
251-07-030	NEW-P	87-04-055	296-20-135	AMD	87-03-004	296-23A-242	NEW-E	87-02-042
251-07-040	NEW-P	87-04-055	296-20-140	AMD	87-03-004	296-23A-242	NEW	87-03-005
251-07-050	NEW-P	87-04-055	296-20-145	AMD	87-03-004	296-23A-244	NEW-E	87-02-042
251-07-060	NEW-P	87-04-055	296-20-150	AMD	87-03-004	296-23A-244	NEW	87-03-005
251-08-005	AMD-P	87-04-056	296-20-155	AMD	87-03-004	296-23A-246	NEW-E	87-02-042
251-08-021	AMD-P	87-04-056	296-21-011	AMD-E	87-02-042	296-23A-246	NEW	87-03-005
251-08-040	AMD-P	87-04-056	296-21-011	AMD	87-03-005	296-23A-248	NEW-E	87-02-042
251-08-100	AMD-P	87-04-056	296-22-010	AMD-E	87-02-042	296-23A-248	NEW	87-03-005
251-09-090	AMD-P	87-04-056	296-22-010	AMD	87-03-005	296-23A-250	NEW-E	87-02-042
251-10-030	AMD	87-02-036	296-23-01006	AMD-E	87-02-042	296-23A-250	NEW	87-03-005
251-10-055	AMD	87-02-036	296-23-01006	AMD	87-03-005	296-23A-252	NEW-E	87-02-042
251-10-108	NEW-P	87-02-054	296-23-20102	AMD-E	87-02-042	296-23A-252	NEW	87-03-005
251-10-108	NEW-P	87-04-057	296-23-20102	AMD	87-03-005	296-23A-254	NEW-E	87-02-042
251-10-115	NEW-W	87-02-055	296-23-212	AMD-E	87-02-042	296-23A-254	NEW	87-03-005
251-10-120	AMD-P	87-04-057	296-23-212	AMD	87-03-005	296-23A-256	NEW-E	87-02-042
251-10-140	AMD-P	87-04-057	296-23-300	REP-E	87-02-042	296-23A-256	NEW	87-03-005
251-10-195	AMD	87-02-036	296-23-300	REP	87-03-005	296-23A-258	NEW-E	87-02-042
251-12-240	AMD	87-02-036	296-23-301	REP-E	87-02-042	296-23A-258	NEW	87-03-005
251-14-050	AMD	87-02-036	296-23-301	REP	87-03-005	296-23A-260	NEW-E	87-02-042
251-18-176	AMD	87-02-036	296-23-305	REP-E	87-02-042	296-23A-260	NEW	87-03-005
251-18-350	AMD	87-02-036	296-23-305	REP	87-03-005	296-23A-262	NEW-E	87-02-042
251-22-040	AMD	87-02-036	296-23-310	REP-E	87-02-042	296-23A-262	NEW	87-03-005
251-22-045	AMD	87-02-036	296-23-310	REP	87-03-005	296-23A-264	NEW-E	87-02-042
251-23-040	AMD	87-02-036	296-23-315	REP-E	87-02-042	296-23A-264	NEW	87-03-005
251-23-050	AMD	87-02-036	296-23-315	REP	87-03-005	296-23A-266	NEW-E	87-02-042
251-23-060	AMD	87-02-036	296-23-330	REP-E	87-02-042	296-23A-266	NEW	87-03-005
254-20-090	AMD	87-03-039	296-23-330	REP	87-03-005	296-23A-268	NEW-E	87-02-042
261-50-030	AMD	87-04-008	296-23-335	REP-E	87-02-042	296-23A-268	NEW	87-03-005
261-50-030	AMD-P	87-05-007	296-23-335	REP	87-03-005	296-23A-300	NEW-E	87-02-042
261-50-035	NEW-P	87-05-007	296-23-340	REP-E	87-02-042	296-23A-300	NEW	87-03-005
261-50-040	AMD	87-04-008	296-23-340	REP	87-03-005	296-23A-310	NEW-E	87-02-042
261-50-040	AMD-P	87-05-007	296-23-356	REP-E	87-02-042	296-23A-310	NEW	87-03-005
261-50-045	REP	87-04-008	296-23-356	REP	87-03-005	296-23A-315	NEW-E	87-02-042

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-23A-315	NEW	87-03-005	296-62-07747	NEW-P	87-05-055	296-306-310	NEW-C	87-05-023
296-23A-320	NEW-E	87-02-042	296-62-07749	NEW-P	87-05-055	296-306-320	NEW-C	87-02-056
296-23A-320	NEW	87-03-005	296-65-005	AMD-P	87-05-055	296-306-320	NEW-C	87-05-023
296-23A-325	NEW-E	87-02-042	296-65-015	AMD-P	87-05-055	304-12-140	AMD-P	87-04-066
296-23A-325	NEW	87-03-005	296-65-020	AMD-P	87-05-055	308-12-312	AMD-E	87-04-049
296-23A-330	NEW-E	87-02-042	296-65-030	AMD-P	87-05-055	308-13-150	AMD-E	87-03-031
296-23A-330	NEW	87-03-005	296-65-040	AMD-P	87-05-055	308-31-015	AMD	87-04-050
296-23A-335	NEW-E	87-02-042	296-116-080	AMD-P	87-02-053	308-31-025	NEW	87-04-050
296-23A-335	NEW	87-03-005	296-155-160	AMD-P	87-05-055	308-31-025	AMD-P	87-04-054
296-23A-340	NEW-E	87-02-042	296-155-175	NEW-P	87-05-055	308-31-100	AMD	87-04-050
296-23A-340	NEW	87-03-005	296-155-17505	NEW-P	87-05-055	308-31-100	AMD	87-04-050
296-23A-345	NEW-E	87-02-042	296-155-17510	NEW-P	87-05-055	308-31-120	AMD	87-04-050
296-23A-345	NEW	87-03-005	296-155-17515	NEW-P	87-05-055	308-31-500	AMD	87-04-050
296-23A-350	NEW-E	87-02-042	296-155-17520	NEW-P	87-05-055	308-31-500	AMD-P	87-04-054
296-23A-350	NEW	87-03-005	296-155-17525	NEW-P	87-05-055	308-42-400	AMD-P	87-05-061
296-23A-355	NEW-E	87-02-042	296-155-17530	NEW-P	87-05-055	308-53-084	AMD-C	87-02-060
296-23A-355	NEW	87-03-005	296-155-17532	NEW-P	87-05-055	308-53-085	AMD-C	87-02-060
296-23A-360	NEW-E	87-02-042	296-155-17535	NEW-P	87-05-055	308-56A-006	NEW-P	87-04-069
296-23A-360	NEW	87-03-005	296-155-17540	NEW-P	87-05-055	308-56A-115	AMD-P	87-04-069
296-23A-400	NEW-E	87-02-042	296-155-17545	NEW-P	87-05-055	308-56A-125	AMD-P	87-04-069
296-23A-400	NEW	87-03-005	296-155-17550	NEW-P	87-05-055	308-56A-155	NEW-P	87-04-069
296-23A-410	NEW-E	87-02-042	296-155-17555	NEW-P	87-05-055	308-56A-156	NEW-P	87-04-069
296-23A-410	NEW	87-03-005	296-155-17560	NEW-P	87-05-055	308-56A-160	NEW-P	87-04-069
296-23A-415	NEW-E	87-02-042	296-155-17565	NEW-P	87-05-055	308-56A-195	AMD-P	87-04-069
296-23A-415	NEW	87-03-005	296-155-17570	NEW-P	87-05-055	308-93-010	AMD-P	87-04-068
296-23A-420	NEW-E	87-02-042	296-155-17575	NEW-P	87-05-055	308-93-074	AMD-P	87-04-068
296-23A-420	NEW	87-03-005	296-155-177	NEW-P	87-05-055	308-94	AMD	87-03-041
296-23A-425	NEW-E	87-02-042	296-155-179	NEW-P	87-05-055	308-94-010	AMD	87-03-041
296-23A-425	NEW	87-03-005	296-155-181	NEW-P	87-05-055	308-94-020	REP	87-03-041
296-24-14011	AMD-P	87-02-058	296-155-183	NEW-P	87-05-055	308-94-030	AMD	87-03-041
296-27-160	AMD	87-03-011	296-155-185	NEW-P	87-05-055	308-94-040	AMD	87-03-041
296-27-16001	AMD	87-03-011	296-155-187	NEW-P	87-05-055	308-94-050	AMD	87-03-041
296-27-16002	NEW	87-03-011	296-155-189	NEW-P	87-05-055	308-94-060	REP	87-03-041
296-27-16003	AMD	87-03-011	296-155-191	NEW-P	87-05-055	308-94-070	AMD	87-03-041
296-27-16004	NEW	87-03-011	296-155-193	NEW-P	87-05-055	308-94-080	AMD	87-03-041
296-27-16005	REP	87-03-011	296-155-265	AMD-P	87-02-058	308-94-100	AMD	87-03-041
296-27-16007	AMD	87-03-011	296-155-270	AMD-P	87-02-058	308-94-110	AMD	87-03-041
296-27-16009	REP	87-03-011	296-155-405	AMD-P	87-02-058	308-94-160	AMD	87-03-041
296-27-16011	AMD	87-03-011	296-155-425	REP-P	87-02-058	308-94-170	AMD	87-03-041
296-27-16013	REP	87-03-011	296-155-426	NEW-P	87-02-058	308-94-180	REP	87-03-041
296-27-16015	REP	87-03-011	296-155-428	NEW-P	87-02-058	308-94-181	NEW	87-03-041
296-27-16017	REP	87-03-011	296-155-429	NEW-P	87-02-058	308-94-190	REP	87-03-041
296-27-16018	NEW	87-03-011	296-155-430	REP-P	87-02-058	308-94-191	NEW	87-03-041
296-27-16019	REP	87-03-011	296-155-432	NEW-P	87-02-058	308-94-200	AMD	87-03-041
296-27-16020	NEW	87-03-011	296-155-434	NEW-P	87-02-058	308-94-210	AMD	87-03-041
296-27-16021	REP	87-03-011	296-155-435	REP-P	87-02-058	308-94-220	AMD	87-03-041
296-27-16022	NEW	87-03-011	296-155-437	NEW-P	87-02-058	308-94-230	REP	87-03-041
296-27-16023	REP	87-03-011	296-155-440	REP-P	87-02-058	308-94-240	AMD	87-03-041
296-27-16026	NEW	87-03-011	296-155-441	NEW-P	87-02-058	308-94-250	AMD	87-03-041
296-62-05405	AMD-P	87-05-055	296-155-444	NEW-P	87-02-058	308-94-260	REP	87-03-041
296-62-05427	AMD-P	87-05-055	296-155-447	NEW-P	87-02-058	308-94-261	NEW	87-03-041
296-62-07353	AMD-P	87-02-058	296-155-449	NEW-P	87-02-058	308-94-265	NEW	87-03-041
296-62-07517	AMD-P	87-05-055	296-155-450	REP-P	87-02-058	308-94-270	NEW	87-03-041
296-62-077	NEW-P	87-05-055	296-155-452	NEW-P	87-02-058	308-96A-005	AMD-P	87-04-067
296-62-07701	NEW-P	87-05-055	296-155-455	REP-P	87-02-058	308-96A-021	NEW-P	87-04-067
296-62-07703	NEW-P	87-05-055	296-155-456	NEW-P	87-02-058	308-96A-065	AMD-P	87-04-067
296-62-07705	NEW-P	87-05-055	296-155-459	NEW-P	87-02-058	308-96A-100	AMD-P	87-04-067
296-62-07707	NEW-P	87-05-055	296-155-462	NEW-P	87-02-058	308-96A-136	NEW-P	87-04-067
296-62-07709	NEW-P	87-05-055	296-155-745	AMD-P	87-02-058	308-96A-205	AMD-P	87-04-067
296-62-07711	NEW-P	87-05-055	296-155-775	AMD-P	87-05-055	308-96A-220	AMD-P	87-04-067
296-62-07713	NEW-P	87-05-055	296-306-003	NEW-C	87-02-056	308-96A-300	AMD-P	87-04-067
296-62-07715	NEW-P	87-05-055	296-306-003	NEW-C	87-05-023	308-96A-306	NEW-P	87-04-067
296-62-07717	NEW-P	87-05-055	296-306-005	REP-C	87-02-056	308-96A-310	AMD-P	87-04-067
296-62-07719	NEW-P	87-05-055	296-306-005	REP-C	87-05-023	308-96A-325	AMD-P	87-04-067
296-62-07721	NEW-P	87-05-055	296-306-006	NEW-C	87-02-056	308-96A-330	AMD-P	87-04-067
296-62-07723	NEW-P	87-05-055	296-306-006	NEW-C	87-05-023	308-96A-335	AMD-P	87-04-067
296-62-07725	NEW-P	87-05-055	296-306-009	NEW-C	87-02-056	308-96A-400	AMD-P	87-04-067
296-62-07727	NEW-P	87-05-055	296-306-009	NEW-C	87-05-023	308-96A-410	NEW-P	87-04-067
296-62-07729	NEW-P	87-05-055	296-306-012	NEW-C	87-02-056	308-96A-415	NEW-P	87-04-067
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