

Washington State Register

MAY 6, 1987

OLYMPIA, WASHINGTON

ISSUE 87-09



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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 May 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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The Washington State Register is an official publication of the state of Washington. It contains proposed, emergency, and permanently adopted administrative rules, as well as other documents filed with the code reviser's office pursuant to RCW 34.08.020 and 42.30.075. Publication of any material in the Washington State Register is deemed to be official notice of such information.

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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
<hr/>					
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
87-15	Jun 24	Jul 8	Jul 22	Aug 5	Aug 25
87-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8
87-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22
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87-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8
87-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
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 87-09-001
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
 [Order 1924—Filed April 2, 1987]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to use of dinoseb on dry peas, chickpeas and lentils.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in the fall of 1986, the United States Environmental Protection Agency suspended all uses of the herbicide dinoseb. The dry pea and lentil industry appealed the EPA decision and on April 1, 1987, the EPA agreed to allow the use of dinoseb on dry peas, chickpeas and lentils under severe restrictions. These emergency rules are to place further restrictions on the distribution and use of dinoseb in Washington and must be effective immediately because the application season begins on April 5, 1987.

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

This rule is promulgated pursuant to chapters 15.58 and 17.21 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 2, 1987.

By Michael V. Schwisow
 Deputy Director

NEW SECTION

WAC 16-228-400 RESTRICTED USE PESTICIDE. *Dinoseb is hereby declared to be a restricted use pesticide. The use or application of any formulation of dinoseb shall be limited to dry peas, chickpeas and lentils prior to July 15, 1987 under the conditions of the Section 18 issued by the federal Environmental Protection Agency.*

NEW SECTION

WAC 16-228-410 DISTRIBUTION. *Distribution of dinoseb shall be only by pesticide dealers who are currently licensed with the Washington State department of agriculture and who have obtained a permit from the department to distribute dinoseb. The permit shall contain dealer recordkeeping and distribution requirements.*

NEW SECTION

WAC 16-228-420 PRIVATE APPLICATOR RECORDS. *Private applicators applying dinoseb shall keep records in accordance with the provisions of the federal Section 18 and furnish them to the department as required.*

NEW SECTION

WAC 16-228-430 TRAINING. *Persons applying dinoseb shall be required to have proof of attending specific training in the use of dinoseb or having passed an examination demonstrating knowledge of the Section 18 and the safe handling, use, application and disposal of dinoseb.*

WSR 87-09-002

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
(Local Development and Housing Division)
 [Memorandum—April 1, 1987]

Below is a schedule of Development Loan Fund (DLF) Board meetings for the remainder of 1987:

Tuesday, May 26
 Tuesday, July 28
 Tuesday, September 29
 Tuesday, November 17

The meetings will be held in the Host Executive Conference Room, Sea-Tac, from 3:00 p.m. – 5:00 p.m.

WSR 87-09-003

NOTICE OF PUBLIC MEETINGS
GREEN RIVER COMMUNITY COLLEGE
 [Memorandum—March 30, 1987]

Green River Community College, District No. 10, pursuant to RCW 42.30.075, will change the date of its regular board of trustees meeting from Thursday, April 16, 1987, to Thursday, April 23, 1987.

WSR 87-09-004

NOTICE OF PUBLIC MEETINGS
GREEN RIVER COMMUNITY COLLEGE
 [Memorandum—March 31, 1987]

Green River Community College, District No. 10, pursuant to RCW 42.30.075, will change the date of its regular board of trustees meeting from Thursday, May 21, 1987, to Thursday, May 14, 1987.

WSR 87-09-005
NOTICE OF PUBLIC MEETINGS
PUGET SOUND
WATER QUALITY AUTHORITY
 [Memorandum—April 2, 1987]

The following are the dates and cities for authority meetings for the last six months of 1987:

July 15	Olympia
August 19	Winslow
September 17	Seattle
October 21	Vancouver, B.C.
November 18	Tacoma
December 16	Vashon Island

The specific locations and times for the meetings will be shown as they are established.

WSR 87-09-006
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
 [Filed April 3, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Transportation intends to amend WAC 468-58-080 concerning guides for control of access on crossroads and interchange ramps;

that the agency will at 10:00 a.m., Tuesday, June 2, 1987, in the Transportation Building, Room 1D 2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 47.52.020, Powers of highway authorities—State facility, county road crossings.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 20, 1987.

Dated: April 3, 1987

By: A. D. Andreas
 Deputy Secretary

STATEMENT OF PURPOSE

Title: WAC 468-58-080 Guides for control of access on crossroads and road approaches.

Description of Purpose: Adoption of amendments to WAC 468-58-080.

Statutory Authority: RCW 47.52.020, Powers of highway authorities—State facility, county road crossings.

Summary of Rule: This rule amends regulations pertaining to the establishment of road approaches on controlled access facilities. The rule also amends regulations for the measurement of access control limits.

Reason for Rule: This rule is promulgated due to the increased need for wider road approaches and the need for more clarity on the measurement of access control limits.

Agency Proposing Rule: Washington State Department of Transportation.

Department Personnel Responsible for Drafting and Implementation: Mr. C. L. Slemmer, State Project Development Engineer, Department of Transportation, Room 2C3, Transportation Building, Olympia, Washington 98504, (206) 753-6135.

Agency Comments or Recommendations: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 34, filed 7/23/79)

WAC 468-58-080 GUIDES FOR CONTROL OF ACCESS ON CROSSROADS AND INTERCHANGE RAMP. (1) Fully controlled highways, including interstate.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a fully controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) There shall be no direct connections from the limited access facility in rural areas to local service or frontage roads except through interchanges.

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(d) Full control of access should be provided along the crossroad from the centerline of a ramp or terminus of a transition taper for a minimum distance of three hundred feet. Upon determination by the department, full control of access may be provided for the first one hundred thirty feet from the centerline of the ramp or terminus of a transition taper and partial control or modified control of access may be provided for the remainder of the distance to the frontage road or local road for a total minimum distance for the two types of control of three hundred feet. Type A, B, C, D and E road approaches, as defined hereafter under subsection (3) of this section, "general," may be permitted on that portion of the crossroad on which partial or modified control of access is established.

(2) Partially controlled highways.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a partially controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) In both urban and rural areas access control on a partially controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control ~~((may))~~ should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(c) Access control limits at the crossroads on a partially controlled highway should be established along the crossroad at a grade intersection for a minimum distance of three hundred feet from the centerline of the nearest directional roadway. If a parallel road is located within three hundred fifty feet of said grade intersection, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad. Type D and E approaches may be permitted closer than one hundred thirty

feet from the center of the intersection only when they already exist and cannot reasonably be relocated.

(d) Access control limits at intersections on modified control highways should be established along the cross road for a minimum distance of one hundred thirty feet from the centerline of a two-lane highway or for a minimum of one hundred ~~((fifty))~~ thirty feet from centerline of the nearest directional roadway of a four-lane highway. Type D and E approaches should be allowed within this area only when no reasonable alternative is available.

(3) General.

(a) Access control may be increased or decreased beyond or under the minimum requirements to fit local conditions if so determined by the department.

(b) Type A, B, C, D and E approaches are defined as follows:

(i) Type A approach. Type A approach is an off and on approach in legal manner, not to exceed ~~((fourteen))~~ thirty feet in width, for sole purpose of serving a single family residence. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(ii) Type B approach. Type B approach is an off and on approach in legal manner, not to exceed ~~((twenty))~~ fifty feet in width, for use necessary to the normal operation of a farm, but not for retail marketing. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(iii) Type C approach. Type C approach is an off and on approach in legal manner, for special purpose and width to be agreed upon. It may be specified at a point satisfactory to the state at or between designated highway stations.

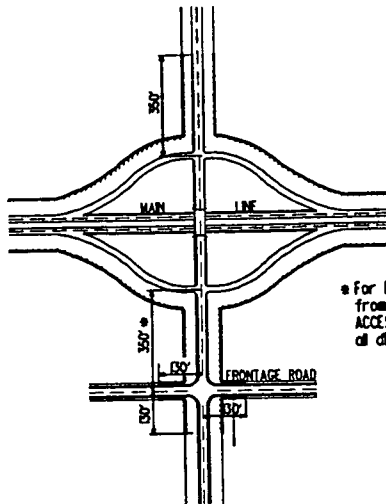
(iv) Type D approach is an off and on approach in a legal manner not to exceed fifty feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations. ~~((Under no circumstances will a change in location or width of this approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.))~~

(v) Type E approach is a separated off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

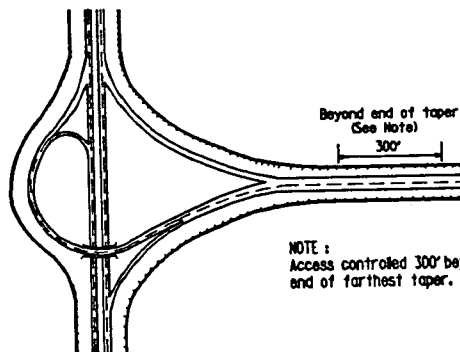
~~((c))~~ Under no circumstances will a change in location or width of ~~((this))~~ an approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.

~~((d))~~ Commercial approaches shall not be permitted within the limits of access control except where modified access control has been approved by the department.

~~((e))~~ All access control shall be measured from the centerline of the ramps, crossroads or parallel roads or from the terminus of transition tapers. On multiple lane facilities measurement shall be from the centerline of the nearest directional roadway.

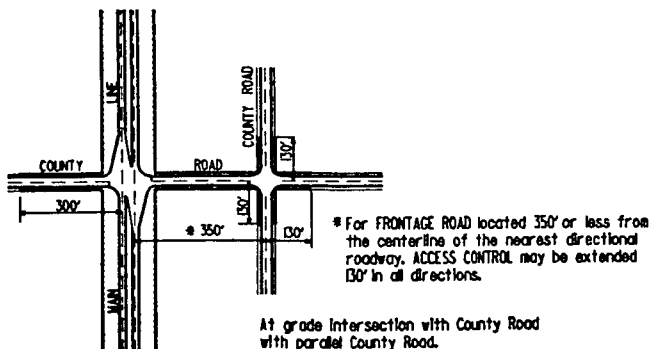


* For FRONTAGE ROAD located 350' or less from the centerline of the ramp terminal, ACCESS CONTROL may be extended 30' in all directions.



Beyond end of taper (See Note)
300'

NOTE:
Access controlled 300' beyond end of farthest taper.



WSR 87-09-007
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
 [Filed April 3, 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 health facility review fees, amending WAC 440-44-030;

that the agency will at 10:00 a.m., Tuesday, May 26, 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 May 27, 1987.

The authority under which these rules are proposed is RCW 43.20A.055.

The specific statute these rules are intended to implement is RCW 43.20A.055.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 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 May 18, 1987. The meeting site is in a location which is barrier free.

Dated: April 3, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.
 Re: Amending chapter 440-44 WAC.

Purpose of the Changes: To recover, through an application fee surcharge, the costs of obtaining actuarial and feasibility consultations from the insurance commissioner on continuing care retirement community applications, and to repeal the fee for filing of notifications of intent to acquire existing health care facilities.

Reason These Rules are Necessary: To maintain the fiscal integrity of the certificate of need program.

Statutory Authority: RCW 43.20A.055.

Summary of Rule Change: WAC 440-44-030 Health facility certificate of need review fees, subsection (1) establishes an actuarial and financial review fee surcharge for nursing home applications sponsored by continuing care retirement communities; and subsection (5) repeals filing fee for notices of intent to acquire existing health care facilities. The notice requirement has been repealed in WAC 248-19-230.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Frank Chestnut, Director, Certificate of Need Program, mailstop OB-37, phone 753-5854.

AMENDATORY SECTION (Amending Order 2109, filed 6/7/84)

WAC 440-44-030 ((~~HEALTH FACILITY~~)) CERTIFICATE OF NEED REVIEW FEES. (1) An application for a certificate of need under chapter 248-19 WAC shall be accompanied by payment of a fee consisting of the following:

- (a) An application processing fee in the amount of five hundred dollars which shall not be refundable, ((and))
- (b) A review fee, based on the total capital expenditure associated with the undertaking or project, as follows:

Proposed Capital Expenditure	Review Fee
\$ 0 to \$ 69,999	\$ 1,000
70,000 to 84,999	1,670
85,000 to 99,999	1,930
100,000 to 129,999	2,215
130,000 to 159,999	2,525
160,000 to 204,999	2,875
205,000 to 249,999	3,255
250,000 to 399,999	3,680
400,000 to 549,999	4,145
550,000 to 699,999	4,655
700,000 to 849,999	5,210
850,000 to 999,999	5,830
1,000,000 to 1,299,999	6,515
1,300,000 to 1,599,999	7,260
1,600,000 to 1,999,999	8,085

Proposed Capital Expenditure	Review Fee
2,000,000 to 2,499,999	8,990
2,500,000 to 2,999,999	9,975
3,000,000 to 3,999,999	11,060
4,000,000 to 4,999,999	12,255
5,000,000 to 7,499,999	13,570
7,500,000 to 9,999,999	15,015
10,000,000 to 14,999,999	16,650
15,000,000 to 19,999,999	19,260
20,000,000 to 29,999,999	20,545
30,000,000 to 39,999,999	22,865
40,000,000 to 49,999,999	25,285
50,000,000 to 64,999,999	28,015
65,000,000 to 79,999,999	31,060
80,000,000 to 99,999,999	34,485
100,000,000 and over	38,285

(c) A nonrefundable two thousand dollar actuarial and financial review fee surcharge for an application sponsored by an existing or proposed continuing care retirement community (CCRC) as defined in WAC 248-19-328 (3)(b).

(2) ~~(A request for)~~ The applicant shall accompany the submittal of an amendment to a certificate of need application with ~~(shall be accepted by the department only when accompanied by)~~ a ~~(nonrefundable processing)~~ fee ~~(to)~~ consisting of the following:

- (a) A nonrefundable processing fee of two hundred fifty dollars, and
- (b) An additional review fee based on the difference between the review fee previously paid when the application was submitted and the review fee applicable to the larger capital expenditure, when the amendment increases the capital expenditure, or

(c) The department shall refund to the applicant the difference between the review fee previously paid when the application was submitted and the review fee applicable to the smaller capital expenditure, when the amendment decreases the capital expenditure.

~~((a) When an amendment results in a capital expenditure exceeding the capital expenditure corresponding to the review fee paid at the time the application was first submitted to the department, the amendment shall be accompanied by payment of an additional fee representing the difference between the review fee paid when the application was first submitted and the review fee applicable to the increased capital expenditure.~~

~~(b) When an amendment results in a capital expenditure less than the capital expenditure corresponding to the review fee paid at the time the application was first submitted to the department, the department shall refund the difference to the applicant.~~

(3) ~~(When)~~ The applicant shall accompany the submittal of an application ~~(for an amended)~~ to amend or ~~(extended)~~ extend a certificate of need ~~(is submitted to the department subsequent to the issuance of a certificate of need, in accordance with the provisions of WAC 248-19-450 or WAC 248-19-460, such application shall be accompanied by)~~ with payment of a ~~(nonrefundable processing)~~ fee consisting of the following:

- (a) A nonrefundable processing fee ~~(in the amount)~~ of five hundred dollars, and~~(;)~~
- (b) An additional ~~(if the amendment represents an increase in the capital expenditure associated with the project, a)~~ review fee representing the difference between the review fee paid when the application was first submitted and the review fee applicable to the ~~(increased)~~ greater capital expenditure ~~(associated with the application for amendment)~~ when the amendment increases the capital expenditure.

(4) When an application is returned to an applicant in accordance with the provisions of WAC 248-19-280 (2)(b) or (e), any review fees paid by the applicant shall be refunded, in full, by the department.

(5) ~~(Each notice of intent to acquire a health care facility submitted to the department under the provisions of WAC 248-19-230(2) shall include a nonrefundable processing fee of one hundred dollars.~~

(6) Other certificate of need program fees are:
(a) A nonrefundable one hundred dollar processing fee for each notice of intent to acquire major medical equipment submitted to the department under the provisions of WAC 248-19-403 ~~(shall include a nonrefundable processing fee of one hundred dollars),~~

(b) A nonrefundable one hundred dollar processing fee for each request for an exemption from certificate of need review submitted under the provisions of WAC 248-19-405,

(c) A nonrefundable one hundred dollar processing fee for each request for an exemption from certificate of need review under the provisions of RCW 70.38.105 (4)(d).

~~((7) Each request for an exemption from certificate of need review submitted to the department under the provisions of WAC 248-19-405 (which pertains to health maintenance organizations) shall include a nonrefundable processing fee of one hundred dollars.~~

~~(8) Each request for an exemption from certificate of need review submitted to the department under the provisions of RCW 70.38.105 (4)(d) (which pertains to certain capital expenditure projects which do not substantially affect patient charges) shall include a nonrefundable processing fee of one hundred dollars.)~~

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 87-09-008
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 3, 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 food stamps, amending WAC 388-54-645;

that the agency will at 10:00 a.m., Tuesday, May 26, 1987, in the Auditorium, OB2, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 27, 1987.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 3, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
 Re: WAC 388-54-645.

Purpose of the Rule Change: Policies for expedited applicants require that coupons must be available no

later than the fifth calendar day and that a Social Security number must be furnished or applied for.

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: Expedited applicants must have an opportunity to transact the food coupon authorization (FCA) no later than the fifth calendar day following the date the application was filed. Expedited applicants will be asked to furnish a Social Security number for each person or apply for a number before the first full month of participation.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Roy Uppendahl, Division of Income Assistance, mailstop OB 31J, phone 753-4918, scan 234-4918.

These rules are necessary as a result of federal law, 7 CFR Parts 272 and 273.

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

WAC 388-54-645 APPLICATION AND PARTICIPATION—EXPEDITED SERVICE. The department shall screen applicants at the time of application to determine ~~((which households are eligible))~~ eligibility for expedited service.

~~(1) ((If otherwise eligible;))~~ The following households ((are)) shall be entitled to expedited service.

(a) Households with liquid resources not to exceed one hundred dollars, and

(b) Households with gross monthly income under one hundred fifty dollars, or

(c) Migrant or seasonal farmworkers who are destitute as defined in WAC 388-54-655.

~~(2) ((For))~~ Households eligible for expedited service.

(a) The department shall ~~((mail or have))~~ make available for the household an FCA or food coupons no later than the ((close of business on the)) fifth calendar day following the date the application was filed. If a FCA is issued, the household must have an opportunity to transact the FCA no later than the fifth calendar day following the day the application was filed.

(b) For residents of drug or alcoholic treatment and rehabilitation centers who are eligible, the department shall make the FCA or ~~((and))~~ coupons available within seven working days following the date the application was filed.

(3) When expediting certification and issuance, the department shall:

(a) Verify the household's identity through a collateral contact or readily available documentary evidence.

(b) Make all reasonable efforts to verify within the expedited service processing standard, the household's residency, income (including a statement the household has no income), liquid resources, and all required verifications.

~~((Benefits shall not be delayed beyond the delivery standard described in subsection (2) of this section solely because the eligibility factors have not been verified.))~~

(c) Ask the household to furnish a social security number (SSN) for each person or apply for a SSN before the first full month of participation.

(d) Require the applicant to register for work unless exempt or unless the household has designated an authorized representative to apply on the household's behalf((;)). Postpone work registration of other members of the household if registration cannot be accomplished within the expedited service time frames.

~~((d))~~ (e) ((Promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification)) Not delay benefits beyond the delivery standard described in subsection (2) of this section solely because the eligibility factors have not been verified.

(4) Normal certification periods. The department shall assign a normal certification period for households that are certified on an expedited basis and have provided all necessary verification required prior to certification ((shall be assigned a normal certification period. When Social Security numbers (SSNs) are the only required items not verified, the household member having applied for an SSN shall be allowed to participate through the end of the first month of benefits. Those households unable to provide the required SSNs or not having one prior to their next issuance shall be allowed thirty days from the

first day of the first full month of participation to obtain the SSN. If good cause is established, the participant may continue to participate for an additional thirty days provided the individual has documentation indicating he or she has applied for a SSN)).

~~(5) Postponed verification.~~

(a) ((If all necessary verification was postponed;)) The ((household will be certified)) department shall certify the household for one month ((only unless)) if verification was postponed and the household ((has)) applied after the fifteenth of the month. ((Then))

(b) The department shall certify the household for the month of application and the ((subsequent)) following month when the household applied after the fifteenth of the month. ((When the household has provided the postponed verification;))

(c) The department shall issue the subsequent month's allotment within five working days from receipt of the verification when the household has provided the postponed verification.

~~((a))~~ (d) The allotment shall not be issued past the month of application if verification which was postponed is not completed. ((If the postponed verification is not completed within thirty days of the date of application;))

(e) The ((household)) department shall ((be terminated)) terminate and issue no additional allotment ((issued)) to the household if the postponed verification is not completed within thirty days of the date of application.

~~((b))~~ At the time of reapplication; (6) Social security numbers. Households unable to provide the required SSNs or not having one prior to their next issuance shall be allowed thirty days from the first day of the first full month of participation to obtain the SSN. If good cause is established, the participant may continue to participate for an additional thirty days provided the individual has documentation indicating an application for a SSN has been made.

~~(7) Reapplication.~~

(a) The department shall require the household ((shall)) to complete the verification requirements which were postponed at the time of reapplication.

~~((a))~~ (b) ((There is no)) The department shall not place a limit to the number of times a household can be certified under expedited procedures, so long as prior to each expedited certification, the household either:

(i) Completes the verification requirements postponed at the last expedited certification((;)); or

(ii) Was certified under normal processing standards since the last expedited certification.

~~((a))~~ (8) Out-of-office interview. ((A household entitled both to expedited service and waiver of office interview)) The department shall ((be interviewed)) conduct an interview and process the application ((process completed)) within the expedited service standards when the household is entitled both to expedited service and waiver of office interview. The following applies:

(a) The first day of the expedited service standard is the calendar day following application filing.

(b) If the application is not complete and a telephone interview is conducted, the department shall complete the application for the household during the interview and mail the completed application the same day to the household for signature.

(c) Mailing time will not be calculated in the expedited service standard.

(d) Mailing time shall include days the application is in the mail to and from the household and the days the application is in the household's possession.

WSR 87-09-009
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2479—Filed April 3, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to food stamps, amending WAC 388-54-645.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement 7 CFR Parts 272 and 273.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.04.510.

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

APPROVED AND ADOPTED April 3, 1987.

By Leslie F. James, Director
Administrative Services

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

WAC 388-54-645 APPLICATION AND PARTICIPATION—EXPEDITED SERVICE. The department shall screen applicants at the time of application to determine ~~((which households are eligible))~~ eligibility for expedited service.

(1) ~~((If otherwise eligible,))~~ The following households ~~((are))~~ shall be entitled to expedited service.

(a) Households with liquid resources not to exceed one hundred dollars, and

(b) Households with gross monthly income under one hundred fifty dollars, or

(c) Migrant or seasonal farmworkers who are destitute as defined in WAC 388-54-655.

(2) ~~((For))~~ Households eligible for expedited service.

(a) ~~The department shall ~~((mail or have))~~ make available for the household an FCA or food coupons no later than the ~~((close of business on the))~~ fifth calendar day following the date the application was filed. If a FCA is issued, the household must have an opportunity to transact the FCA no later than the fifth calendar day following the day the application was filed.~~

(b) ~~For residents of drug or alcoholic treatment and rehabilitation centers who are eligible, the department shall make the FCA or ~~((and))~~ coupons available within seven working days following the date the application was filed.~~

(3) ~~When expediting certification and issuance, the department shall:~~

(a) ~~Verify the household's identity through a collateral contact or readily available documentary evidence.~~

(b) ~~Make all reasonable efforts to verify within the expedited service processing standard, the household's residency, income (including a statement the household has no income), liquid resources, and all required verifications.~~

~~((Benefits shall not be delayed beyond the delivery standard described in subsection (2) of this section solely because the eligibility factors have not been verified.))~~

~~(c) Ask the household to furnish a social security number (SSN) for each person or apply for a SSN before the first full month of participation.~~

~~(d) Require the applicant to register for work unless exempt or unless the household has designated an authorized representative to apply on the household's behalf((;)). Postpone work registration of other members of the household if registration cannot be accomplished within the expedited service time frames.~~

~~((d)) (e) ((Promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification)) Not delay benefits beyond the delivery standard described in subsection (2) of this section solely because the eligibility factors have not been verified.~~

~~(4) Normal certification periods. The department shall assign a normal certification period for households that are certified on an expedited basis and have provided all necessary verification required prior to certification ~~((shall be assigned a normal certification period. When Social Security numbers (SSNs) are the only required items not verified, the household member having applied for an SSN shall be allowed to participate through the end of the first month of benefits. Those households unable to provide the required SSNs or not having one prior to their next issuance shall be allowed thirty days from the first day of the first full month of participation to obtain the SSN. If good cause is established, the participant may continue to participate for an additional thirty days provided the individual has documentation indicating he or she has applied for a SSN)).~~~~

~~(5) Postponed verification.~~

~~(a) ((If all necessary verification was postponed,)) The ~~((household will be certified))~~ department shall certify the household for one month ~~((only unless))~~ if verification was postponed and the household ~~((has))~~ applied after the fifteenth of the month. ~~((Then))~~~~

~~(b) The department shall certify the household for the month of application and the ~~((subsequent))~~ following month when the household applied after the fifteenth of the month. ~~((When the household has provided the postponed verification,))~~~~

~~(c) The department shall issue the subsequent month's allotment within five working days from receipt of the verification when the household has provided the postponed verification.~~

~~((a)) (d) The allotment shall not be issued past the month of application if verification which was postponed is not completed. ~~((If the postponed verification is not completed within thirty days of the date of application,))~~~~

~~(e) The ~~((household))~~ department shall ~~((be terminated))~~ terminate and issue no additional allotment ~~((issued))~~ to the household if the postponed verification is not completed within thirty days of the date of application.~~

~~((b) At the time of reapplication,)) (6) Social security numbers. Households unable to provide the required SSNs or not having one prior to their next issuance shall be allowed thirty days from the first day of the first full month of participation to obtain the SSN. If good cause is established, the participant may continue to participate for an additional thirty days provided the individual~~

has documentation indicating an application for a SSN has been made.

(7) Reapplication.

(a) The department shall require the household ((shall)) to complete the verification requirements which were postponed at the time of reapplication.

((c)) (b) ((There is no)) The department shall not place a limit to the number of times a household can be certified under expedited procedures, so long as prior to each expedited certification, the household either:

(i) Completes the verification requirements postponed at the last expedited certification((:)); or

(ii) Was certified under normal processing standards since the last expedited certification.

((f)) (8) Out-of-office interview. ((A household entitled both to expedited service and waiver of office interview)) The department shall ((be interviewed)) conduct an interview and process the application ((process completed)) within the expedited service standards when the household is entitled both to expedited service and waiver of office interview. The following applies:

(a) The first day of the expedited service standard is the calendar day following application filing.

(b) If the application is not complete and a telephone interview is conducted, the department shall complete the application for the household during the interview and mail the completed application the same day to the household for signature.

(c) Mailing time will not be calculated in the expedited service standard.

(d) Mailing time shall include days the application is in the mail to and from the household and the days the application is in the household's possession.

WSR 87-09-010

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 2-87—Filed April 3, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does adopt the annexed rules relating to Professional certification—General provisions, chapter 180-75 WAC.

This action is taken pursuant to Notice No. WSR 87-05-048 filed with the code reviser on February 18, 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 28A.70-.005 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 March 27, 1987.

By Monica Schmidt
Secretary

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. If the notice is to lapse or revoke a certificate and the superintendent of public instruction has knowledge that such certificate holder is employed within the common school system or by an approved private school, the superintendent of public instruction shall provide such employer with a copy of the written notice.

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-five 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 quasi-judicial 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 quasi-judicial 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 certificate holder has had a professional license revoked by a licensing agency or 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))~~ reinstatement 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—GROUNDS 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 investigates and 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 or will investigate 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, within a reasonable period of time of making such determination, shall file a written complaint with the superintendent of public instruction: PROVIDED, That if an educational service district or school district is considering action to discharge an employee of such district, the educational service district or school district superintendent need not file such complaint until ten calendar days after making the final decision to serve or not serve formal notice of discharge.

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. (~~(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 is discharged or 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 sufficient 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—i.e., immorality, intemperance, and violation of written contract—some of which are included within the concept of 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 87-09-011

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 3-87—Filed April 3, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does

adopt the annexed rules relating to Professional certification—Preparation program development and approval, chapter 180-78 WAC.

This action is taken pursuant to Notice No. WSR 87-05-049 filed with the code reviser on February 18, 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 28A.70.005 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 March 27, 1987.

By Monica Schmidt
Secretary

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((?)) 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" ((shall)) 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" ((shall)) 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" ((shall)) 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" ((shall)) means the act of working together in a participatory mode.

(5) "Endorsement" ((shall)) 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" ((shall)) 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" ((shall)) 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" ((shall)) 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" ((shall)) means the approval by the state board of education of a preparation program within Washington state.

(10) "Program development" ((shall)) means the cooperative process employed to identify program outcomes and experiences essential to program approval.

(11) "Program outcomes" ((shall)) means the explicit objectives of preparation programs stated in terms of knowledge, skill, and performance.

(12) "Program unit" ((shall)) 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" ((shall)) means any public or approved nonpublic school system or district or cooperative group of such organizations.

(14) "Site visit" ((shall)) 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" ((shall)) 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~~) pur-suant 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 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 87-09-012**ADOPTED RULES****STATE BOARD OF EDUCATION**

[Order 4-87—Filed April 3, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does adopt the annexed rules relating to Professional certification—Preparation requirements, chapter 180-79 WAC.

This action is taken pursuant to Notice No. WSR 87-05-050 filed with the code reviser on February 18, 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 28A.70-.005 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 March 27, 1987.

By Monica Schmidt
Secretary

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.

((11) "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 reissued 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 applicable to certification at the time of reissuance including 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 previously held a Washington or other state professional certificate and 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)) prior to receipt of an initial certificate.

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 science 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~~) Health
- (~~(vii)~~) (v) Home economics
- (~~(vii)~~) (vi) Industrial arts

- (~~(viii)~~) (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 quarter hours (thirty semester hours) of course work(~~(;)~~)—shall require the satisfactory completion of a minimum 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 (~~re-~~ 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 professional service as a teacher, administrator, or educational staff associate 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~~

~~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 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-third 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) Aesthetics or philosophy of art.
- (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 and 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 or applications.
- (3) Information processing, word processing, or machine transcription.
- (4) Microcomputer application.
- (5) Instructional methods in keyboarding.
- (6) Instructional methods in accounting.

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) Data structures.
- (4) Assembly language.
- (5) Structured programming in BASIC or Logo.
- (6) Structured programming in one of the high level languages: LISP, C, Pascal, PROLOG, FORTRAN, PL 1, Smalltalk, COBOL, Modula-2, FORTH, RPG.

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 geology.
- (3) Environmental geology.
- (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.
- (11) Instructional methods in health 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) Comparative literature.
- (4) Linguistics or structure of language.
- (5) 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 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) Substance use and abuse.
- (2) Wellness and illness.
- (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) Nutrition.
- (4) Consumer education or resource management.

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 three quarter hours (two 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 and/or culture.
- (4) Conducting.
- (5) Instructional methods in choral music.
- (6) Instructional methods in general 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 three quarter hours (two 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 and/or culture.
- (4) Conducting.
- (5) Instructional methods in instrumental music.
- (6) Instructional methods in general 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) Care and prevention of student injury including first aid.
- (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) Economics.
- (2) Anthropology, sociology, or psychology.
- (3) 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.
- (4) Interpersonal communication.

WSR 87-09-013

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 5-87—Filed April 3, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does adopt the annexed rules relating to Professional certification—Continuing education requirement, chapter 180-85 WAC.

This action is taken pursuant to Notice No. WSR 87-05-051 filed with the code reviser on February 18, 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 28A.70-.005 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 March 27, 1987.

By Monica Schmidt
Secretary

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 87-09-014
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-24—Filed April 3, 1987]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use 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 the Klickitat River is not expected to achieve spawning escapement without restricting the recreational fishery.

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

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

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
 APPROVED AND ADOPTED April 4, 1987.

By Ray Ryan
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-57-31500F **KLICKITAT RIVER.** *Notwithstanding the provisions of WAC 220-57-315, effective 12:01 a.m. April 6, 1987 until further notice it is unlawful to fish for or possess salmon taken for personal use from the waters of the Klickitat River downstream from the Fisher Hill Bridge.*

WSR 87-09-015
ADOPTED RULES
DEPARTMENT OF AGRICULTURE
 [Order 1923—Filed April 6, 1987]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to restrictions on the use of restricted use herbicides, chapters 16-230, 16-231 and 16-232 WAC.

This action is taken pursuant to Notice No. WSR 87-04-060 filed with the code reviser on February 4, 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 chapters 15.58 and 17.21 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
 APPROVED AND ADOPTED April 1, 1987.

By C. Alan Pettibone
 Director

AMENDATORY SECTION (Amending Order 1585, filed 12/20/78)

WAC 16-230-470 **RESTRICTED USE HERBICIDES—SPOKANE COUNTY—WIND CONDITIONS.** The use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over ((+2)) twelve miles per hour throughout the year: PROVIDED, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved

hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-615 RESTRICTED USE HERBICIDES—EASTERN WASHINGTON—SALE AND DISTRIBUTION. Liquid formulations of restricted use herbicides distributed in packages of one gallon (~~(and)~~) or larger in counties located east of the crest of the Cascade Mountains shall be sold and distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives except for liquid amine formulations of ready-to-use products, or liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use in containers up to and including one gallon in size.

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-640 RESTRICTED USE HERBICIDES—EASTERN WASHINGTON—WEATHER AND TEMPERATURE CONDITIONS. Restricted use herbicides shall not be applied on and after (~~(May)~~) April 1 through October 31 of each year when there is a temperature inversion; or throughout the year if weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops and plantings through physical drift or volatilization, or the temperature is 85°F. or above at the point of application: PROVIDED, That application at the rate of fifty gallons or more per acre by use of handgun spray equipment only shall be exempt from the 85°F. temperature cutoff requirement: PROVIDED FURTHER, That when using the invert system, applications may continue up to 95°F. with a maximum wind velocity of fifteen miles per hour and with water carrier at fifteen or more gallons per acre.

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-645 RESTRICTED USE HERBICIDES—EASTERN WASHINGTON—EVENING CUTOFF. On and after May 1 through October 31 of each year, the application of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise the following morning: PROVIDED, That if there is a mean sustained legal wind velocity of not less than five miles per hour the application of restricted use herbicides shall be allowed in Areas 3 and 4 up to one hour prior to sunset in all counties (~~(under order)~~) as restricted by rule except Benton, Franklin, Yakima, and Walla Walla counties.

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-650 RESTRICTED USE HERBICIDES—EASTERN WASHINGTON—APPLICATION PERMIT. The Washington state department of agriculture may issue a permit, upon receipt of a written

request, to mix, load and apply certain restricted use herbicides for purposes of critical weed control when such activities are restricted (~~(in the area under order)~~) by rule. The director (~~(will)~~) may consider recommendations of the 2,4-D committee for the county in question: PROVIDED, That the 2,4-D committee is kept current for each county.

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-655 RESTRICTED USE HERBICIDES—EASTERN WASHINGTON—GROUND EQUIPMENT PRESSURE REQUIREMENTS. Pressure shall not exceed (~~(25 psi)~~) twenty-five pounds per square inch at the nozzles: PROVIDED, That pressure up to (~~(50 psi)~~) fifty pounds per square inch at the nozzle may be used for (~~(an invert system and for)~~) equipment with handguns, up to ninety pounds per square inch at the nozzle manifold for an invert system.

AMENDATORY SECTION (Amending Order 1677, filed 2/20/80)

WAC 16-231-020 RESTRICTED USE HERBICIDES—BENTON COUNTY—AREA 2. (1) Area 2 description. (a) (Buffer zone surrounding Prosser, Benton City, Kiona and Kennewick areas.) Section 19 through 36, T10N, R24E, R25E and R26E; those portions of Sections 30 and 31, T10N, R27E, lying west of the Yakima River; Sections 13, 14, and 20 through 36, T8N, R24E; Sections 1 through 4, 8 through 12, 15 through 22, T8N, R25E; Sections 35 and 36, T9N, R25E; Sections 1 through 12, T8N, R26E; Sections 25 through 36, T9N, R26E; Sections 1 through 16, Sections 21 through 25, and Section 36, T8N, R27E; Sections 1, 2, 11, and 12, T7N, R28E; that portion of T8N, R28E lying south of the Burlington Northern Railroad tracks; Sections 1 through 12, T7N, R29E; Sections 15 through 22, Sections 25 through 36 and those portions of Sections 7, 8, 9, 14, 15, 23 and 24 lying south and west of the K.I.D. Canal, T8N, R29E; Sections 1 through 12, T7N, R30E; Sections 31 and those portions of Sections 29, 30, 32, 33 and 34 lying south and west of the K.I.D. Canal, T8N, R30E; and those portions of Sections 5 through 8, T7N, R31E, lying in Benton County.

(b) Also including an area beginning at the boundary of (Yakima and Benton Counties in Benton County at the northwest corner of) Section 19, T13N, R24E; thence east three miles to the northeast corner of Section 21, T13N, R24E; thence south one mile to the southeast corner of Section 21, T13N, R24E; thence east one mile to the northeast corner of Section 27, T13N, R24E; thence south four miles to the southeast corner of Section 10, T12N, R24E; thence west to the southwest corner (Yakima-Benton County line) of Section 7, T12N, R24E; thence north to the point of beginning.

(c) An area near Patterson bordering Area 1. A two-mile border around Area 1 beginning at the southwest corner of Section 10, T5N, R26E; thence following section lines north ten miles to the northeast corner of Section 28, T7N, R26E; thence five miles west to the northwest corner of Section 26, T7N, R25E; thence

south three miles to the southwest corner of Section 2, T6N, R25E; thence west six miles to the northwest corner of Section 11, T6N, R24E; thence south seven miles to the southwest corner of Section 11, T5N, R24E; thence two miles east to the northwest corner of Section 18, T5N, R25E; thence four miles south to the southwest corner of Section 31, T5N, R25E; thence east along section lines to the Columbia River; thence northeasterly along the shore of Blalock Island to the point of origin.

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides shall be prohibited on and after April ((5)) 1 through October 31.

(b) On and after April ((5)) 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.

(c) On and after April ((5)) 1 through October 31, aircraft applications of restricted use herbicides shall be ~~((made using danger area restrictions (see WAC 16-230-675): PROVIDED, That aircraft applications of restricted use herbicides on other than growing crops shall be considered through written request to))~~ prohibited except by written permit issued by the Washington state department of agriculture. Aircraft applications shall be prohibited within one mile of commercial vineyards and within one-quarter mile of other susceptible crops. On and after November 1 through ((April 4)) March 31 of the following year, aircraft applications shall be made using caution area restrictions (see WAC 16-230-675).

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

AMENDATORY SECTION (Amending Order 1677, filed 2/20/80)

WAC 16-231-030 RESTRICTED USE HERBICIDES—BENTON COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, and 3 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such application shall be prohibited in Area 1 on and after April ((5)) 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1726, filed 3/16/81)

WAC 16-231-115 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—AREA 1. (1) Area 1 description. ~~((Lands generally within the Columbia~~

~~Basin irrigation project.) This area includes all lands lying within a boundary line starting at the Columbia River and the south section line of Section 24, T13N, R27E; thence east along the section lines and the Basin Hill Road seventeen miles more or less to state Highway 17; thence northerly along state Highway 17, five miles more or less to state Highway 260; thence east along state Highway 260 five miles more or less to the Moor Road; thence north two miles more or less to the Burlington Northern Railroad tracks; thence northwesterly four miles more or less along the Burlington Northern tracks to the Adams County line; thence west nineteen miles more or less along the Adams County line to the northwest corner of Section 6, T14N, R28E; thence south four miles along the Grant County line to the southwest corner of Section 19, T14N, R28E; thence west four miles more or less to the Columbia River; thence southerly and easterly along the Columbia River six miles more or less to the south section line of Section 24, T13N, R27E)) (a) This area includes all lands lying within a boundary line starting at the northwest corner of Section 6, T14N, R28E; thence east along section lines nineteen miles to the Burlington Northern Railroad tracks; thence southeasterly approximately four miles to Moon Road; thence south two miles to State Highway 260; thence west along State Highway 260 approximately five miles to its intersection with State Highway 17; thence south along State Highway 17 approximately fourteen miles to its intersection with Highway 395; thence east one mile more or less to the northeast corner of Section 12, T11N, R30E; thence south fifteen miles more or less along the section lines to the junction of the east section line of Section 25, T9N, R30E, and the Snake River; thence southwesterly along the Snake River to its confluence with the Columbia River; thence following the Columbia River westerly and northerly to the north section line of Section 28, T14N, R27E; thence east along the Grant County line four miles more or less to the northeast corner of Section 25, T14N, R27E; thence north along the Grant County border four miles to the point of origin.~~

~~(b) Also including (Ice Harbor Dam area) Levey: This area includes all lands lying within a two-mile radius of Levey within Franklin County.~~

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April ((5)) 1 through October 31 of each year: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after ~~((November 1 through April 4 of the following year, aircraft applications of restricted use~~

~~herbicides shall be allowed using the caution area restrictions (see WAC 16-230-675). On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be allowed using the danger~~) April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited except by written permit issued by the department: PROVIDED, That on and after November 1 through April 4 of the following year, aircraft applications of restricted use herbicides shall be allowed using the caution area restrictions (see WAC 16-230-675).

~~((d) On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That on and after April 5 through October 31, written requests to apply MCPA to peas and corn located one-half to one mile from commercial vineyards will be considered: PROVIDED FURTHER, That on and after April 5 through April 30 written requests to apply 2,4-DB on alfalfa and red clover seed crops located one-half to one mile from commercial vineyards will be considered.))~~

AMENDATORY SECTION (Amending Order 1726, filed 3/16/81)

WAC 16-231-125 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—AREA 2. (1) Area 2 description. This area includes all of the lands in Franklin County lying west and south of a line starting at the northwest corner of Section 36, T14N, R30E; thence east along the Hendricks Road five miles more or less to the northeast corner of Section 34, T14N, R31E; thence south fifteen miles more or less to the Eltopia and Eye Road; thence easterly along the Eltopia and Eye Road to the Brass Road; thence easterly along the Brass Road to the Bannenburg Road; thence southeasterly along the Bannenburg Road to the northwest corner of Section 6, T10N, R33E; thence south along the section line to the Snake River; thence southwesterly along the Snake River to the east section line of Section 25, T9N, R30E; thence north fifteen miles more or less along the section lines to the northeast corner of Section 12, T11N, R30E; thence west one mile more or less to state Highway 17; thence northerly along state Highway 17 fourteen miles more or less to the northwest corner of Section 36, T14N, R30E excluding lands in Franklin County within a two-mile radius of the town of Levey.

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April ((5)) 1 through October 31 of each year((-PROVIDED, That ground applications of low volatile formulations of restricted use herbicides may be made from April 5 through April 30 using nozzles having a minimum orifice diameter of 0.036 inches)).

(b) On and after ((May)) April 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.

(c) On and after April ((5)) 1 through October 31, aircraft applications of restricted use herbicides shall be

((made using the danger area restrictions (see WAC 16-230-675))) prohibited except by written permit issued by the Washington state department of agriculture.

AMENDATORY SECTION (Amending Order 1676, filed 2/20/80)

WAC 16-231-145 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Area 1 and 1A on and after April ((5)) 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1675, filed 2/20/80)

WAC 16-231-215 RESTRICTED USE HERBICIDES—YAKIMA COUNTY—AREA 1. (1) Area 1 description. (An area south of the Yakima firing center including the upper and lower Yakima Valley.) An area starting at the Yakima-Benton County line and the northeast corner of Section 1, T11N, R23E; thence west along section lines seventeen miles more or less to the southeast corner of Section 31, T12N, R21E; thence north eight miles along section lines to the northeast corner of Section 30, T13N, R21E; thence west along section lines eleven miles to the Yakima River; thence northwesterly along the Yakima River four miles more or less to the junction of the Yakima and Naches Rivers; thence northwesterly along the Naches River for seven miles more or less to the northwest corner of Section 31, T14N, R18E; thence south one mile along the section line to the southwest corner of Section 31, T14N, R18E; thence west along section lines six miles to the northwest corner of Section 6, T13N, R17E; thence south twenty-four miles along section lines to the southwest corner of Section 31, T10N, R17E; thence east twenty-four miles along section lines to the southeast corner of Section 36, T10N, R20E; thence south six miles along section lines to the southwest corner of Section 31, T9N, R21E; thence east six miles along section lines to the northwest corner of Section 6, T8N, R22E; thence south six miles along section lines to the southwest corner of Section 31, T8N, R22E; thence east twelve miles along section lines to the Benton County line; thence north twenty-four miles to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after

April 5 through October 31: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops at any time.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) Aircraft applications of restricted use herbicides shall be allowed only on nonirrigated lands on and after November 1 through April 4 of the following year and shall be made using the caution area restrictions (see WAC 16-230-675). Aircraft applications of restricted use herbicides shall be prohibited on and after April 5 through October 31: PROVIDED, That ~~((aircraft applications shall be allowed using the warning area restrictions)) hormone sprays may be applied to orchards to prevent fruit drop: PROVIDED FURTHER, That aircraft applications shall be allowed by written permit issued by the Washington state department of agriculture in those dry land wheat growing areas east of Moxee and on the Rattlesnake Ridge and the area south of Horse Heaven Hills Ridge contained in Sections 25, 26, 27, 28, 32, 33, 34, 35 and 36, T8N, R23E up to within one mile of commercial grape plantings and to within one-quarter mile of other susceptible crops~~~~((:PROVIDED, That hormone sprays may be applied to orchards to prevent fruit drop))~~.

AMENDATORY SECTION (Amending Order 1675, filed 2/20/80)

WAC 16-231-225 RESTRICTED USE HERBICIDES—YAKIMA COUNTY—AREA 2. (1) Area 2 descriptions. All remaining lands in Yakima County.

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April ~~((5))~~ 1 through October 31.

(b) On and after April ~~((5))~~ 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.

(c) On and after April ~~((5))~~ 1 through October 31, aircraft applications of restricted use herbicides shall be made using the warning area restrictions (see WAC 16-230-675).

AMENDATORY SECTION (Amending Order 1675, filed 2/20/80)

WAC 16-231-235 RESTRICTED USE HERBICIDES—YAKIMA COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 1A and 2 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such application shall be prohibited in Areas 1 and 1A on and after April ~~((5))~~ 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: PROVIDED FURTHER, That applications of restricted use

herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1674, filed 2/20/80)

WAC 16-231-340 RESTRICTED USE HERBICIDES—ADAMS COUNTY—WIND CONDITIONS. (1) Area 1 and 2. (a) The use or application of restricted use herbicides shall be prohibited on and after April 16 through October 31 when the mean sustained wind velocity is over ten miles per hour.

(b) The use or application of restricted use herbicides shall be prohibited on and after November 1 through April 15 of the following year when the mean sustained wind velocity is over twelve miles per hour: PROVIDED, That application of allowable restricted use herbicides shall be exempt from these wind restrictions when applying fifty gallons or more per acre.

(2) Area 3 and 4. The use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over twelve miles per hour: PROVIDED, That ground applications of restricted use herbicides are allowed when using No. 2RD or 2RA raindrop nozzles when the mean sustained wind velocity is fifteen miles per hour or less: PROVIDED FURTHER, That application of allowable restricted use herbicides shall be exempt from these wind restrictions when applying fifty gallons or more per acre: AND PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1673, filed 2/20/80)

WAC 16-231-425 RESTRICTED USE HERBICIDES—COLUMBIA COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Area 2 and 4 when the mean sustained velocity is over twelve miles per hour throughout the year: PROVIDED, That such application shall be prohibited in Area 2 on and after May 1 through October 31 when the mean sustained wind velocity is over seven miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D

ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1672, filed 2/20/80)

WAC 16-231-530 RESTRICTED USE HERBICIDES—WHITMAN COUNTY—WIND CONDITIONS. (1) Areas 1 and 3.

(a) On and after April 15 through October 31, the use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over seven miles per hour.

(b) On and after November 1 through April 14 the following year, the use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over twelve miles per hour.

(2) Area 4. The use or application of restricted use herbicides is prohibited when the mean sustained wind velocity is over twelve miles per hour: PROVIDED, That ground applications of restricted use herbicides are allowed when using No. 2RD or No. 2RA Raindrop nozzles when the mean sustained wind velocity is fifteen miles per hour or less.

(3) All Areas. Applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1668, filed 2/20/80)

WAC 16-231-620 RESTRICTED USE HERBICIDES—Klickitat County—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1666, filed 2/20/80)

WAC 16-231-720 RESTRICTED USE HERBICIDES—OKANOGAN COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom

sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1667, filed 2/20/80)

WAC 16-231-840 RESTRICTED USE HERBICIDES—DOUGLAS AND CHELAN COUNTIES—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 2, 3 and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year and in Area 1 when the mean sustained wind velocity is over twelve miles per hour on and after November 1 through April 15 of the following year, and over seven miles per hour from April 16 through October 31: PROVIDED, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1670, filed 2/20/80)

WAC 16-231-910 RESTRICTED USE HERBICIDES—GRANT COUNTY—AREA 1. (1) Area 1 description. (Lands generally within the Columbia Basin irrigation project.) An area starting at the southwest corner of Section 21, T14N, R27E; thence east along the county line four miles more or less to the southeast corner of Section 24, T14N, R27E; thence north along the county line sixteen miles to the southwest corner of Section 31, T17N, R28E; thence east along the county line thirteen miles more or less to the East Low Canal; thence northerly and easterly along the East Low Canal to the Adams County line; thence north along the Grant-Adams County lines six miles more or less to the East Low Canal; thence northwesterly along the East Low Canal to the southeast boundary of Block 70; thence easterly, northerly, and westerly, encompassing Block 70, Soap Lake and Block 701, to the West Main Canal; thence southwesterly along the West Main Canal to the north boundary line of Unit 1, Block 73; thence westerly along the northern boundary line of Block 73 to the northwest corner of Unit 278; then due west to the Willow Springs Draw; thence down Willow Springs Draw to the Columbia River; thence southerly ((and easterly)) along the Columbia River to the south boundary line of Section 11, T15N, R23E; thence east along the crest of the Saddle Mountains approximately eighteen miles to the northwest boundary of the atomic energy reservation; thence southwesterly along the atomic energy reservation boundary to Highway 24; thence south and east along Highway 24 to Vernita Bridge;

thence easterly along the Columbia River to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 15 through October 31: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 15 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after November 1 through April 14 of the following year, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675).

(d) On and after April 15 through October 31, aircraft applications of restricted use herbicides shall be made using the danger area restrictions (see WAC 16-230-675).

(e) On and after April 15 through October 31, aircraft applications of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That on and after April 15 through October 31, written requests to apply MCPA to peas and corn located one-half to one mile from commercial vineyards will be considered: PROVIDED FURTHER, That on and after April 15 through April 30 written request to apply 2,4-DB on alfalfa and red clover seed crops located one-half to one mile from commercial vineyards will be considered.

NEW SECTION

WAC 16-231-912 RESTRICTED USE HERBICIDES—GRANT COUNTY—AREA 1A. (1) Area 1A description. Lands generally in the Mattawa area in the southwestern part of the county starting at the west end of the crest of Saddle Mountain at the Columbia River, south boundary line of Section 11, T15N, R23E; thence east along the crest of the Saddle Mountains approximately eighteen miles to the northwest boundary of the atomic energy reservation; thence southwesterly along the atomic energy reservation boundary to highway 24; thence following highway 24 to the Vernita Bridge at the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(2) Area 1A restrictions. (a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 1 through October 31: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of

0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having a minimum nozzle orifice diameter of 0.072 inches.

(c) On and after November 1 through March 31 of the following year, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675.)

(d) On and after April 1 through October 31, aircraft applications of restricted use herbicides shall be prohibited except by written permit issued by the Washington state department of agriculture.

AMENDATORY SECTION (Amending Order 1670, filed 2/20/80)

WAC 16-231-935 RESTRICTED USE HERBICIDES—GRANT COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year and in Area 1 and 1A when the mean sustained wind velocity is over twelve miles per hour on and after November 1 through ~~(April 15)~~ March 31 of the following year, and over ten miles per hour from April ~~(16)~~ 1 through October 31: PROVIDED, That applications of allowable restricted use herbicides shall be exempt from these wind restrictions when applying fifty gallons or more per acre: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1724, filed 3/13/81)

WAC 16-232-010 RESTRICTED USE HERBICIDES—WALLA WALLA COUNTY—AREA 1. (1) Area 1 description. (Columbia River Buffer area.) An area starting at the intersection of the Northern Pacific Railroad and the Washington—Oregon state line, ~~((Section 15,))~~ Section 15, T6N, R32E; thence north ((ninet-
teen miles more or less to the Snake River; thence west-
erly along the Snake River and)) to the northeast corner
of Section 15, T7N, R32E; thence east to the intersec-
tion of Section 10, T7N, R33E; thence 14 sections north
with a portion of the north to south boundary being the
Touchet River Road to its intersection with State Route
124; thence west approximately one-half mile to the in-
tersection of State Route 124 and G.M. Rice Road;
thence northerly along G.M. Rice Road to the Snake
River; thence southwesterly along the Snake River to the
Columbia River; thence southerly along the Columbia
River to the Washington—Oregon state line; thence east
to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile ester formulations of restricted use herbicides is prohibited on and after April ((5)) 1 through October 31.

(b) On and after April ((5)) 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.031 inches.

(c) ~~((On and after April 5 through April 30, aerial applications of restricted use herbicides shall be made using the danger area restrictions (see WAC 16-230-675):~~

(d)) On and after ((May)) April 1 through October 31, aerial applications shall be prohibited except by written permit issued by the department.

AMENDATORY SECTION (Amending Order 1665, filed 2/20/80)

WAC 16-232-035 RESTRICTED USE HERBICIDES—WALLA WALLA COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, 2A and 3 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Areas 1 and 2 on and after April ((5)) 1 through October 31 when the mean sustained wind velocity is over seven miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1671, filed 2/20/80)

WAC 16-232-225 RESTRICTED USE HERBICIDES—GARFIELD COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Areas 2 and 3 on and after May 1 through October 31 when the mean sustained wind velocity is over seven miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

AMENDATORY SECTION (Amending Order 1754, filed 3/31/82)

WAC 16-232-315 RESTRICTED USE HERBICIDES—KITTITAS COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Area 1 when the mean sustained wind velocity is over twelve miles on and after April 15 through October 31: PROVIDED, That applications of allowable restricted use herbicides shall be exempt from these wind restrictions when applying fifty gallons or more per acre: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-232-125 WIND CONDITIONS.

WSR 87-09-016

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 87-25—Filed April 6, 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 regulations.

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 this regulation is adopted at the recommendation of the Pacific Marine Fisheries Commission, and conforms minimum lengths for dressed fish and fish in the round.

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

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

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

APPROVED AND ADOPTED April 6, 1987.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-44-05000D COASTAL SABLE FISH—MINIMUM SIZE. Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice the minimum size limit for commercial sablefish from Pacific Ocean waters is 22 inches in length, unless dressed in which case minimum size 15-1/2 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail, except that an incidental catch less than the minimum size of 5,000 pounds for trawl gear or 100 pounds for fixed gear is allowed; no vessel trip restrictions.

WSR 87-09-017**ADOPTED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 87-1—Filed April 6, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to RAP, grades seven through nine—Definition—District eighth grade RAP percentage, WAC 392-140-058.

This action is taken pursuant to Notice No. WSR 87-04-047 filed with the code reviser on February 3, 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 28A.03.030(3) 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 March 16, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 85-14, filed 12/9/85)

WAC 392-140-058 RAP, GRADES SEVEN THROUGH NINE—DEFINITION—DISTRICT EIGHTH GRADE RAP PERCENTAGE. As used in WAC 392-140-042 through 392-140-066, the term "district eighth grade RAP percentage" shall mean the percentage of students who scored in the lowest quartile of the eighth grade basic skills test conducted ~~((in the previous school year))~~ pursuant to RCW 28A.03.360, using the most recent prior two year average scores on the eighth grade test: PROVIDED, That if the district did not offer an eighth grade in the prior two years, the district shall use the district fourth grade RAP percentage.

WSR 87-09-018**ADOPTED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Order 87-2—Filed April 6, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to formula for distribution of state moneys for the state remediation assistance program, WAC 392-122-605.

This action is taken pursuant to Notice No. WSR 87-04-046 filed with the code reviser on February 3, 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 28A.41-.170 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 16, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 85-16, filed 12/9/85)

WAC 392-122-605 FORMULA FOR DISTRIBUTION OF STATE MONEYS FOR THE STATE REMEDIATION ASSISTANCE PROGRAM. (1) As used in this section, the term "~~((fourth grade basic skills test))~~ district fourth grade RAP percentage" shall mean the percentage of students who scored in the lowest quartile of the approved fourth grade test administered by districts pursuant to RCW 28A.03.060, using the most recent prior five-year average scores on the fourth grade test.

(2) A district's entitlement for state moneys for the state remediation assistance program shall be calculated as follows:

(a) ~~Multiply the ((percentage of students taking the fourth grade basic skills test for last year that scored in the lowest quartile as determined by the nationally normed scores))~~ district fourth grade RAP percentage by the number of estimated average annual full-time equivalent students enrolled in the district in grades two through six (~~(- PROVIDED, That if the district did not have any student score in the lowest quartile as defined above in the fourth grade basic skills test, the district shall use the average percentage of district students so scoring for the previous five years))~~); and

(b) Reduce the amount obtained in (a) of this subsection to the extent that the number of students ages seven through eleven resident to the district who are identified as specific learning disabled and served through programs established pursuant to chapter 28A.13 RCW exceeds four percent of the district full time equivalent enrollment in grades two through six; and

(c) Multiply the number of students obtained in (b) of this subsection by the per pupil allocation established in

the state appropriation act for the state remediation assistance program; and

(d) The ~~((product))~~ result in (c) of this subsection is the district's entitlement subject to WAC 392-122-610, 392-122-900 and its provision for enrollment adjustment.

WSR 87-09-019

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 87-3—Filed April 6, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Interfund loans—Identification of temporary loans, WAC 392-123-145.

This action is taken pursuant to Notice No. WSR 87-05-039 filed with the code reviser on February 18, 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 28A.65-.465 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 March 30, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

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 87-09-020

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2480—Filed April 7, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to eligibility standards for the individual and family grant program, amending WAC 388-53-010 and 388-53-050; and repealing WAC 388-53-020, 388-53-030, 388-53-040, 388-53-060, 388-53-070, 388-53-080, 388-53-090, 388-53-100 and 388-53-120.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are essential to the implementation of the individual and family grant program requested by the governor on December 9, 1986, pursuant to an emergency proclamation issued December 15, 1986.

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

This rule is promulgated pursuant to RCW 38.52.030 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 6, 1987.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2256, filed 7/3/85)

WAC 388-53-010 PURPOSE. ~~The purpose of ((this plan is to set forth the administrative procedures and describe the organization for implementing the individual and family grant program subsequent to a major disaster declaration by the president. The governor of Washington has designated the state department of emergency management as the responsible state coordinating agency. The department of social and health services by agreement shall administer the individual and family grant program in Washington. These rules shall be effective only upon declaration of a major disaster by the president of the United States)) these rules is to set forth the conditions and time limits and to enumerate the items and services which make disaster assistance available to individuals and families following a presidential declaration of a major disaster in the state. P.L. 93-288 (the Disaster Relief Act of 1974) and 44 CFR 205.54 provide for grants up to five thousand dollars in the individual and family grant (IFG) program. Chapter 38.52 RCW places responsibility for determining eligibility standards with the department of social and health services. Program administration rules and procedures are contained in chapter 118-33 WAC and the administrative plan for the IFG program.~~

AMENDATORY SECTION (Amending Order 2256, filed 7/3/85)

WAC 388-53-050 ELIGIBILITY FOR GRANTS. (1) General. In order to qualify for a grant under this section, an individual or family representative ~~((must certify)) shall:~~

(a) ~~((That application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither the~~

~~individual nor the family have been determined to be qualified for such assistance or, for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need.~~

~~(b) That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither the individual, nor to the best of the individual's knowledge, any member of the individual's family, has previously received or refused assistance from other means.~~

~~(c) That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the state that part of the grant for which financial assistance from other means has been received.~~

~~(d) That should the individual or family receive a grant, the individual or family shall be required to show proof of purchase of all items as specified in the grant award. The individual or family shall refund to the state any part of the grant not expended for those eligible items specified in the grant award.~~

~~(e) That individuals or families incurring a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to residency in the major disaster area or within the state where the major disaster had been declared.~~

~~(f) That individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as required by 44 C.F.R. 205.54.~~

~~(g) That application must be filed within sixty days following the date on which the major disaster was declared except as follows:~~

~~(i) Applications filed after the sixty-day filing period, but within ninety days following the date on which the major disaster was declared shall be reviewed by the secretary of the department of social and health services or his or her designee to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined good cause existed for late filing, the application shall be accepted. If such determination cannot be made, the application shall be rejected.~~

~~(ii) Persons submitting applications to the Small Business Administration (SBA) and later receiving notice from SBA that all or part of their verified losses cannot be covered by an SBA loan will have fifteen days following the date of the SBA notice to notify the state of their intention to apply for a grant. After the IFG program's sixty-day filing deadline, the state must consider applications filed in this manner as applications filed under extenuating circumstances (44 C.F.R. 205.54(k)(1)(ii)), since these grant applicants will have been prevented from applying for IFG assistance in a timely manner. The date the state receives its first contact from the applicant referred by SBA (by whatever means: Phone, mail, personal visit) will be the formal application date even though the applicant's signature may be obtained later.~~

~~(h) That farmers, ranchers, and persons engaged in agriculture or aquaculture qualified to apply to the~~

~~Farmer's Home Administration (FHA) or the SBA, must submit proof of the denial of such loan assistance from the FHA and/or the SBA before being considered eligible for a grant under this section. If applicants have been denied loan assistance because, in FHA's or SBA's determination, they are able to obtain necessary credit from other sources, they shall be considered ineligible for grant assistance for those items or services for which assistance may be provided by the FHA's or SBA's emergency loan program)) Make application to all applicable available governmental disaster programs for assistance to meet a necessary expense or serious need, and be determined not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need.~~

~~(b) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made.~~

~~(c) Certify to refund to the state that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.~~

~~(d) Be informed by the department that individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, residency in the major disaster area or within the state in which the major disaster has been declared.~~

~~(e) Live in an area in which a grant may be authorized.~~

~~The Flood Disaster Protection Act of 1973, P.L. 93-234, as amended, imposes certain restrictions on approval of federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements P.L. 93-234 for FEMA assistance generally. 44 CFR 205.54 refines those requirements for the individual and family grant program. To the extent that IFG regulations are inconsistent with Subpart K, the IFG regulations apply.~~

~~(f) Make application within sixty days following the date on which the major disaster was declared:~~

~~(i) Except that applications filed after the sixty-day filing period, but within ninety days following the date on which the major disaster was declared shall be reviewed by the assistant director of the division of emergency management to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined good cause existed for late filing, the application shall be accepted. If such determination cannot be made the application shall be rejected.~~

~~(ii) Application shall be taken on forms provided by the Federal Emergency Management Agency at times and places made available by the state coordinating officer and the Federal Coordinating Officer. An application on the FEMA Disaster Assistance Registration Application Form allows the individual or family to apply to all applicable governmental programs available simultaneously.~~

(g) Apply to the small business administration (SBA) or farmers home administration (FMHA) (if participating) for loan assistance for repair, replacement, or rebuilding of real or personal property, transportation or other eligible items/services, and be determined ineligible, or the assistance from SBA/FMHA must be insufficient, before they can be found eligible for an individual and family grant.

(2) Eligible categories. Assistance may be made available to meet disaster-related necessary expenses or serious needs by providing essential items or services in the categories set forth as follows:

(a) Medical or dental.

(b) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(i) Repair, replace, rebuild;

(ii) Provide access;

(iii) Clean or make sanitary; or

(iv) Remove debris from such residences. Any debris removal shall be limited to the minimum required to remove health hazards or protect against additional damage to the residence.

(v) Provide minimum protective measures required to protect such residences against the immediate threat of damage.

(vi) Move mobile homes to prevent and/or reduce the immediate threat of damage. These are minimization measures required by owner-occupants to comply with the provisions of 44 CFR Part 9 (Floodplain management and protection of wetlands), to enable them to receive assistance from other means and/or to comply with a community's floodplain management regulation.

(c) Personal property.

(i) Clothing.

(ii) Household items, furnishings, or appliances.

(iii) Tools, specialized or protective clothing or equipment essential to or a condition of a wage earner's employment.

(iv) Repair, clean, or sanitize, any eligible personal property item.

(v) Move and store to prevent or reduce the immediate threat of damage.

(d) Transportation.

~~((i) Grants may be authorized to provide transportation by public conveyance provided the requirement for this transportation was the direct result of the disaster.~~

~~(ii) Grants may be authorized to repair, replace, or provide private transportation, if the loss or requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.~~

~~(e) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation.~~

~~(f) Rental accommodations to include motel, hotel, and other temporary accommodations.) Grants may be authorized to replace, repair, or provide privately-owned vehicles, or provide public transportation. The cost of replacing the vehicle should not exceed fifty percent of the maximum grant, except in the instance of a handicapped person needing special controls.~~

(e) Funeral expenses.

Grants may include funeral and burial (and/or cremation) expenses, less payment from other sources e.g., Social Security, veterans benefits, etc.

(f) Flood insurance requirements.

Individuals or families eligible for a grant under this section who live in a flood hazard area (Zone A or V) shall purchase and maintain adequate flood insurance and shall maintain such insurance for three years, or as long as they live in the affected area, whichever is less.

(i) Adequate flood insurance for homeowners is at least five thousand dollars for real property and two thousand dollars for contents coverage.

(ii) Adequate coverage for renters is five thousand dollars flood insurance on their personal property.

(iii) The first year's flood insurance premium is an eligible cost and is to be included in the award. If the same premium will provide more than the required coverage, the higher coverage should be obtained.

(iv) Grant recipients required to obtain flood insurance must furnish proof of purchase to the grant coordinating officer.

(g) Estimates.

Cost for estimates required for eligibility determinations under the IFG program. Housing and personal property estimates will be provided by the government. However, an applicant may appeal to the state if he/she feels the government estimate is inaccurate. The cost of an applicant-obtained estimate to support the appeal is not an eligible cost.

(3) Ineligible categories. Assistance shall not be made available for any item or service in the following categories.

(a) Business losses, including farm businesses, self-employment and loss of wages.

(b) Improvements or additions to real or personal property.

(c) Landscaping.

(d) Real or personal property used exclusively for recreation.

(e) Financial obligations incurred prior to the disaster.

(f) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) Other categories. Should the state determine an individual or family has an expense or need not specifically identified as eligible, the state shall provide a factual summary to the regional director, FEMA, and request a determination.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-53-020	DEFINITIONS.
WAC 388-53-030	AUTHORIZATION OF PROGRAM.
WAC 388-53-040	ADMINISTRATIVE PROCEDURES.
WAC 388-53-060	ALLOCATION OF FUNDS.
WAC 388-53-070	EXPENDITURES AND PAYMENTS.

WAC 388-53-080 ORGANIZATION AND FUNCTIONS.
 WAC 388-53-090 ADMINISTRATIVE PANEL.
 WAC 388-53-100 APPEAL PROCESS—GCO RECONSIDERATION.
 WAC 388-53-120 ADMINISTRATIVE PLAN REVIEW.

WSR 87-09-021
 PROPOSED RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Filed April 7, 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 eligibility standards for the individual and family grant program, amending WAC 388-53-010 and 388-53-050; and repealing WAC 388-53-020, 388-53-030, 388-53-040, 388-53-060, 388-53-070, 388-53-080, 388-53-090, 388-53-100 and 388-53-120; that the agency will at 10:00 a.m., Tuesday, May 26, 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 May 27, 1987.

The authority under which these rules are proposed is RCW 38.52.030.

The specific statute these rules are intended to implement is RCW 38.52.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 6, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-53-010 and 388-53-050; and repealing WAC 388-53-020, 388-53-030, 388-53-040, 388-53-060, 388-53-070, 388-53-080, 388-53-090, 388-53-100 and 388-53-120.

Purpose of the Rule Change: To reflect federal requirements essential to the implementation of the IFG

program requested of President Reagan by Governor Gardner on December 9, 1986, pursuant to an emergency proclamation issued by the governor, December 15, 1986.

Reason These Rules are Necessary: To establish standards of eligibility for the IFG program. Consistent with the shift in program responsibility, the WAC was written by DEM and FEMA. The WACs, however, need to be filed by DSHS because of the statutory change in RCW 38.52.030(9).

Statutory Authority: RCW 38.52.030.

The rule change will update the application process and identify destroyed items that can be replaced by disaster assistance funds.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jack Hecht, Program Manager, Division of Income Assistance, mailstop OB-31J, phone 234-1494 scan.

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

AMENDATORY SECTION (Amending Order 2256, filed 7/3/85)

WAC 388-53-010 PURPOSE. The purpose of ~~((this plan is to set forth the administrative procedures and describe the organization for implementing the individual and family grant program subsequent to a major disaster declaration by the president. The governor of Washington has designated the state department of emergency management as the responsible state coordinating agency. The department of social and health services by agreement shall administer the individual and family grant program in Washington. These rules shall be effective only upon declaration of a major disaster by the president of the United States))~~ these rules is to set forth the conditions and time limits and to enumerate the items and services which make disaster assistance available to individuals and families following a presidential declaration of a major disaster in the state. P.L. 93-288 (the Disaster Relief Act of 1974) and 44 CFR 205.54 provide for grants up to five thousand dollars in the individual and family grant (IFG) program. Chapter 38.52 RCW places responsibility for determining eligibility standards with the department of social and health services. Program administration rules and procedures are contained in chapter 118-33 WAC and the administrative plan for the IFG program.

AMENDATORY SECTION (Amending Order 2256, filed 7/3/85)

WAC 388-53-050 ELIGIBILITY FOR GRANTS. (1) General. In order to qualify for a grant under this section, an individual or family representative ~~((must certify))~~ shall:

(a) ~~((That application has been made to other available governmental programs for assistance to meet a necessary expense or serious need and that neither the individual nor the family have been determined to be qualified for such assistance or, for demonstrated reasons, any assistance received has not satisfied any such necessary expense or serious need:~~

(b) ~~That with respect to the specific necessary expense or serious need or portion thereof for which application is made, neither the individual, nor to the best of the individual's knowledge, any member of the individual's family, has previously received or refused assistance from other means:~~

(c) ~~That should the individual or family receive a grant and assistance from other means later becomes available to meet the necessary expense or serious need, the individual or family shall refund to the state that part of the grant for which financial assistance from other means has been received:~~

(d) ~~That should the individual or family receive a grant, the individual or family shall be required to show proof of purchase of all items as specified in the grant award. The individual or family shall refund to the state any part of the grant not expended for those eligible items specified in the grant award:~~

(e) ~~That individuals or families incurring a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to residency in the major disaster area or within the state where the major disaster had been declared:~~

(f) That individuals or families otherwise eligible for assistance under this section must obtain flood insurance, as required by 44 C.F.R. 205.54.

(g) That application must be filed within sixty days following the date on which the major disaster was declared except as follows:

(i) Applications filed after the sixty-day filing period, but within ninety days following the date on which the major disaster was declared shall be reviewed by the secretary of the department of social and health services or his or her designee to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined good cause existed for late filing, the application shall be accepted. If such determination cannot be made, the application shall be rejected.

(ii) Persons submitting applications to the Small Business Administration (SBA) and later receiving notice from SBA that all or part of their verified losses cannot be covered by an SBA loan will have fifteen days following the date of the SBA notice to notify the state of their intention to apply for a grant. After the IFG program's sixty-day filing deadline, the state must consider applications filed in this manner as applications filed under extenuating circumstances (44 C.F.R. 205.54(k)(1)(ii)), since these grant applicants will have been prevented from applying for IFG assistance in a timely manner. The date the state receives its first contact from the applicant referred by SBA (by whatever means: phone, mail, personal visit) will be the formal application date even though the applicant's signature may be obtained later.

(h) That farmers, ranchers, and persons engaged in agriculture or aquaculture qualified to apply to the Farmer's Home Administration (FHA) or the SBA, must submit proof of the denial of such loan assistance from the FHA and/or the SBA before being considered eligible for a grant under this section. If applicants have been denied loan assistance because, in FHA's or SBA's determination, they are able to obtain necessary credit from other sources, they shall be considered ineligible for grant assistance for those items or services for which assistance may be provided by the FHA's or SBA's emergency loan program.) Make application to all applicable available governmental disaster programs for assistance to meet a necessary expense or serious need, and be determined not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need.

(b) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made.

(c) Certify to refund to the state that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.

(d) Be informed by the department that individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, residency in the major disaster area or within the state in which the major disaster has been declared.

(e) Live in an area in which a grant may be authorized. The Flood Disaster Protection Act of 1973, P.L. 93-234, as amended, imposes certain restrictions on approval of federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements P.L. 93-234 for FEMA assistance generally. 44 CFR 205.54 refines those requirements for the individual and family grant program. To the extent that IFG regulations are inconsistent with Subpart K, the IFG regulations apply.

(f) Make application within sixty days following the date on which the major disaster was declared:

(i) Except that applications filed after the sixty-day filing period, but within ninety days following the date on which the major disaster was declared shall be reviewed by the assistant director of the division of emergency management to determine whether the late filing was the result of extenuating circumstances or conditions beyond the control of the individual or family. If it is determined good cause existed for late filing, the application shall be accepted. If such determination cannot be made the application shall be rejected.

(ii) Application shall be taken on forms provided by the Federal Emergency Management Agency at times and places made available by the state coordinating officer and the Federal Coordinating Officer. An application on the FEMA Disaster Assistance Registration Application Form allows the individual or family to apply to all applicable governmental programs available simultaneously.

(g) Apply to the small business administration (SBA) or farmers home administration (FMHA) (if participating) for loan assistance for

repair, replacement, or rebuilding of real or personal property, transportation or other eligible items/services, and be determined ineligible, or the assistance from SBA/FMHA must be insufficient, before they can be found eligible for an individual and family grant.

(2) Eligible categories. Assistance may be made available to meet disaster-related necessary expenses or serious needs by providing essential items or services in the categories set forth as follows:

(a) Medical or dental.

(b) Housing. With respect to private owner-occupied primary residences (including mobile homes), grants may be authorized to:

(i) Repair, replace, rebuild;

(ii) Provide access;

(iii) Clean or make sanitary; or

(iv) Remove debris from such residences. Any debris removal shall be limited to the minimum required to remove health hazards or protect against additional damage to the residence.

(v) Provide minimum protective measures required to protect such residences against the immediate threat of damage.

(vi) Move mobile homes to prevent and/or reduce the immediate threat of damage. These are minimization measures required by owner-occupants to comply with the provisions of 44 CFR Part 9 (Floodplain management and protection of wetlands), to enable them to receive assistance from other means and/or to comply with a community's floodplain management regulation.

(c) Personal property.

(i) Clothing.

(ii) Household items, furnishings, or appliances.

(iii) Tools, specialized or protective clothing or equipment essential to or a condition of a wage earner's employment.

(iv) Repair, clean, or sanitize, any eligible personal property item.

(v) Move and store to prevent or reduce the immediate threat of damage.

(d) Transportation.

((i) Grants may be authorized to provide transportation by public conveyance provided the requirement for this transportation was the direct result of the disaster.

(ii) Grants may be authorized to repair, replace, or provide private transportation, if the loss or requirement for this transportation was the direct result of the disaster, and transportation by public conveyance is inadequate or unavailable.

(e) Funeral expenses. Grants for funeral expenses will be based on minimum expenditures for interment or cremation:

(f) Rental accommodations to include motel, hotel, and other temporary accommodations.) Grants may be authorized to replace, repair, or provide privately-owned vehicles, or provide public transportation. The cost of replacing the vehicle should not exceed fifty percent of the maximum grant, except in the instance of a handicapped person needing special controls.

(e) Funeral expenses.

Grants may include funeral and burial (and/or cremation) expenses, less payment from other sources e.g., Social Security, veterans benefits, etc.

(f) Flood insurance requirements.

Individuals or families eligible for a grant under this section who live in a flood hazard area (Zone A or V) shall purchase and maintain adequate flood insurance and shall maintain such insurance for three years, or as long as they live in the affected area, whichever is less.

(i) Adequate flood insurance for homeowners is at least five thousand dollars for real property and two thousand dollars for contents coverage.

(ii) Adequate coverage for renters is five thousand dollars flood insurance on their personal property.

(iii) The first year's flood insurance premium is an eligible cost and is to be included in the award. If the same premium will provide more than the required coverage, the higher coverage should be obtained.

(iv) Grant recipients required to obtain flood insurance must furnish proof of purchase to the grant coordinating officer.

(g) Estimates.

Cost for estimates required for eligibility determinations under the IFG program. Housing and personal property estimates will be provided by the government. However, an applicant may appeal to the state if he/she feels the government estimate is inaccurate. The cost of an applicant-obtained estimate to support the appeal is not an eligible cost.

(3) Ineligible categories. Assistance shall not be made available for any item or service in the following categories.

(a) Business losses, including farm businesses, self-employment and loss of wages.

(b) Improvements or additions to real or personal property.

(c) Landscaping.

(d) Real or personal property used exclusively for recreation.

(e) Financial obligations incurred prior to the disaster.

(f) Any necessary expense or serious need or portion thereof for which assistance was available from other means but was refused by the individual or family.

(4) Other categories. Should the state determine an individual or family has an expense or need not specifically identified as eligible, the state shall provide a factual summary to the regional director, FEMA, and request a determination.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-53-020 DEFINITIONS.
WAC 388-53-030 AUTHORIZATION OF PROGRAM.
WAC 388-53-040 ADMINISTRATIVE PROCEDURES.
WAC 388-53-060 ALLOCATION OF FUNDS.
WAC 388-53-070 EXPENDITURES AND PAYMENTS.
WAC 388-53-080 ORGANIZATION AND FUNCTIONS.
WAC 388-53-090 ADMINISTRATIVE PANEL.
WAC 388-53-100 APPEAL PROCESS—GCO
RECONSIDERATION.
WAC 388-53-120 ADMINISTRATIVE PLAN REVIEW.

WSR 87-09-022

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 7, 1987]

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

Amd WAC 458-53-110 Property values used in the ratio study.
Amd WAC 458-53-141 Personal property audit selection.
Amd WAC 458-53-160 Indicated personal property ratio—Computation.
Amd WAC 458-53-163 Mobile homes—Use in study;

that the agency will at 10:00 a.m., Wednesday, May 27, 1987, in the Department of Revenue Office, 6004 South Capitol Boulevard, Tumwater, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 84.48.075.

The specific statute these rules are intended to implement is RCW 84.48.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1987.

Dated: April 7, 1987

By: Trevor W. Thompson
Assistant Director

STATEMENT OF PURPOSE

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

Title: Chapter 458-53 WAC, Property tax annual ratio study.

Purpose: To amend procedures for conducting the ratio study.

Statutory Authority: RCW 84.48.075(1) requires the Department of Revenue to establish rules and regulations pertinent to the determination of the indicated county ratio.

Summary and Reasons for the Rule: RCW 84.04.090 defines mobile homes as real property. These rule amendments are to remove mobile homes from the personal property ratio study and place them within the real property ratio study.

Drafter of the Rule, Rule Implementation and Enforcement: Trevor W. Thompson, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-5503.

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

Comments and Recommendations: None.

Federal Law or Court Action Citation: None.

Small Business Impact: The department has determined that these rules will have no impact on small business.

AMENDATORY SECTION (Amending Order PT 86-6, filed 10/2/86)

WAC 458-53-110 PROPERTY VALUES USED IN THE RATIO STUDY. The following property values will be included in the ratio study as provided in these rules:

(1) Values established by law or required to be determined by the department by law, but excluding property valued under chapters 84.08, 84.12, and 84.16 RCW.

(2) Values determined by county assessors according to the provisions of chapter 84.41 RCW.

(3) Values of land classified under chapter 84.33 RCW.

(4) Values of land and improvements classified under chapter 84.34 RCW will be included in determination of the indicated real property ratios as a separate element for counties whose current use land values are fifteen percent or greater in proportion to the total county locally assessed real property value.

(5) Advisory values supplied to the assessor by the department shall not be included in the ratio study unless the property falls within the sales study provided for in WAC 458-53-070 or 458-53-100 or is selected in the appraisal or audit study in accordance with WAC 458-53-130 and 458-53-140.

(6) Values of individual real properties which equal or exceed twenty percent of the total of all locally assessed real property.

(7) Values of individual assessments of personal property which equal or exceed twenty percent of the total of all locally assessed personal property.

(8) Values of mobile homes which are identified in WAC 458-53-163(2).

(9) ~~Values of mobile homes which are identified in WAC 458-53-163(3).~~

~~(10)~~ Before values in subsections (6) and (7) of this section can be included, a request in writing identifying the properties, must be submitted to the department prior to October 1st of each ratio study period.

AMENDATORY SECTION (Amending Order PT 84-2, filed 6/29/84)

WAC 458-53-141 PERSONAL PROPERTY AUDIT SELECTION. (1) Beginning with 1982 assessments and thereafter, each county shall classify and code every personal property account based upon the following classification codes:

(a) Agriculture, fishing, and forestry (not logging)

(b) Mining, quarrying, and contract construction

(c) Manufacturing

(d) Retail - wholesale

(e) Finance, insurance, real estate and services

(f) Transportation, communication, utilities, improvements on exempt land, and all other not classified

~~((g) Mobile homes))~~

(2) Those accounts which contain property of more than one classification shall be coded based upon which class has the greatest value.

(3) For those counties with the ability to perform the stratification process by use classification, subject to department approval, use classes of property will be used for the purpose of determining the indicated

personal property ratio. The classes of property shall follow the guidelines outlined in subsection (1) of this section and will be separated into value strata for the individual classification codes. The value strata may be subject to different parameters than normally used.

(4) Those counties who do not have the ability to prepare a ratio study by use classification shall use value stratas as shown in WAC 458-53-140.

AMENDATORY SECTION (Amending Order PT 86-6, filed 10/2/86)

WAC 458-53-160 INDICATED PERSONAL PROPERTY RATIO—COMPUTATION. (1) For each personal property assessed value stratum, excluding properties identified in WAC 458-53-110 (7) (~~and (9))~~) and 458-53-165 and average sample assessed value and an average sample true and fair value will be determined from the results of selected audit studies. These average stratum sample values will be multiplied by the corresponding number of personal property accounts in each stratum to derive a stratum estimated total assessed value and a stratum estimated total true and fair value. These estimated stratum total estimated assessed and true and fair values will be added to provide a county total estimated assessed value and a county total estimated true and fair value.

(2) To the actual personal property assessed value and ratio-related true and fair value totals for a county (subsection (1) of this section) are added assessed values of those properties identified in WAC 458-53-110 (7) (~~and (9))~~) and 458-53-165 and related true and fair values calculated by the ratio relationships determined for those same properties.

(3) The sum of the total personal property assessed and true and fair values as determined by subsections (1) and (2) of this section shall be the basis for the county's indicated personal property ratio. The sum total of assessed values will be divided by the sum total of true and fair values to derive the ratio. Values from each county's Assessor's Certificate of Assessment Rolls to County Board of Equalization will be used in the computation of each county's indicated personal property ratio except as provided in WAC 458-53-150(6).

(4) The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for personal property.

Step 1 - Determination of Average Sample Values

Stratum	(1) Number of Samples	(2) Total Assessed Value of Samples	(3) Average Assessed Value of Samples (Col. 2 ÷ Col. 1)	(4) Total Market Value of Samples	(5) Average Market Value of Samples (Col. 4 ÷ Col. 1)
\$ 0 - 9,999	15	\$ 75,000	\$ 5,000	\$100,000	\$ 6,667
10,000 - 39,999	20	400,000	20,000	500,000	25,000
Over 39,999	10	500,000	50,000	750,000	75,000

Step 2 - Weighting of Average Sample Values

Stratum	(1) Total Property Listings	(2) Average Sample Assessed Value	(3) Total Estimated Assessed Value (Col. 2 × Col. 1)	(4) Average Sample Market Value	(5) Total Estimated Market Value (Col. 4 × Col. 1)	(6) Ratio (Col. 3 ÷ Col. 5)
\$ 0 - 9,999	125	\$ 5,000	\$ 625,000	\$ 6,667	\$ 833,375	.7500
10,000 - 39,999	216	20,000	4,320,000	25,000	5,400,000	.8000
Over 39,999	79	50,000	3,950,000	75,000	5,925,000	.6667
Outriders	2		1,000,000		1,366,775	.7316
			\$9,895,000		\$13,525,150	73.16

Sample study weighted ratio.

73.16%

Step 3 - Application of Sample Weighted Relationship to Actual Assessed Value.

	(1)	(2)	(3)
	Actual County Assessed Value Personal Property (From Assessor's Certificate)	Determined Assessment to Market Ratio	County Market Value Related to Actual Assessed Value (Col. 1 ÷ Col. 2)
Add	\$ 9,100,000	.7316 (from Step 2)	\$12,438,491
((Mobile Homes	50,000	.9900	50,505)
Other (WAC 458-53-110 (7) or 458-53-165 properties)	100,000	1.000	100,000
Totals	\$ ((9,250,000)) 9,200,000	÷	\$ ((12,588,996 - .7348)) 12,538,491 = .7337
County indicated personal property ratio			((73.48)) 73.37%

(5) Individual assessed or true and fair personal property values, classified as "outriders" according to WAC 458-53-150(8), will be used in personal property ratio computation in a manner similar to that used for real property outriders in real property ratio computation.

AMENDATORY SECTION (Amending Order PT 84-2, filed 6/29/84)

WAC 458-53-163 MOBILE HOMES—USE IN STUDY. Sales and appraisals of mobile homes, properly stratified, shall be included in the ratio study in the following manner:

(1) Mobile homes which are assessed as other real property and are intermixed with other real property on the real property rolls shall be included with all other real property in the study;

(2) Mobile homes which ~~((are considered real property and are assessed upon a separate real property mobile home roll))~~ meet the definition of real property contained in RCW 84.04.090 shall be included in the real property study as provided in WAC 458-53-150 (4)(b);

(3) ~~((Mobile homes which are assessed as personal property shall be included in the personal property ratio study as provided in WAC 458-53-160(2);~~

~~((4))~~ Sales of mobile homes which meet the criteria of the sales exclusion list contained in WAC 458-53-080(2) shall be excluded from the mobile home study.

WSR 87-09-023
NOTICE OF PUBLIC MEETINGS
BOARD FOR VOLUNTEER FIREMEN
 [Memorandum—April 6, 1987]

The next meeting of the Board for Volunteer Firemen is scheduled for 9:00 a.m., April 24, 1987, in the Olympia Forum Building, Suite #209, 605 11th Avenue S.E., Olympia, Washington 98501.

WSR 87-09-024
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-26—Filed April 7, 1987]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use 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 salmon are available.

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

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

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

APPROVED AND ADOPTED April 6, 1987.

By Judith Merchant
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-57-51500B WIND RIVER. Notwithstanding the provisions of WAC 220-57-515, Bag Limit A is in effect weekly Thursday through Sunday from April 16 through May 31, 1987, from markers 400 feet below Shipperd Falls to markers at the outer land points downstream from the Burlington Northern Railroad Bridge at the mouth of the Wind River.

NEW SECTION

WAC 220-57-50500M LITTLE WHITE SALMON RIVER. Notwithstanding the provisions of WAC 220-57-50500M, Bag Limit A is in effect weekly Thursday through Sunday from April 16 through May 31, 1987, in those waters of the Little White Salmon

River and Drano Lake downstream from department boundary markers on points of land downstream and across from the federal salmon hatchery to the Highway 14 Bridge.

NEW SECTION

WAC 220-57-31500G KLUCKITAT RIVER. Notwithstanding the provisions of WAC 220-57-315, effective immediately until May 30, 1987, it is unlawful to fish for salmon for personal use in the Klickitat River downstream from the Fisher Hill Bridge except from one hour before sunrise to one hour after sunset on the following days:

April 18, 1987
 April 25, 1987
 May 2, 1987
 May 9, 1987
 May 16, 1987
 May 23, 1987

During the fishery provided for in this section, Bag Limit A is in effect, except that only one adult salmon may be retained on each open day.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-31500F Klickitat River. (87-24)

WSR 87-09-025
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-27—Filed April 7, 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 regulations.

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 this regulation corrects an error in WSR 87-08-047, and continues to allow harvest of available sea cucumbers in designated areas.

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

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

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

APPROVED AND ADOPTED April 7, 1987.

By Judith Merchant
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-52-07100C SEA CUCUMBERS—TRAWL GEAR. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to fish for or possess sea cucumbers taken for commercial purposes using trawl gear, except trawl gear as authorized under chapter 220-48 WAC, and during seasons and within areas provided for in WAC 220-52-072, or as authorized by a permit issued by the director.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100B SEA CUCUMBERS—TRAWL GEAR. (87-22)

WSR 87-09-026
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
 [Order 287—Filed April 7, 1987]

Be it resolved by the State Game Commission, acting at the Bellingham Holiday Inn, 714 Lakeway Drive, Bellingham, WA 98226, that it does adopt the annexed rules relating to hunting contests, adopting WAC 232-12-169.

This action is taken pursuant to Notice No. WSR 87-05-030 filed with the code reviser on February 17, 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 77.12.040 and 77.16.010 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 6, 1987.

By Norman F. Richardson
 Vice Chair, Game Commission

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 87-09-027**ADOPTED RULES****DEPARTMENT OF
SOCIAL AND HEALTH SERVICES****(Public Assistance)**

[Order 2481—Filed April 9, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Foster care—Transportation and other expenses—Reimbursement, repealing WAC 388-70-056.

This action is taken pursuant to Notice No. WSR 87-06-043 filed with the code reviser on March 3, 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 chapter 74.13 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 8, 1987.

By Leslie F. James, Director
Administrative Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-70-056 TRANSPORTATION AND OTHER EXPENSES—REIMBURSEMENT.

WSR 87-09-028
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2482—Filed April 9, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Food stamps—Verification, amending WAC 388-54-630.

This action is taken pursuant to Notice No. WSR 87-06-033 filed with the code reviser on February 27, 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 74.04.510 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 8, 1987.

By Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2286, filed 9/24/85)

WAC 388-54-630 APPLICATION AND PARTICIPATION—VERIFICATION. (1) Sources of verification shall be:

(a) Documentary evidence. Documentary evidence consists of a written confirmation of a household's circumstances and shall be the primary source of verification. Whenever documentary evidence cannot be obtained, the department shall use alternate sources of verifications, such as collateral contacts or home visits.

(b) Collateral contacts. A collateral contact is a verbal contact confirmation of a household's circumstances by a person outside the household. A collateral contact is the secondary source of verification (except for household size and citizenship).

(c) Home visits. Home visits shall be scheduled in advance with the household. (~~(See WAC 388-54-620(4).)~~)

(2) The household (~~(has)~~) shall have primary responsibility for providing documentary evidence. (~~(If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner.)~~) The department shall offer assistance in obtaining this evidence if it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner. Designation of a collateral contact (~~(is)~~) shall be the responsibility of the household(~~(s)~~), however, the CSO may designate a collateral contact if collateral contact designated by the client is not acceptable.

(3) Mandatory verifications shall include:

(a) Identity of the person making the application. (~~(When an authorized representative applies for a~~

household;)) The identity of the authorized representative and the head of household shall be verified when an authorized representative applies for a household.

(b) Residency((;)), except in unusual cases where verification of residency cannot reasonably be accomplished.

(c) ((Social Security number (SSN) reported for each household member. If verification of an issued SSN is not completed at initial certification it shall be completed at the time of or prior to the next recertification.

(d)) Resources.

((~~(e)~~)) (d) Loans.

((~~(f)~~)) (e) Gross nonexempt income. Gross nonexempt income shall be verified for all households prior to certification (except expedited service households).

((~~(g)~~)) (f) Continuing shelter expenses. Continuing shelter expenses, other than utilities, shall be verified if allowing the expense could potentially result in a deduction. Verification ((with)) shall be on a one-time basis unless: (i) The household has moved((;)); (ii) the household reported an increase in cost which would affect the level of the deduction((;)); or ((unless)) (iii) the household reported questionable information.

((~~(h)~~)) (g) Utility expenses.

(i) If the household is entitled to the utility standard, heating and/or cooling costs shall be verified on a one-time basis unless the household has moved, changed its utilities, or the information is questionable.

(ii) If the household wishes to claim actual utility expenses these utility costs shall be verified.

((~~(i)~~)) (h) Medical care costs. ((Verify)) Medical expenses that will result in a deduction including the amount of reimbursement shall be verified. If reimbursement cannot be verified, certify without allowing the expense except in prospective budgeting as in WAC 388-54-745(8).

((~~(j)~~)) (i) Dependent care cost. ((Verify)) Actual costs of care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or training except in prospective budgeting as in WAC 388-54-745(8) shall be verified.

((~~(k)~~)) (j) Household size. ((Verify)) The number of individuals within a food stamp household who reside in a domicile shall be verified.

((~~(l)~~)) (k) Household composition. ((Verify the number of people who customarily purchase and prepare meals together.)) Persons who claim to be a separate household shall be responsible for proving separate household status to the satisfaction of the department.

(l) Disability. The department shall verify disability as follows:

(i) Disabled persons shall provide proof of receipt of benefits under Titles I, II, X, XIV, or XVI of the Social Security Act;

(ii) Disabled veterans shall provide a statement from the Veterans' Administration stating the disability is:

(A) Service-connected; and

(B) Rated or paid as total.

(iii) A veteran, surviving spouse, or surviving child who is in need of regular aid and attendance or permanently housebound shall provide proof of receipt of veterans' disability benefits;

(iv) A surviving spouse or child of a veteran entitled to compensation disability by the department as follows:

(A) For an obvious disability, the department shall use the Social Security Administration's list of disabilities considered permanent; or

(B) For a disability not obvious, the department shall require a statement from a physician or a certified psychologist verifying disability.

(v) A person shall provide proof of receipt of railroad retirement disability annuity payments and qualify for Medicare;

(vi) An elderly and disabled person who is unable to purchase and prepare meals separately because of a permanent disability shall be verified as follows:

(A) Observation by staff for an obvious disability;

(B) A statement from a physician or licensed psychologist that the permanent disability is not obvious.

(4) Verification of questionable information. The department shall verify all other factors of eligibility prior to certification if the factors are questionable and affect a household's eligibility or benefit level. Questionable factors shall include but not be limited to:

(a) Citizenship. When a household's statement that one or more of its members are U.S. citizens is questionable, the household shall ((be asked to)) provide verification.

(b) Alien status. When a household identifies that a member is not a citizen, verification of alien status is required.

(i) ((The alien not providing documentation of status shall be ineligible.

((~~(ii)~~)) The household ((is)) shall be responsible for providing documentation of alien status. The department shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

(ii) The alien not providing documentation of status shall be ineligible.

(iii) The household shall be given the option of withdrawing the application or participating without the alien member.

(iv) The income and resources of the ineligible alien shall be treated in the same manner as a disqualified individual as found in WAC 388-54-830.

(5) Verification at ((reapplication)) recertification. ((At reapplication;)) A change in income or source of income, medical expenses, or actual utility expenses claimed in an amount over twenty-five dollars ((must)) shall be verified at recertification.

(a) All other changes may be reverified at recertification.

(b) Verifications shall be subject to the same verification procedures as apply during initial verification.

(6) Verification for monthly reporting households. For cases subject to food stamp monthly reporting, the department shall verify the following on a monthly basis:

(a) Gross nonexempt income;

(b) Utility expenses unless the standard utility allowance is used;

(c) Medical expenses per WAC 388-54-740(6);

(d) Alien status, Social Security number, residency, and citizenship if changed;

(e) All other questionable information.

WSR 87-09-029
RESCINDING PREVIOUS ORDER
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2483—Filed April 9, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to rescinding Administrative Order 2479 filed with the code reviser on April 3, 1987, under WSR 87-09-009.

I, Leslie F. James, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is it is necessary to rescind Order 2479 and file after the May 26, 1987, scheduled hearing.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.04.510.

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

APPROVED AND ADOPTED April 8, 1987.

By Leslie F. James, Director
 Administrative Services

WSR 87-09-030
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 87-28—Filed April 9, 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 regulations.

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 this regulation is adopted at the recommendation of the Pacific Fisheries Management Council and is necessary to conserve bottomfish stocks until the permanent regulation goes into effect.

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 April 9, 1987.

By Judith Merchant
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-44-05000E COASTAL BOTTOMFISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken for commercial purposes from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow Rockfish (Sebastes entomelas) – One vessel trip per week in excess of 3,000 not to exceed 30,000 pounds. no limit on the number of landings of less than 3,000 pounds.

(2) Shortbelly rockfish (Sebastes jordani) and Idiot Rockfish (Sebastes spp.) – no maximum poundage per vessel trip; no minimum size.

(3) Pacific ocean perch (Sebastes alutus) – No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 per cent or less of total weight of fish on board. Under no circumstances may a vessel land more than 5,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) All other species of rockfish (Sebastes spp.) – 25,000 pounds of all other species combined per vessel trip per calendar week, defined as Sunday through the following Saturday, of which no more than 10,000 pounds may be yellowtail rockfish (Sebastes flavidus) except that a fisherman having a made a 1987 declaration of intent, may make either one landing of no more than 50,000 pounds of all other species combined per vessel trip biweekly, defined as Sunday through the second Saturday following of which no more than 25,000 pounds may be yellowtail rockfish or two landings of not more than 12,500 pounds of all other species in any one calendar week of which no more than 5,000 pounds in any one landing may be yellowtail rockfish. All previous declaration forms have expired and it is unlawful for any vessel to make other than one vessel trip per week unless a new declaration form has been completed as provided for in this subsection. The 1987 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building Olympia, Wa., 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fishermen, the name and registration number of the vessel, the date on which such fishing for other species of rockfish will commence and must be signed and dated by the fisherman. The fisherman may

return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly on other species of rockfish with the department in the above manner. The declaration to stop such fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made. The date of first landing will determine the beginning of biweekly periodicity. Biweekly periodicity will restart after any landing that occurs more than four calendar weeks after the immediate prior landing.

(5) Sablefish – Minimum size 22 inches in length, unless dressed in which case minimum size 15 1/2 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail except that an incidental catch less than the minimum size of 5,000 pounds for trawl gear or 100 pounds for fixed gear is allowed.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000D COASTAL SABLE FISH
— MINIMUM SIZE (87-25)

WSR 87-09-031

EMERGENCY RULES

HORSE RACING COMMISSION

[Resolution No. 87-01—Filed April 10, 1987]

Be it resolved by the Washington Horse Racing Commission, acting at the Marriott Hotel, 3201 South 176th Avenue, Seattle, WA, that it does adopt the annexed rules relating to:

Amd	WAC 260-24-280	Stewards—Authority to award punishment.
Amd	WAC 260-36-040	Registration of personnel other than owners, trainers and jockeys—Fee.
Amd	WAC 260-44-080	Weighing out—Overweight—Declarations—Posting—Maximum.

We, the Washington Horse Racing Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of

notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is at the beginning of April 1987, horse racing will begin again in Washington at Long Acres Race Track. It has already begun at Yakima Meadows Race Track. The staff of the Horse Racing Commission and the members of the Horse Racing Commission have determined that there are a number of existing rules that need changes made to them for purposes of clarification and revision.

The majority of the rules deal with clarification in regard to medication and the procedure for the use of medication. The remaining rules deal primarily with policy changes which are not of great significance. Nevertheless, it is essential that the owners, trainers, jockeys, veterinarians and other personnel have as much opportunity to be aware of these changes as possible at the beginning of the racing season.

In almost every instance, the proposed emergency amendment is one that is necessary for purposes of clarification more than anything else. It is the goal of the Horse Racing Commission to ensure that existing ambiguity in these rules are eliminated.

For these reasons, emergency action on these rules will be a benefit to everyone connected with racing and especially those whose concern is the application of the rules of racing.

All of the amendments will come before the Horse Racing Commission for further discussion under the permanent adoption procedure which will provide ample opportunity for public comment at that time.

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

This rule is promulgated under the general rule-making authority of the Washington Horse Racing Commission as authorized in RCW 67.16.020 and 67.16.040.

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

APPROVED AND ADOPTED March 31, 1987.

By Lyle Smith
Chairman

AMENDATORY SECTION (Amending Order 81-01, filed 3/24/81)

WAC 260-24-280 STEWARDS—AUTHORITY TO AWARD PUNISHMENT. The stewards have the power to punish at their discretion any person subject to their control either by suspension of the privilege of attending the races during the meeting; or by suspension from acting or riding during the meeting; or by fine not exceeding (~~(\$400.00)~~) \$750.00; or both, and if in their discretion they deem it necessary they may impose a suspension up to thirty days beyond the meet; for any further punishment or additional fine, they shall so report to the commission. Persons subject to these rules are deemed to come within the control of the board of

stewards assigned to a meet beginning on the day an association accepts entries for the first day of racing of that meet.

AMENDATORY SECTION (Amending Order 86-02, filed 4/21/86)

WAC 260-36-040 REGISTRATION OF PERSONNEL OTHER THAN OWNERS, TRAINERS AND JOCKEYS—FEE. (1) Any person acting in an official capacity or any person employed on a race track other than a groom or concession employee shall be licensed by the Washington horse racing commission for three years and the fee shall be \$15.00.

(2) All grooms and concession employees shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.

(3) Any person who serves as a volunteer and is not an owner, trainer, or jockey shall be licensed by the Washington horse racing commission for one year and the fee shall be \$5.00.

(4) All employees of the Washington horse racing commission shall be exempt from any license fees but shall be issued a photo identification badge which shall be displayed in the same manner as all other licensees while in the performance of their duties at the track.

AMENDATORY SECTION (Amending Order 75-1, filed 2/18/75)

WAC 260-44-080 WEIGHING OUT—OVERWEIGHT—DECLARATIONS—POSTING—MAXIMUM. (1) If a jockey intends to carry overweight, he must declare the amount thereof at the time of weighing out, or if in doubt as to his proper weight, he may declare the weight he will carry.

(2) If a jockey intends to carry overweight exceeding by more than two pounds the weight which his horse is to carry, the owner or trainer consenting, he must declare the amount of overweight to the clerk of the scales at least forty-five minutes before the time appointed for the race, and the clerk shall cause the overweight to be stated on the notice board immediately. Failure on the part of a jockey to comply with this rule shall be reported to the stewards.

(3) No horse shall carry more than seven pounds overweight.

(4) However, at nonprofit race tracks, horses may carry more than seven pounds overweight with the permission of the stewards up to a maximum weight of one hundred thirty-five pounds, except handicaps and races where the conditions expressly state to the contrary.

WSR 87-09-032
PROPOSED RULES

DEPARTMENT OF AGRICULTURE
[Filed April 10, 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 proposed amendments to chapter 16-101 WAC and specifically adding new sections:

- WAC 16-101-455 Multivitamin fortified or multimineral fortified milk or milk products.
- WAC 16-101-465 Lowfat milk with calcium added.
- WAC 16-101-475 Nonfat (skim) milk with calcium added;

that the agency will at 1:30 p.m., Wednesday, June 24, 1987, in the Department of Agriculture Conference Room, 4th Floor, 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 July 1, 1987.

The authority under which these rules are proposed is chapter 15.32 RCW.

This notice is connected to and continues the matter in Notice No. WSR 87-06-036 filed with the code reviser's office on March 2, 1987.

Dated: April 10, 1987
By: Michael V. Schwisow
Deputy Director

NEW SECTION

WAC 16-101-455 MULTIVITAMIN FORTIFIED OR MULTIMINERAL FORTIFIED MILK OR MILK PRODUCTS. "Multivitamin fortified" or "multimineral fortified" milk or milk products are milk and milk products, other than vitamin D, vitamin A, or vitamin A and D milk or milk products, the vitamins or minerals content of which have been increased in an amount not to exceed one hundred percent of the United States recommended daily allowance (U.S. RDA) for an 8 fluid ounce serving. The name of the milk or milk product shall include the specific vitamins or minerals added. The name of the milk or milk product shall bear the statement "mineral fortified" or similar statement approved by the department. All additives shall be listed in the ingredient statement.

NEW SECTION

WAC 16-101-465 LOWFAT MILK WITH CALCIUM ADDED. "Lowfat milk with calcium added" is lowfat milk which is fortified with calcium carbonate, tricalcium phosphate or other additive approved by the department, to a level of not less than 500 mg per 8 fluid ounce serving. The principal display panel shall prominently bear the statement "a dietary supplement of calcium." All additives shall be listed in the ingredient statement.

NEW SECTION

WAC 16-101-475 NONFAT (SKIM) MILK WITH CALCIUM ADDED. "Nonfat (skim) milk with calcium added" is nonfat milk which is fortified with calcium carbonate, tricalcium phosphate or other additive approved by the department, to a level of not less than 500 mg per 8 fluid ounce serving. The principal display panel shall prominently bear the statement "a dietary supplement of calcium." All additives shall be listed in the ingredient statement.

WSR 87-09-033

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1925—Filed April 10, 1987]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to WAC 16-101-570.

This action is taken pursuant to Notice No. WSR 87-06-036 filed with the code reviser on March 2, 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 chapter 15.32 RCW which directs that the director may, by rule, establish and/or amend definitions and standards for dairy products.

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

APPROVED AND ADOPTED April 10, 1987.

By Michael V. Schwisow
Deputy Director
[for] C. Alan Pettibone

AMENDATORY SECTION (Amending Order 1401, filed 6/19/75 and 6/20/75)

WAC 16-101-570 SOUR HALF-AND-HALF OR CULTURED HALF-AND-HALF. Sour half-and-half or cultured half-and-half is pasteurized half-and-half the acidity of which is not less than .50 percent expressed as lactic acid, produced by natural bacterial action of a lactic-acid-producing culture or by the direct addition of a food grade acid. Salt, lactose, starter culture distillate, approved type edible stabilizers are optional ingredients, but they shall be listed on the label if they are added. Sour half-and-half or cultured half-and-half may be alternately labeled as "light sour cream" or "light cultured sour cream" or "lite sour cream" or "lite cultured sour cream."

WSR 87-09-034
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed April 13, 1987]

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

Amd WAC 458-61-030 Definitions.
Amd WAC 458-61-555 Option to purchase.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 27, 1987.

The authority under which these rules are proposed is RCW 82.45.120 and 82.45.150.

The specific statute these rules are intended to implement is chapter 82.45 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 1987.

Dated: April 13, 1987
By: Trevor W. Thompson
Assistant Director

STATEMENT OF PURPOSE

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

Title: Chapter 458-61 WAC, Real estate excise tax.

Purpose: To provide a definition of air and development rights for purposes of the real estate excise tax.

Statutory Authority: RCW 82.45.120 requires the Department of Revenue to prescribe minimum standards for uniformity in reporting, application and collection of the real estate excise tax. RCW 82.45.150 requires the department to provide by rule for the effective administration of the real estate excise tax which rules shall include a manual that defines which transactions are taxable.

Summary and Reasons for the Rule: On January 16, 1987, the department adopted rules concerning the taxation of development rights and air rights (WAC 458-61-335). The proposed amendment is to define what constitutes development rights and air rights.

Drafter of the Rule: Tom Reeves, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-1381; Rule Implementation and Enforcement: Trevor W. Thompson, 6004 South Capitol Boulevard, Tumwater, Washington 98501, (206) 753-5503.

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

Comments and Recommendations: None.

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

Small Business Impact: The amended rules will have no impact on small business.

AMENDATORY SECTION (Amending Order PT 87-1, filed 1/16/87)

WAC 458-61-030 DEFINITIONS. For the purposes of chapter 458-61 WAC, unless otherwise required by the context:

(1) "Affidavit" shall mean the real estate excise tax affidavit which the department shall prescribe and furnish to the county treasurers. Such affidavit shall require the following information:

- (a) Identification of the seller and purchaser, including their current mailing addresses;
- (b) Legal description of the property transferring, including the tax parcel or account numbers;
- (c) Date of sale;
- (d) Type of instrument of sale;
- (e) Nature of transfer;
- (f) Gross sales price;
- (g) Value of personal property involved in the transfer;
- (h) Taxable sales price;
- (i) Whether or not the land is classified or designated as forest land under chapter 84.33 RCW;
- (j) Whether or not the land is classified as open space land, farm and agricultural land, or timber land under chapter 84.33 RCW;
- (k) Whether or not the property is exempt from property tax under chapter 84.36 RCW, at the time of sale;
- (l) Whether or not the property is:
 - (i) Land only;
 - (ii) Land with new building; or
 - (iii) Land with a previously used building;
- (m) A notice of continuance, signed by all new owners, for classified forest land (RCW 84.33.120), designated forest land (RCW 84.33-.180) (RCW 84.33.130) or classified open space land, farm and agricultural land or timber land (RCW 84.34.108) shall be signed for those affidavits conveying land subject to the provisions of chapters 84.33 and 84.34 RCW, if the new owner desires to continue said classification or designation. The county assessor shall determine from information provided by the grantor or grantee if the land qualifies for continued classification or designation and shall so note this determination on the affidavit prior to the acceptance of the affidavit by the county treasurer;
- (n) The affidavit shall list the following questions, the responses to which are not required:

(i) Is this property at the time of sale subject to an elderly, disability, or physical improvement exemption?

(ii) Does any building have a heat pump or solar heating or cooling system?

(iii) Does this transaction divide a current parcel of land?

(iv) Does this transaction include current crops or merchantable timber?

(v) Does this transaction involve a trade, or partial interest, corporate affiliates, related parties, a trust, a receivership, or an estate?

(vi) Is the grantee acting as a nominee for a third party?

(vii) Is the principal use of the land agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, or growing timber?

(o) The affidavit form shall contain a statement of the potential compensating and additional tax liability under chapter 84.34 RCW, a statement of the collection of taxes under RCW 84.36.262 and 84.36.810, and a statement of the applicable penalties for perjury under chapter 9A.72 RCW.

Each county shall use the affidavit form prescribed and furnished by the department of revenue.

The affidavit shall be signed by either the seller or the buyer, or the agent of either, under oath attesting to all required information.

(2) "Consideration" shall mean money or anything of value, either tangible or intangible, paid or delivered or contracted to be paid or delivered or services performed or contracted to be performed in return for real property or estate or interest in real property. The term shall further include the market value of real property transferred to a corporation by its shareholders, officers, or corporate affiliates so as to increase the assets of the grantee corporation.

(3) "Court decree" and "court order" shall have the same meaning and may be used interchangeably for the purposes of these rules. This shall be the judgment of a court of competent jurisdiction.

(4) "Date of taxability" shall mean the date of transfer as defined in subsection (15) of this section.

(5) "Department" shall mean the Washington state department of revenue.

(6) "Mining property" shall mean property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(7) "Mobile home" shall mean a mobile home as defined by RCW 46.04.302, as now or hereafter amended. (RCW 82.45.032)

(8) "Mortgage" shall have its ordinary meaning and shall include "deed of trust" for the purposes of these rules, unless the context clearly indicates otherwise.

(9) "Nominal sales prices" shall mean sales prices stated on the real estate excise tax affidavit that are so low in comparison to the actual value of the real estate as to cause disbelief by a reasonable person.

(10) "Nonsale" as defined by RCW 82.45.010 includes those real property transfers which, by their nature, are exempt from the real estate excise tax (see WAC 458-61-080: Affidavit requirements):

(a) Gift, device or inheritance (see WAC 458-61-410 and 458-61-460);

(b) Leasehold interest, other than option to purchase real property, including timber (see WAC 458-61-500);

(c) Cancellation or forfeiture of a vendee's interest in a real estate contract, whether or not such contract contains a forfeiture clause (Note: Tax exemption applies only to transfer back to original vendor or contract holder and is not the basis for refund of tax paid on original transfer — See WAC 458-61-210(1); see also WAC 458-61-330);

(d) Deed in lieu of foreclosure of a mortgage (where no consideration passes otherwise. See WAC 458-61-210(1));

(e) Assumption of mortgage, deed of trust, or real estate contract where no consideration passes otherwise (see WAC 458-61-210(1));

(f) Deed in lieu of forfeiture of a real estate contract, where no consideration passes otherwise (see WAC 458-61-210(1));

(g) Partition of property by tenants in common, whether by agreement or court decree (see WAC 458-61-650);

(h) Divorce decree or property settlement incident thereto (see WAC 458-61-340);

(i) Seller's assignment (see WAC 458-61-220);

(j) Condemnation by governmental body (see WAC 458-61-280);

(k) Security documents (mortgage, real estate contract, or other security interests apart from actual title) (see WAC 458-61-630);

(l) Court ordered sale or execution of judgment (see WAC 458-61-330);

(m) Transfer prior to imposition of this tax under chapter 82.45 RCW or previous chapter 28A.45 RCW;

(n) The transfer of any grave or lot in an established cemetery (see WAC 458-61-250); and

(o) A transfer to or from the United States, the state of Washington or any political subdivision thereof, or a municipal corporation of this state. (See WAC 458-61-420)

(11) "Real estate" shall mean real property, including improvements the title to which is held separately from the title to the land to which the improvements are affixed, the term also includes used mobile homes and used floating homes. (RCW 82.45.032)

(12) "Sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, exchange, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, exchange, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his/her direction, which title is retained by the vendor as security for the payment of the purchase price. (RCW 82.45.010)

(13) "Seller" shall mean any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington or any political subdivision thereof, or a municipal corporation of this state. (RCW 82.45.020)

(14) "Selling price" shall mean consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale: PROVIDED, That when the sale is that of a fractional interest in real property, the principal balance of any such debt remaining unpaid at the time of sale shall be multiplied by that same fraction and the result added as a component of the total sales price. The term shall not include the amount of any outstanding lien or encumbrance in favor of the United States, the state of Washington or a municipal corporation for the taxes, special benefits, or improvements. The value maintained on the county assessment rolls at the time of the transaction will be used for the sales price if such cannot otherwise be ascertained. In the event that the property is under current use assessment, the market value assessment maintained by the county assessor shall be used for the sales price. (RCW 82.45.030)

(15) "Date of transfer," "date of sale," "conveyance date" and "transaction date" shall have the same meaning and may be used interchangeably for the purposes of these rules. This shall be the date shown on the instrument of conveyance or sale.

(16) "Used mobile home" shall mean a mobile home which has been previously sold at retail and a previous sale has already been subject to the retail sales tax under chapter 82.08 RCW, or which has been previously used and a previous use has already been subject to the use tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities. (RCW 82.45.032)

(17) "Wilful fraud" shall mean knowingly making false statements or taking actions so as to intentionally underpay or not pay the proper real estate excise tax due on the transfer of real estate.

(18) "Used floating home" shall mean a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

(19) "Rescinded transfer" shall mean a real property transfer wherein both grantor and grantee have been restored to their original positions. In such case, title to the real property has been reconveyed to the grantor and all valuable consideration paid toward the sales price principal has been returned to the grantee.

(20) "Air rights" shall mean the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

(21) "Development rights" shall mean those rights that are subject to conveyancing and are the unused development which is the difference between the density allowed by zoning and that which exists on a parcel of land.

AMENDATORY SECTION (Amending Order PT 86-3, filed 8/6/86)

WAC 458-61-555 OPTION TO PURCHASE. The real estate excise tax does not apply to an option to purchase real property when such option does not accompany ~~((m))~~ a lease. See WAC 458-61-510.

WSR 87-09-035
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2484—Filed April 13, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcoholism treatment facilities, amending chapter 275-19 WAC.

This action is taken pursuant to Notice No. WSR 87-05-021 filed with the code reviser on February 13, 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 69.54.040 and 70.96A.090 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 13, 1987.

By Leslie F. James, Director
Administrative Services

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 non-profit, 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 or third-party payments on behalf of clients;

(ii) Federal, state, and county contracts for alcoholism and/or drug treatment services.

(b) Have provided separate supervisory staff and treatment personnel for the alcoholism and/or drug addiction treatment services separate from other services provided by the facility,

(c) Have provided a separate building or a separate area within a building for the approved alcoholism and/or drug addiction treatment services,

(d) Have separate accounting records and documents which identify the source and applications of all funds received in payment for alcoholism and/or drug addiction treatment services.

(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, nonresidential 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 ~~((1)(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 ACCREDITING))~~ 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 only approve alcoholism and/or drug addiction treatment facilities which are separate and discrete from mental health facilities as defined in chapter 71.24 RCW; PROVIDED, That approval shall continue to be granted to mental health facilities which were approved prior to January 1, 1987, to provide one or more of the treatment services defined in WAC 275-19-020. Approval shall continue to be granted for such treatment services operated by mental health facilities as long as they remain in compliance with the requirements of chapter 275-19 WAC.

(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))~~ (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.

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 87-09-036

PROPOSED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Filed April 13, 1987]

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

Amd WAC 356-18-100 Accrued vacation leave disposition—
Computation—How made.

Amd WAC 356-30-130 Seasonal career employment;

that the agency will at 10:00 a.m., Thursday, May 14, 1987, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1987.

This notice is connected to and continues the matter in Notice No. WSR 87-07-036 filed with the code reviser's office on March 13, 1987.

Dated: April 10, 1987

By: Leonard Nord
Secretary

WSR 87-09-037

ADOPTED RULES

DEPARTMENT OF PERSONNEL

(Personnel Board)

[Order 273—Filed April 14, 1987—Eff. June 1, 1987]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98507-1789, that it does adopt the annexed rules relating to Administration—Salaries—Comparable worth, amending WAC 356-14-045.

This action is taken pursuant to Notice No. WSR 87-06-042 filed with the code reviser on [March 3, 1987]. These rules shall take effect at a later date, such date being June 1, 1987.

This rule is promulgated pursuant to RCW 41.06.150 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 9, 1987.

By Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 253, filed 7/1/86, effective 8/1/86)

WAC 356-14-045 SALARIES—COMPARABLE WORTH. (1) Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department of personnel in cooperation with the higher education personnel board. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under chapter 41.06 RCW shall be fully achieved not later than June 30, 1993.

(2) Comparable worth entitlements shall comply with the December 31, 1985 settlement agreement between the state of Washington and the American Federation of State, County and Municipal Employees (AFSCME), et al., as approved by federal district court and ratified by the Washington legislature.

(3) Upon the establishment of new classes, or redefinition of existing classes, the following policy shall apply:

(a) When an existing class or class series that is covered by the settlement agreement is substantially revised, the comparable worth salary range involvement shall be determined by reevaluating the classes using the Willis methodology.

(b) The comparable worth salary range involvement for classes that were not covered by the settlement agreement and newly created classes or class series shall be determined based on internal indexing, or Willis evaluation, whichever is determined most appropriate by the director.

(c) Salary ranges for new or revised classes which are substantially common with higher education personnel board classes shall be equal, as applicable.

(4) Comparable worth evaluation committee:

(a) Comparable worth evaluations using the Willis methodology shall be conducted by an evaluation committee composed of at least eight member representatives from operating agencies, employee organizations, and department of personnel staff.

(b) Members shall be experienced in agency programs or personnel administration. Members must also attend meetings on a regular basis a majority of the time.

(c) The director shall process committee appointments, appoint officers, establish meeting agendas, call meetings, and schedule (or reschedule) evaluations as he/she deems appropriate. Affected agency or employee representatives must submit any requests for evaluations or reevaluations in writing to the director for disposition and written response.

(5) Other administrative requirements regarding comparable worth adjustments include, but are not limited to, the following:

(a) The process for determining comparable worth class salary range involvement, if any, will be made a part of the regular monthly state personnel board meeting agenda.

(b) Requesting agencies and organizations should submit new and revised class proposals in sufficient time to accommodate a possible two-month review and evaluation period requirement.

(c) Agency requests should include proposed salary survey indexing and proposed comparable worth involvement, if any, at time of item submission. Indexing and comparable worth information will be included in board meeting agenda publications.

(d) For purposes of legal, fiscal, and legislative disclosure, comparable worth involvement salary ranges will be tracked and recorded by class.

WSR 87-09-038

PROPOSED RULES

OFFICE OF ADMINISTRATIVE HEARINGS

[Filed April 14, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Administrative Hearings intends to adopt, amend, or repeal rules concerning WAC 10-08-180 is amended to comply with federal requirements governing teleconference hearings

held for the Department of Social and Health Services in the aid to families with dependent children program under Title IV-A and the adult categories under Titles I, X, XIV and XVI of the Social Security Act and the food stamp disqualification program under 7 CFR 273.16.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 15, 1987.

The authority under which these rules are proposed is RCW 34.12.080, 34.04.020 and 34.04.022.

The specific statute these rules are intended to implement is RCW 34.04.020, 34.04.022, 45 CFR 205.20 (a)(2) and 7 CFR 273.16.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 6, 1987.

Dated: April 13, 1987

By: D. R. LaRose

Chief Administrative Law Judge

STATEMENT OF PURPOSE

Title, Purpose, Summary, Statutes Implemented: WAC 10-08-180 is amended to provide that administrative hearings in certain federally funded Department of Social and Health Services programs may be scheduled as teleconference hearings only if the notice of hearing informs the applicant/recipient of his or her right to convert the hearing to an in-person hearing by notifying the presiding officer at least one week prior to the hearing that he or she chooses to have the hearing conducted in person. This rule implements March 18, 1986, amendments to 45 CFR 205.10 (a)(2), which authorizes the use of teleconference hearings in the affected programs only when the department and the applicant/recipient both agree to having a teleconference hearing instead of an in-person hearing.

Statutory Authority: RCW 34.12.080, 34.04.020 and 34.04.022.

Responsible Agency Person: David R. LaRose, Chief Administrative Law Judge, Office of Administrative Hearings, 4224 6th Avenue S.E., Lacey, WA 98504-8915, PY-15, (206) 459-6353, scan 585-6353.

Agency Comments Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: This rule is necessary to comply with federal law (45 CFR 205.10 (a)(2) as amended March 18, 1986). The fiscal impact will be the addition of approximately one administrative law judge FTE to the Office of Administrative Hearings Social and Health Services subdivision staff to cover additional travel time associated with conducting in-person hearings in a caseload which for several years has been handled by teleconference call. The added costs will be billed to the Department of Social and Health Services under the provisions governing the Office of Administrative Hearings revolving fund. An interagency reimbursement agreement will be required to recognize these increased costs in the DSHS and OAH budgets to permit compliance with the federal rule.

This rule will have no economic impact on the small business community.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-08-180 TELECONFERENCE HEARINGS. (1) The presiding officer, with the concurrence of the agency, may conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place(-); provided the following conditions are met:

(a) A hearing held for the Department of Social and Health Services in the Aid to Families with Dependent Children program under title IV-A and the adult categories under titles I, X, XIV or XVI of the Social Security Act or in the food stamp disqualification program under 7 CFR 273.16 may be scheduled as a teleconference hearing only if the notice of hearing informs the applicant/recipient of his or her right to convert the hearing to an in-person hearing by notifying the presiding officer at least one week prior to the hearing that he or she chooses to have the hearing conducted in person. The applicant/recipient is not required to show good cause for choosing an in-person hearing.

(b) In proceedings other than those described in subsection (a) ((F)) the presiding officer shall grant the motion of any party showing good cause for having the hearing conducted in person at a rescheduled time.

(2) Documentary evidence shall be submitted in advance as provided in WAC 10-08-140(2).

WSR 87-09-039

ADOPTED RULES

STATE BOARD OF EDUCATION

[Order 7-87—Filed April 14, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does adopt the annexed rules relating to Private schools, definitions—Exceptional case, unusual competence and general supervision, loss of approval of a nonoperating school, minimum standards and certificate form, chapter 180-90 WAC.

This action is taken pursuant to Notice No. WSR 87-05-052 filed with the code reviser on February 18, 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 28A.02.204 [28A.02.240] 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 March 27, 1987.

By Monica Schmidt
Secretary

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; and

(c) The school which employs a noncertified employee or employees pursuant to this subsection employs at least one person certified pursuant to rules of the state board of education to every twenty-five FTE students enrolled in grades one through twelve.

(2) "Unusual competence":

(a) As applied to an exceptional case wherein the educational program as specified in RCW 28A.02.201(7) and WAC 180-90-160(7) 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 87-09-040
ADOPTED RULES
STATE BOARD OF EDUCATION
 [Order 6-87-Filed April 14, 1987]

Be it resolved by the State Board of Education, acting at the Kent Commons, Kent, Washington, that it does adopt the annexed rules relating to pupils, discipline, conditions and limitations, WAC 180-40-235.

This action is taken pursuant to Notice No. WSR 87-05-047 filed with the code reviser on February 18, 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 28A.04-.132 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 27, 1987.
 By Monica Schmidt
 Secretary

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 consisting of spanking or striking a student shall be administered only in an office or some other area outside the view of other students and only by ((a-certificated)) an authorized 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 the corporal punishment. For the purpose of this subsection the term "authorized employee" means 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 corporal punishment consisting of spanking or otherwise striking the student.

(4) No cruel and unusual form of corporal punishment shall be inflicted upon any student.

(5) Only reasonable and moderate force shall be applied to a student and no form of corporal punishment shall be inflicted upon the head of a student.

(6) Parents or guardians, upon their request, shall be provided a written explanation of the reason(s) for the infliction of corporal punishment consisting of spanking or otherwise striking a student and the name of the witness who was present at the time the corporal punishment was administered.

COMMENT: This section is not intended to authorize the use of any particular form of discipline or to authorize any particular person to impose discipline; that is the regulatory responsibility of each school district. What this section does consistent with the general purpose of this chapter is impose conditions upon the use of such disciplinary measures as are otherwise authorized or permitted by a school district's rules.

Note also that this section does not completely address the law governing the use or infliction of corporal

punishment or physical discipline. For additional information your attention is invited to the following: The case of Simmons v. Vancouver School Dist., 41 Wn. App. 365, 704 P.2d 648 (1985) (the term "corporal punishment" is not limited to spanking a student; it includes any number of forms of physical or bodily punishment); RCW 28A.87.140 (it is a misdemeanor for a teacher to administer unreasonable punishment or to inflict punishment on the head of a student); and, RCW 9A.16.100 (only parents, guardians, and teachers, and such other persons as have been authorized in advance by a child's parent or guardian may lawfully inflict physical discipline upon a child for purposes of restraining or correcting the child; only reasonable and moderate discipline or force may be inflicted; and, certain specified actions are presumed unreasonable and thus unlawful including throwing, kicking, burning, cutting, striking with a closed fist, shaking a child under three, interfering with breathing, threatening with a deadly weapon, and causing greater than transient pain or minor temporary marks.)

WSR 87-09-041

PROPOSED RULES

GAMBLING COMMISSION

[Filed April 14, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 230-20-064;

that the agency will at 10:00 a.m., Friday, June 12, 1987, in Colville, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is chapter 9.46 RCW.

Dated: April 14, 1987

By: Frank L. Miller
Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-20-064, Maximum receipts, prizes, and expenses for bingo games—Net income required.

Description of Purpose: To allow (3) licensees to exceed the maximum limitation of Class K requirement if they donate 14% of gross to a charitable organization. This rule was passed on an emergency basis in April. This is a short term solution pending the commission's study.

Statutory Authority: Chapter 9.46 RCW.

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-20-064 allows (3) licensees to continue operation pending the completion of the commission's study on bingo.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Ronald O. Bailey, Director; and Frank L. Miller, Deputy Director, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, 234-1075 scan, 753-1075 comm.

Proponents and Opponents: Gambling Commission staff proposes this rule amendment and new rule.

Agency Comments: The agency believes the proposed amendment and new rule are self-explanatory and need no further comment.

This amendment and new rule were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined there may be an economic impact upon a certain number of licensees administered by this agency by the adoption of this amendment or new rule.

AMENDATORY SECTION (Amending Order 151, filed 6/14/85)

WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES—NET INCOME REQUIRED. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Bona fide charitable or nonprofit organizations licensed to operate bingo must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo at any class and applying for a Class "F" or above license shall submit with its license application a pro forma plan of operation including a market study with: Planned attendance; prizes;

prize payout schedules; and net income predictions; and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts as percentages of gross receipts shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in any month and/or exceeds its calendar quarter limits during any quarter must report to the commission, no later than 15 days following the end of the month or quarter.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any calendar year. Any licensee who reports net income more than two percentage points (2.0%) below the minimum calendar year requirement for its class during any quarter must report to the commission additional information as required.

(4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting which by law must be held in Olympia and/or periodically by request of the commission with proper and timely notification to the staff.

(5) During the Commission's study on MAXIMUM LIMITATIONS on bingo income, an organization may exceed the class K gross receipts limitation if the organization has been in compliance for the last 12 months with all class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee class E and above. Provided Further: All donations made after the effective date of this amendment may be counted as a credit towards the 14% requirement. This section will terminate on December 31, 1987.

Table 1.

License Class	Annual Gross Receipts	Calendar Year Prize Payout Limits	Calendar Quarter Prize Payout Limits	Calendar Year Adjusted Net Income Minimum Requirements
A	Up to \$ 10,000	No Limits	No Limits	None
B	\$ 10,001- 50,000	No Limits	No Limits	None
C	50,001- 100,000	No Limits	No Limits	None
D	100,001- 300,000	No Limits	No Limits	None
E	300,001- 500,000	No Limits	No Limits	None
F	500,001- 1,000,000	83.0 - 80.0%	84.0%	4.0 - 5.0%
G	1,000,001- 1,500,000	80.0 - 78.0%	81.0%	5.0 - 7.0%
H	1,500,001- 2,000,000	78.0 - 76.0%	79.0%	7.0 - 9.0%
I	2,000,001- 2,500,000	76.0 - 74.0%	77.0%	9.0 - 11.0%
J	2,500,001- 3,000,000	74.0 - 72.0%	75.0%	11.0 - 13.0%
K	3,000,001- 3,500,000	72.0 - 70.0%	73.0%	13.0 - 14.0%

WSR 87-09-042
EMERGENCY RULES
GAMBLING COMMISSION
 [Order 166—Filed April 14, 1987]

Be it resolved by the Washington State Gambling Commission, acting at Walla Walla, Washington, that it does adopt the annexed rules relating to amendatory section WAC 230-20-064.

We, the Washington State Gambling Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the

proposed action would be contrary to public interest. A statement of the facts constituting the emergency is that three nonprofit or charitable organizations would have to shut down their bingo games or reduce their bingo sessions without the amendment. This would result in economic losses in funds generated for their purposes. This is a short term solution until the commission completes their ongoing study.

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

This rule is promulgated pursuant to chapter 9.46 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 10, 1987.

By Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 151, filed 6/14/85)

WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES—NET INCOME REQUIRED. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Bona fide charitable or nonprofit organizations licensed to operate bingo must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo at any class and applying for a Class "F" or above license shall submit with its license application a pro forma plan of operation including a market study with: Planned attendance, prices, prize payout schedules, and net income predictions, and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts as percentages of gross receipts shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in any month and/or exceeds

its calendar quarter limits during any quarter must report to the commission, no later than 15 days following the end of the month or quarter.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any calendar year. Any licensee who reports net income more than two percentage points (2.0%) below the minimum calendar year requirement for its class during any quarter must report to the commission additional information as required.

(4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting which by law must be held in Olympia and/or periodically by request of the commission with proper and timely notification to the staff.

(5) During the Commission's study on MAXIMUM LIMITATIONS on bingo income, an organization may exceed the class K gross receipts limitation if the organization has been in compliance for the last 12 months with all class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee class E and above. Provided Further: All donations made after the effective date of this amendment may be counted as a credit towards the 14% requirement. This section will terminate on December 31, 1987.

Table 1.

License Class	Annual Gross Receipts	Calendar Year Prize Payout Limits	Calendar Quarter Prize Payout Limits	Calendar Year Adjusted Net Income Minimum Requirements
A	Up to \$ 10,000	No Limits	No Limits	None
B	\$ 10,001- 50,000	No Limits	No Limits	None
C	50,001- 100,000	No Limits	No Limits	None
D	100,001- 300,000	No Limits	No Limits	None
E	300,001- 500,000	No Limits	No Limits	None
F	500,001- 1,000,000	83.0 - 80.0%	84.0%	4.0 - 5.0%
G	1,000,001- 1,500,000	80.0 - 78.0%	81.0%	5.0 - 7.0%
H	1,500,001- 2,000,000	78.0 - 76.0%	79.0%	7.0 - 9.0%
I	2,000,001- 2,500,000	76.0 - 74.0%	77.0%	9.0 - 11.0%
J	2,500,001- 3,000,000	74.0 - 72.0%	75.0%	11.0 - 13.0%
K	3,000,001- 3,500,000	72.0 - 70.0%	73.0%	13.0 - 14.0%

WSR 87-09-043
ADOPTED RULES
GAMBLING COMMISSION
 [Order 167—Filed April 14, 1987]

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

- | | | |
|-----|----------------|--|
| Amd | WAC 230-04-020 | Application procedure—Mandatory training (would require mandatory training for the applicant and the person in charge of the activity as a condition of licensing). |
| Amd | WAC 230-04-123 | Licensing of distributors representative (would require the applicant to complete a training session prior to licensing). |
| Amd | WAC 230-04-140 | Licensing of public card room employees (would require the applicant to complete a training session prior to licensing). |
| Amd | WAC 230-04-145 | Licensing of manager of bingo games (would require the applicant to complete a training session prior to licensing). |
| New | WAC 230-12-305 | Licensee required to submit updated documents or information (requires continued updating of information on the application to ensure proper and continued qualification). |

This action is taken pursuant to Notice No. WSR 87-06-008 filed with the code reviser on February 19, 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 chapter 9.46 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 10, 1987.

By Frank L. Miller
Deputy Director

AMENDATORY SECTION (Amending Order 137, filed 10/18/83)

WAC 230-04-020 APPLICATION PROCEDURE - MANDATORY TRAINING REQUIRED. Applicants for license from the commission shall submit applications to the office of the commission in Olympia. The information requested on the appropriate application form is required to be submitted by each applicant for a license.

The application shall be signed under oath by the highest ranking executive officer of a charitable, nonprofit or profit seeking corporation, such as the president of a firm or club or the head pastor or minister of a church; or by the principal owner of a profit seeking business. Other persons, including but not limited to, the chairman of a board of directors or trustees, the person in charge of the financial records, or persons having a substantial interest in the applicant business and/or

charitable nonprofit organization, may at the commission director's discretion be required to sign the application. When the application is being submitted by or on behalf of an incorporated city or town in the state of Washington, the application must be signed by the mayor or the mayor's designated representative.

Each such person shall acknowledge that he assumes full responsibility for the fair and lawful operation of all licensed activities that the applicant conducts.

The commission will consider only those applicants submitting the form and fully completing all the applicable portions of the form. Each applicant shall certify under oath that the information set forth in the application and any accompanying materials is true, accurate and complete.

The application form and all information set forth therein and all supplemental information submitted at the commission's request, except statements as to arrests of any person, shall constitute public records and the entire contents thereof may, at the discretion of the commission, be disclosed to the public or discussed at the public meetings of the commission.

The commission shall issue the license applied for only after it is satisfied that the applicant is qualified to operate the activity for which the license is being requested. The commission (~~may~~) will refrain from issuing the license until the person that signed the application form and the designated person responsible for the gambling activity has completed a training course as established and provided by the Commission and until the completion of such review and investigation as ((it) the Commission ((deems necessary into the propriety of granting the license)). Provided: mandatory training shall not be required for licensing of manufacturers; manufacturers representatives, recertification of existing licenses, unless there has been a change in the highest ranking executive officer since the issuance of the license; and for licensees with special circumstances as approved by the director.

AMENDATORY SECTION (Amending Order 145, filed 12/18/84)

WAC 230-04-123 LICENSING OF DISTRIBUTOR'S REPRESENTATIVES. Prior to selling or supplying to any person any punchboard, pull tab or device for the dispensing of pull tabs, or any gambling equipment or paraphernalia for use in connection with licensed fund raising events, within the state of Washington or for use within the state of Washington, a representative or agent of the distributor of such devices shall first obtain a license from the commission. A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed as a distributor shall not be required to be additionally licensed as a distributor's representative to engage in the selling or supplying of the distributor's products or services. Office, clerical or warehouse personnel employed by the distributor who have contact with the public and potential customers only occasionally and only by telephone or at the distributor's own premises when working under the immediate and direct supervision of the owner, a partner, or major officer of a corporation licensed as a distributor, shall also be exempt from this licensing requirement.

A manager or supervisor who is not a sole owner, partner or a major officer or owner of a substantial interest in a licensed distributor whose duties and responsibilities include the supervision of selling, supplying and/or the promotion of the distributor's products shall be licensed as required by this rule prior to performing such functions in connection with the selling or furnishing of gambling devices, equipment or related items in the state of Washington or for use within the state of Washington. A distributor shall not allow an unlicensed person to represent it in such transactions and shall take all measures necessary to prevent an unlicensed person from doing so.

On or before the first day he or she actually performs work as a distributor's representative, a person shall submit an application for a license to the commission. Such application shall not be deemed complete and properly submitted for the purposes of this rule unless and until all questions on the commission's application form and attachments are fully and truthfully answered and the form, with all attachments, together with the required fee, has been delivered to the commission office during regular business hours (or actually deposited in the United States mail properly addressed to the commission.) In addition, the applicant must complete a training course as provided by the Commission within 30 days after the first day worked.

The distributor for which a distributor's representative will work shall sign the application of each such distributor's representative acknowledging that the applicant will be representing the distributor with the distributor's knowledge and consent.

No person licensed as a distributor's representative shall represent more than one distributor at a time. A distributor's representative shall not represent a manufacturer: Provided, That this rule shall not bar the distributor's representative from representing his own distributor who is also licensed as a manufacturer.

AMENDATORY SECTION (Amending Order 137, filed 10/18/83)

WAC 230-04-140 LICENSING OF PUBLIC CARD ROOM EMPLOYEES. (1) No person shall act as a public card room employee unless he or she has either received a license to do so from the commission or, if:

(a) The commission has not previously revoked a license or denied an application by that person for such a license; and

(b) He or she has properly applied for such license. If there has been such a previous denial or revocation, or if the applicant has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to certain offenses set forth in RCW 9.46.158, that person shall not act as a public card room employee unless he or she has been issued a license by the commission.

(2) On or before the first day he or she actually performs work as a public card room employee, a person shall submit an application for a license to the commission. Such application shall not be deemed complete and properly submitted for the purposes of this rule unless and until all questions on the commission's application

form and attachments are fully and truthfully answered and the form, with all attachments, together with the required fee, has been delivered to the commission office during regular business hours (or actually deposited in the United States mail properly addressed to the commission): Provided, That the requirements of this section shall not apply to persons employed in a public card room operating under a Class B or Class D license only. In addition, the applicant must complete a training course as provided by the Commission within 30 days after the first day worked.

(3) A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed to operate a public card room shall not be required to be additionally licensed as a public card room employee to perform duties in connection with the card room. Except as provided in this section, an operator of a public card room shall not employ any unlicensed person to perform duties for which a license is required in or in connection with a public card room, and shall take all measures necessary to prevent an unlicensed person from doing so.

(4) The operator of a public card room or partner or officer of the entity operating the card room for which the applicant will work shall sign the (~~for original~~) application (~~for license~~) of each such public card room employee acknowledging that the applicant will be working for that operator with the operator's knowledge and consent.

AMENDATORY SECTION (Amending Order 137 [165], filed 10/18/83 [3/16/87])

WAC 230-04-145 LICENSING OF MANAGERS OF BINGO GAMES. No person shall act as a bingo game manager on or after February 1, 1982, unless he or she has either received a license to do so from the commission or, if the commission has not previously denied an application by that person for a license, or the commission has not previously revoked a license issued to that person, he or she has properly applied for such license. If there has been (~~such~~) a previous denial of an application and/or revocation of a license, or if the applicant has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to certain offenses set forth in RCW 9.46.158 that person shall not act as a bingo game manager unless he or she has been issued a license to do so by the commission. See WAC 230-02-418 for the definition of a "bingo game manager."

On or before the first day he or she actually performs work as a bingo game manager, a person shall submit an application for a license to the commission. Such application shall not be deemed complete and properly submitted for the purposes of this rule unless and until all questions on the commission's application form and attachments are fully and truthfully answered and the form, with all attachments, together with the required fee, has been delivered to the commission office during regular business hours (or actually deposited in the United States mail properly addressed to the commission). In addition, the applicant must complete a training course as provided by the Commission within 30 days after the first day worked.

Except as provided in this section, an operator of a bingo game shall not allow any unlicensed person to perform duties for which a license is required in or in connection with a bingo game and shall take all measures necessary to prevent an unlicensed person from doing so.

The president of the bingo licensee (or equivalent officer) operating the bingo game in connection with which the applicant will work shall sign the original application for license of each bingo game manager acknowledging that the applicant will be working for that bingo licensee with the bingo licensee's knowledge and consent.

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 230-12-305 LICENSEE REQUIRED TO SUBMIT UPDATED DOCUMENTS OR INFORMATION. In addition to any other requirements set forth in these rules, the persons licensed by the commission shall be required to submit any changes in the following documents or information on file with the commission:

- (1) Articles of incorporation or by laws, or any other documents which set out the organizational structure and purposes;
- (2) Internal Revenue Service tax exemption status (charitable/nonprofit organizations only); and
- (3) All leases, rental, consignment, franchise, or other agreements relating to gambling activities or altering the commercial stimulant business, whether oral or written;

The new or updated documents and/or information shall be submitted to the commission by notation on the next quarterly activity report filed, and by attaching all details concerning each transaction: Provided, that licensees not required to submit quarterly activity reports shall submit the required information no later than (60) days following the transaction(s) date.

WSR 87-09-044
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Occupational Therapy Practice)
 [Order PM 645—Filed April 14, 1987]

Be it resolved by the Washington State Board of Occupational Therapy Practice, acting at St. Joseph's Hospital, Tacoma, Washington, that it does adopt the annexed rules relating to:

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.

This action is taken pursuant to Notice No. WSR 87-05-062 filed with the code reviser on February 18, 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 Board of Occupational Therapy Practice as authorized in RCW 18.59.130 and 18.130.050.

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

APPROVED AND ADOPTED March 25, 1987.
 By Susan Kronsoble, O.T.
 Chairperson

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 Education Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc.

WSR 87-09-045

ADOPTED RULES

DEPARTMENT OF LICENSING

(Podiatry Board)

[Order PM 643—Filed April 14, 1987]

Be it resolved by the Washington State Podiatry Board, acting at the Executive Conference Theatre, Nendel's, 16838 Pacific Highway South, Seattle, WA, that it does adopt the annexed rules relating to:

Amd WAC 308-31-025 Scope of practice.

Amd WAC 308-31-500 Professional and ethical standards.

This action is taken pursuant to Notice No. WSR 87-04-054 filed with the code reviser on February 4, 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 Washington State Podiatry Board as authorized in RCW 18.22.015.

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

APPROVED AND ADOPTED March 18, 1987.

By N. Jerry Schlesinger, DPM
Chairman

AMENDATORY SECTION (Amending Order PM 638, filed 2/3/87)

WAC 308-31-025 SCOPE OF PRACTICE. (1) An "ailment of the human foot" as set forth in RCW 18.22.010 is defined as any condition, symptom, disease, complaint, or disability involving the functional foot. The functional foot includes the anatomical foot and any muscle, tendon, ligament, or other soft tissue structure directly attached to the anatomical foot and which impacts upon or affects the foot or foot function and osseous structure up to and including the articulating surfaces of the ankle joint.

(2) In diagnosing or treating the ailments of the functional foot, a podiatrist is entitled to utilize medical, surgical, mechanical, manipulative, radiological, and electrical treatment methods and the diagnostic procedure or treatment method may be utilized upon an anatomical location other than the functional foot. The diagnosis and treatment of the foot includes diagnosis and treatment necessary for preventive care of the well foot.

(3) A podiatrist may examine, diagnose, and commence treatment of ailments for which differential diagnoses include an ailment of the human foot. Upon determination that the condition presented is not an ailment of the human foot, the podiatrist shall obtain an appropriate consultation or make an appropriate referral to a licensed health care practitioner authorized by law to treat systemic conditions. The podiatrist may take emergency actions as are reasonably necessary to protect the patient's health until the intervention of a licensed health care practitioner authorized by law to treat systemic conditions.

(4) A podiatrist may diagnose or treat an ailment of the human foot caused by a systemic condition provided an appropriate consultation or referral for the systemic condition is made to a licensed health care practitioner authorized by law to treat systemic conditions.

(5) A podiatrist shall not administer a general or spinal anesthetic, however, a podiatrist may treat ailments of the human foot when the treatment requires use of a general or spinal anesthetic provided that the administration of the general or spinal anesthetic is by or under the supervision of a physician ((licensed)) authorized under chapter 18.71 or 18.57 RCW.

AMENDATORY SECTION (Amending Order PM 638, filed 2/3/87)

WAC 308-31-500 PROFESSIONAL AND ETHICAL STANDARDS. In addition to those standards specifically expressed in chapter 18.22 RCW and chapter 18.130 RCW, the board adopts the standards that

follow in governing or regulating the practice of podiatrists within the state of Washington.

Podiatry is that specialty of medicine and research that seeks to diagnose, treat, correct and prevent (~~dis-eases and disorders~~) ailments of the human foot. A podiatrist shall hold foremost the principal objectives to render appropriate podiatric services to the society and to assist individuals in the relief of pain or correction of abnormalities, and shall always endeavor to conduct himself or herself in such a manner to further these objectives.

The podiatrist owes to his or her patients a reasonable degree of skill and quality of care. To this end, the podiatrist shall endeavor to keep abreast of new developments in podiatric medicine and surgery and shall pursue means that will lead to improvement of his or her knowledge and skill in the practice of podiatry. "Quality of care" consists of the following elements:

- (1) Necessity of care.
- (2) Appropriateness of service rendered in view of the diagnosis.
- (3) Utilization of services (over or under).
- (4) Quality of service(s) rendered.
- (5) Whether the service(s) reported had been actually rendered.

WSR 87-09-046
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Optometry)
 [Order PM 646—Filed April 14, 1987]

Be it resolved by the Washington State Board of Optometry, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-53-084 and 308-53-085.

This action is taken pursuant to Notice Nos. WSR 87-01-111 and 87-02-060 filed with the code reviser on December 24, 1986, and January 7, 1987 [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 18.54.070(5) and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED February 20, 1987.

By Chuen Y. Wong, O.D.
 Chairman

AMENDATORY SECTION (Amending Order PM 598, filed 6/5/86)

WAC 308-53-084 EXAMINATION SUBJECTS. Every qualified applicant for a license as an optometrist shall successfully pass all examinations. The examinations may include, but not be limited to, the following subjects and types of examination:

(1) ~~((Every applicant shall complete a state written examination covering subject areas of contact lenses; perimetry; pathology slides; visual training; theory and methods of optometry; ocular anatomy and physiology; ocular pathology; ocular pharmacology; moral and legal ethics of the practice of optometry; and Washington state law pertaining to the practice of optometry. After June 30, 1987, the state written examination shall no longer be conducted by the board.~~

(2) ~~Effective July 1, 1986, certification of successful completion of all written parts of the examinations conducted by the National Board of Examiners in Optometry (NBEO) will be accepted in lieu of the state written examination.~~

(3) ~~Effective July 1, 1987, certification of successful completion of the written examinations conducted by the National Board of Examiners in Optometry (NBEO) is required.~~

(4)) Successful completion of a written test on Washington state law pertaining to the practice of optometry is required of all applicants.

((5)) (2) Every applicant shall complete a practical examination conducted by the board, which may include, but not be limited to: Funduscopy; lensometry; retinoscopy; biomicroscopy; tonometry; radiuscope; and ((an)) two oral interviews ((of)) on diagnostic and patient management procedures. Each applicant must furnish his/her own patient for the practical examination.

AMENDATORY SECTION (Amending Order PM 598, filed 6/5/86)

WAC 308-53-085 GRADING EXAMINATIONS. To successfully pass the examination, an applicant must:

(1) Pass the practical examination section with a minimum average score of seventy-five, with no score below sixty-five;

(2) Pass ~~((the practical))~~ both oral interviews ((of)) on diagnostic and patient management ((case history section)) procedures with a minimum score of seventy-five on each interview section;

(3) ~~((Pass all parts of National Board of Examiners in Optometry written examination; and~~

(4)) Obtain a minimum score of seventy-five on the written examination on Washington state law relating to optometry.

((5) Until July 1, 1987, applicants taking the state written examination must obtain an overall average score of seventy-five:))

WSR 87-09-047
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
(Transportation Commission)
[Filed April 16, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Transportation intends to adopt, amend, or repeal rules concerning the adoption of a revised schedule of tolls for the Washington state ferry system, amending WAC 468-300-010, 468-300-020, 468-300-040, 468-300-070 and 468-300-700; and the repeal of WAC 468-300-030;

that the agency will at 10 a.m., Thursday, April 23, 1987, in Room 1D2, Transportation Building, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 23, 1987.

The authority under which these rules are proposed is RCW 47.56.030 and 47.60.326.

The specific statute these rules are intended to implement is RCW 47.60.326.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 23, 1987.

This notice is connected to and continues the matter in Notice No. WSR 87-06-052 filed with the code reviser's office on March 4, 1987.

Dated: April 10, 1987

By: Lue Clarkson
Administrator

WSR 87-09-048
NOTICE OF PUBLIC MEETINGS
CONSERVATION COMMISSION
[Memorandum—April 15, 1987]

Notice is hereby given that the regular Conservation Commission meeting scheduled for "the third Thursday" (WAC 135-04-020) of May 1987 will be rescheduled to May 21-22, 1987, at the Red Lion Inn-Pasco, 2525 North 20th, Pasco, WA, beginning at 3:00 p.m., on May 21, 1987.

Please contact Shirley Casebier, Conservation Commission, Olympia, Washington 98504, phone 459-6226 for further information.

Dates and places for other forthcoming meetings are yet to be determined.

WSR 87-09-049
ADOPTED RULES
STATE PATROL
[Order 87-RD-001—Filed April 16, 1987]

I, Lieutenant Timothy D. Erickson, Personnel Section, do promulgate and adopt at Olympia, Washington, the

annexed rules relating to Affirmative action—Plan goals and time tables regarding officer promotion to the ranks of RCW sergeant and lieutenant.

This action is taken pursuant to Notice No. WSR 87-06-007 filed with the code reviser on February 19, 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 43.43.340 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 8, 1987.

By Timothy D. Erickson
Lieutenant, Personnel Section

Chapter 446-70 WAC
AFFIRMATIVE ACTION

- WAC 446-70-010 Purpose.
- 446-70-020 Authority.
- 446-70-030 Goals and timetables regarding officer promotion to the ranks of RCW sergeant and lieutenant.
- 446-70-040 Definitions.
- 446-70-050 Affirmative action plan and requirements.
- 446-70-060 Affirmative action plan progress reporting.
- 446-70-070 Affirmative action plan use.
- 446-70-080 RCW 43.43.340 supplemental (plus 3) referrals.

NEW SECTION

WAC 446-70-010 PURPOSE. These rules are proposed by the Washington state patrol as a result of the passage of Engrossed Substitute Senate Bill 3446, revising RCW 43.43.340, which mandates that the Washington state patrol develop rules pertaining to affirmative action. The purpose of these rules is to specify the development and implementation of affirmative action plan goals and timetables in promoting protected group members to the ranks of RCW sergeant and lieutenant.

NEW SECTION

WAC 446-70-020 AUTHORITY. The rules contained in this section are promulgated as a result of the authority granted the Washington state patrol by RCW 43.43.340 as amended by chapter 365, Laws of 1985. These laws provide that the Washington state patrol shall adopt rules consistent with the provisions of the chapter regarding the procedures to be followed in complying with affirmative action measures in promotion of Washington state patrol officers to the ranks of RCW

sergeant and lieutenant. It further requires the development and implementation of state patrol affirmative action goals and timetables in this regard and that the patrol monitor and report the progress made in attaining the goals and timetables as outlined.

NEW SECTION

WAC 446-70-030 GOALS AND TIMETABLES REGARDING OFFICER PROMOTION TO THE RANKS OF RCW SERGEANT AND LIEUTENANT. The state patrol will develop and implement goals and timetables for promoting members of protected groups to the ranks of RCW sergeant and lieutenant where it has been determined that underutilization exists. Goals shall be established from the state patrol's qualified available work force for RCW sergeants and lieutenants. Timetables for achieving these goals will be calculated by measuring turnover rate, new positions, and other relevant factors.

NEW SECTION

WAC 446-70-040 DEFINITIONS. Unless the context clearly indicates otherwise, the words used in these rules shall have the meaning set forth in the definitions below.

Affirmative action: Procedures by which racial/ethnic minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

Goal: A target expressed as both a number and a percentage, for placing protected group members in a job category/group for which underutilization exists. It should normally be the maximum rate that can be achieved by making every good-faith effort.

Protected groups: Means Blacks, Asian/Pacific Islanders, Hispanics, Native Americans, women, persons in the protected age class, qualified persons with physical or mental handicaps meeting the established standards for law enforcement, Vietnam-era veterans, and disabled veterans.

Supplemental (plus 3) referral: A statutorily authorized process by which three qualified, eligible members of underutilized protected groups may be referred to the chief for consideration for promotion to RCW sergeant or lieutenant in addition to the top five names appearing on the eligibility list as required by statute.

Timetables: Established time period by which specific areas of underutilization should be corrected.

NEW SECTION

WAC 446-70-050 AFFIRMATIVE ACTION PLAN AND REQUIREMENTS. The Washington state patrol will develop and implement both an equal opportunity/affirmative action policy statement and an affirmative action plan. These shall include provisions for the promotion of protected group members to the ranks of RCW sergeant and lieutenant to comply with RCW 43.43.340 and other applicable state and federal laws,

regulations, rules, and guidelines. It shall be updated annually.

NEW SECTION

WAC 446-70-060 AFFIRMATIVE ACTION PLAN PROGRESS REPORTING. The chief's designee shall monitor the state patrol's progress with respect to its affirmative action plan and submit a report to the chief of the Washington state patrol, at least annually, defining such progress and containing such other information as the chief may require. An annual report will be sent to the Washington state human rights commission regarding affirmative action progress within the Washington state patrol with respect to promotion of protected group members to the ranks of RCW sergeant and lieutenant.

NEW SECTION

WAC 446-70-070 AFFIRMATIVE ACTION PLAN USE. The Washington state patrol may apply affirmative action plans and programs to increase the number of protected group members in the Washington state patrol and particularly in the ranks of RCW sergeant and lieutenant, when it has been determined that a particular protected group or groups are underutilized.

NEW SECTION

WAC 446-70-080 RCW 43.43.340 SUPPLEMENTAL (PLUS 3) REFERRALS. For each sergeant or lieutenant vacancy to be filled by promotion, the affirmative action plan will be reviewed. When it is determined under the approved formula established in the patrol's affirmative action plan that a protected group is underutilized, names of qualified protected group members will be referred to the chief for promotional consideration in accord with the plus 3 provision of RCW 43.43.340. Referrals shall be by:

(1) The top five names on the eligibility list will be referred regardless of their membership in a protected group.

(2) Only those protected group members who have qualified and have been placed on the eligibility promotional register for either RCW sergeant or lieutenant shall be considered for inclusion in the plus 3 referral.

(3) As promotional opportunities occur, the protected group which is most underutilized in the particular rank shall be determined and members of this group shall be first to be considered for inclusion in the plus 3 referral.

(4) If there is no sufficient number of members of the most underutilized protected group on the eligibility list to refer three members thereof for promotional consideration in accord with the plus 3 referral, members of the next most underutilized group may be referred, and so on until three names have been obtained to fulfill the requirements of the plus 3 referrals.

(5) All persons of each group included in the plus 3 referral shall be chosen from the eligibility list in the rank order in which they appear on the register.

(6) In accordance with the plus 3 process, under no circumstances will more than three protected group

members along with the top five names on the register be referred for any one promotional vacancy.

(7) The same person or persons may be referred under plus 3 for more than one vacancy.

(8) All officers selected for promotion must pass a medical examination and be certified as to physical fitness to perform the duties of the advanced position.

WSR 87-09-050

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 87-29—Filed April 16, 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 regulations.

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 harvest rates indicate lower than average population levels. Restrictions are needed to conserve remaining stocks but allow for commercial harvest.

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

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

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

APPROVED AND ADOPTED April 15, 1987.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-48-06200B DRAG SEINE—SEASONS. *Notwithstanding the provisions of WAC 220-48-062, effective April 20 through May 14, 1987, it is unlawful to fish for bottomfish taken for commercial purposes with drag seine gear except on Monday and Wednesday of each week, and unlawful to possess bottomfish taken with drag seine gear unless taken on Monday or Wednesday.*

WSR 87-09-051

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 17, 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 kindergarten through grade three students to classroom teachers ratio requirement, WAC 180-16-210(2); that the agency will at 9:00 a.m., Thursday, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 1987.

The authority under which these rules are proposed is RCW 28A.41.130.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 28, 1987.

Dated: April 17, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-16 WAC.

Rule Section(s): WAC 180-16-210(2).

Statutory Authority: RCW 28A.41.130.

Purpose of the Rule(s): Establishes the K-3/4-12 FTE classroom student to FTE classroom teacher ratio requirement for basic education program approval and exemption criteria.

Summary of the New Rule(s) and/or Amendments: The amendments eliminate the K-3, 25 to 1 exemption and modify the exemptions for small schools which cannot practicably meet the requirement.

Reasons Which Support the Proposed Action(s): The legislature eliminated the K-3, 25 to 1 exemption in 1986 and this change in WAC 180-16-210(2) implements that decision. The modification in the small schools exemptions agrees more favorably with legislative intent to permit exemptions only on impracticability concerns.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: John Swiger, Basic Education Approval, 753-6710.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 2-84, filed 5/17/84)

WAC 180-16-210 KINDERGARTEN THROUGH GRADE THREE STUDENTS TO CLASSROOM TEACHER RATIO REQUIREMENT. The ratio of the FTE students enrolled in a school district in kindergarten through grade three to kindergarten through grade three FTE classroom teachers shall not be greater than the ratio

of the FTE students to FTE classroom teachers in grades four through twelve. For the purpose of this section "classroom teacher" shall mean any instructional employee who possesses a valid teaching certificate or permit issued by the superintendent of public instruction, but not necessarily employed as a certificated employee, and whose "primary" duty is the daily educational instruction of students.

(1) Computation of ratios. The FTE student to FTE classroom teacher ratios shall be computed as follows:

(a) For the purpose of this section exclude that portion of the time teachers and students participate in vocationally approved programs, traffic safety and special education programs from the above computations (i.e., programs hereby deemed to be "special programs").

(b) Exclude preparation and planning times from the computations for all FTE classroom teachers.

(c) Include in the above computations only the time certificated employees are actually instructing students on a regularly scheduled basis.

(d) Calculations:

(i) The kindergarten FTE October enrollment plus the October FTE enrollment in grades 1-3 divided by the FTE classroom teachers whose "primary" duty is the daily instruction of pupils in grades K through 3.

(ii) The October FTE enrollment in grades 4 and above divided by the FTE classroom teachers whose "primary" duty is the daily instruction of pupils in grades 4 and above.

(2) Exemptions. ((School))

(i) For the 1987-88 school year, districts that ~~((have a ratio of kindergarten through grade three FTE students to FTE classroom teachers of twenty-five to one or less,))~~ are nonhigh school districts ~~((and school districts that))~~ or have a student enrollment of two hundred fifty or less in grades nine through twelve are exempt from the FTE students to FTE classroom teachers ratio requirement of this subsection.

(ii) Commencing with the 1988-89 school year, any district with three hundred or fewer FTE students in grades K-3 and an average K-3 classroom ratio of twenty-five or fewer FTE classroom students to one FTE classroom teacher shall be exempt from the FTE students to FTE classroom teachers ratio requirement of this subsection.

WSR 87-09-052

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 17, 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, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 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 May 28, 1987.

Dated: April 17, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-75 WAC, Professional certification—General provisions.

Rule: New section WAC 180-75-005 Purpose.

Statutory Authority: RCW 28A.70.005.

Purpose of the Rule(s): To set forth purpose of chapter.

Summary of the New Rule(s) and/or Amendments: Indicating that revocation is a separate cause of action by state and not to be confused with nonrenewal or discharge by local districts.

Reasons Which Support the Proposed Action(s): Chapter 180-75 WAC contains admission and revocations standards for all professional certificates. The change proposed clarifies the purpose of 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: Dr. Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

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 180-75-005 PURPOSE. The purpose of this chapter is to incorporate into one chapter the general certification provisions to ensure uniform application and interpretation of the various certification rules within the confines of current statutory law. It is not the intent or purpose of this chapter to govern or limit the procedures and standards which are otherwise applicable to the nonrenewal or discharge of certificated employees by school districts and educational service districts. Proceedings under this chapter and local discharge/nonrenewal proceedings are separate proceedings.

WSR 87-09-053

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 17, 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, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 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, May 28, 1987.

Dated: April 17, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-79 WAC, Professional certification—Preparation requirements.

Rule: New section WAC 180-79-007 Effective dates of specified sections.

Statutory Authority: RCW 28A.70.005.

Purpose of the Rule(s): To delay effective date of certain 1987 amendments and new sections.

Summary of the New Rule(s) and/or Amendments: To set forth implementation dates of special sections.

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 rule is to implement that policy and establish effective dates.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation and Enforcement: Dr. Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

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 180-79-007 EFFECTIVE DATES OF SPECIFIED SECTIONS. (1) The effective date of the 1987 amendments to the following sections shall be August 31, 1987:

- (a) WAC 180-79-010;
(b) WAC 180-79-060;
(c) WAC 180-79-065;
(d) WAC 180-79-075; and
(e) WAC 180-79-115.

(2) New sections WAC 180-79-300 through 180-79-398 shall be effective August 31, 1987.

WSR 87-09-054

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 1926—Filed April 17, 1987]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to use of dinoseb on green peas, snap beans, certain cucurbits and caneberries, chapter 16-228 WAC.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is in the fall of 1986, the United States Environmental Protection Agency suspended all uses of the herbicide dinoseb. Several grower groups appealed the EPA decision on April 15, 1987. The honorable James A. Reeden of the 9th District Court granted

a preliminary injunction allowing continued use of dinoseb on those crops under certain conditions. These rules are to place further restrictions on the distribution and use of dinoset [dinoseb] in Washington and must be effective immediately because the application of dinoseb begins immediately.

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

This rule is promulgated pursuant to chapters 15.58 and 17.21 RCW and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 17, 1987.

By Michael V. Schwisow
Deputy Director

NEW SECTION

WAC 16-228-440 RESTRICTED USE PESTICIDE. Dinoseb is hereby declared to be a restricted use pesticide. Notwithstanding the provisions of WAC 16-228-400 through WAC 16-228-430, inclusive, limiting use of dinoseb to dry peas, lentils and chickpeas, dinoseb may be used or applied on green peas, snap beans, curcubits (cucumbers, squash and zucchini), and caneberries.

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

NEW SECTION

WAC 16-228-450 DISTRIBUTION. (1) Distribution of dinoseb shall be only by pesticide dealers who are currently licensed with the Washington state department of agriculture and who have obtained a permit from the department to distribute dinoseb. The permit shall contain dealer recordkeeping and distribution requirements. The information required by the permit shall be forwarded to the Washington state department of agriculture within five days of sale or distribution.

(2) Under this emergency rule, dinoseb may be sold only to growers of green peas, snap beans, curcubits, and caneberries in quantities not to exceed that required to treat the acreage for each of those crops at the maximum application rates stated in WAC 16-228-520.

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

NEW SECTION

WAC 16-228-460 LABELING. The warning label must specify that (1) women of childbearing age may not use the product, (2) all reasonable efforts should be made to minimize indirect exposures to women of childbearing age, (3) the product also poses risks to male reproduction, (4) is acutely toxic, and (5) the product may be applied only by certified applicators.

NEW SECTION

WAC 16-228-470 **CERTIFIED APPLICATOR RECORDS.** (1) Certified applicators applying dinoseb under this emergency rule shall keep the following records:

- (a) name, address and certification number;
 - (b) name and address of green pea, snap bean, curcurbit and/or caneberry grower;
 - (c) date of application;
 - (d) type of crop and number of acres treated;
 - (e) number of gallons of dinoseb applied;
 - (f) registration number of product(s) applied; and
 - (g) sex of certified applicator (if female, specify age).
- (2) This information shall be forwarded by the certified applicator to the Washington state department of agriculture within five days of the use of dinoseb.

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

NEW SECTION

WAC 16-228-480 **TRAINING.** Persons applying and/or mixing and loading dinoseb shall be required to have proof of attending specific training in the use of dinoseb or having passed an examination demonstrating knowledge of the permitted use and safe handling and disposal of dinoseb.

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 16-228-490 **AERIAL APPLICATION.** Aerial application of dinoseb is prohibited.

NEW SECTION

WAC 16-228-500 **MIXING/LOADING OF DINOSEB.** The mixing and/or loading of dinoseb is prohibited except from closed systems.

NEW SECTION

WAC 16-228-510 **GROUND APPLICATION.** Ground application is prohibited except by "barrel sucker"/ground boom/tractor system. Tractor cabs must be closed and equipped with positive pressure ventilation systems: **PROVIDED**, That spraying of caneberries may be done by open tractor equipped as stated in WAC 16-228-510, if operators wear chemically resistant disposable coveralls (i.e., Tyvek suits) and chemically resistant gloves: **PROVIDED FURTHER**, That application with backpack sprayers or hand held hoses is specifically prohibited.

NEW SECTION

WAC 16-228-520 **PROTECTIVE EQUIPMENT.** Mixer/loaders and applicators must wear chemically resistant disposable coveralls (i.e., Tyvek suits) and chemically resistant gloves when mixing or loading dinoseb.

Applicators or other personnel may remove such protective clothing immediately before entering the tractor cab to avoid contamination, but must carry an unused set of gloves and coveralls in the cab, to be used in the event of spraying equipment malfunction and repair during application.

NEW SECTION

WAC 16-228-530 **APPLICATION RATES.** The maximum application rates for dinoseb are:

- (1) 3 pounds a.i./acre for green peas.
- (2) 4.5 pounds a.i./acre for snap beans.
- (3) 4.5 pounds a.i./acre for cucurbits (cucumbers, squash, zucchini).
- (4) 2.5 pounds a.i./acre for caneberries.

NEW SECTION

WAC 16-228-540 **MAXIMUM ACREAGE.** Dinoseb may be applied to a maximum of eighty acres per day per certified applicator.

NEW SECTION

WAC 16-228-550 **WEATHER CONDITIONS.** Ground application is prohibited when wind conditions exceed ten miles per hour: **PROVIDED**, That the spraying of caneberries by open tractor shall occur during conditions which will prevent any drift of the herbicide.

WSR 87-09-055**EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 87-32—Filed April 17, 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 regulations.

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 test fishery indicates sufficient stocks for a limited commercial harvest of Sac-roe herring.

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

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

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

APPROVED AND ADOPTED April 17, 1987.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-49-02000A SEASONS—LAWFUL GEAR Notwithstanding the provisions of WAC 220-49-020 and 220-49-021 it is unlawful to fish for or possess Sac-roe herring in Marine Fish and Shellfish Catch Reporting Areas 20A, 21A and 21B except as provided for in this section:

(1) Purse seine vessel "Yankee Boy" registration number 00140 operated by James Glenovich may fish for Sac-roe herring for commercial purposes in Marine Fish and Shellfish Catch Reporting Areas 20A, 21A and 21B from April 20, 1987 to April 24, 1987 from 8:00 a.m to 6:00 p.m. daily.

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 87-09-056

ADOPTED RULES

INSURANCE COMMISSIONER

[Order R 87-4—Filed April 20, 1987]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards for life reinsurance agreements and accounting procedures to assure that financial statements of life insurers accurately reflect the financial condition of the ceding insurer and properly credit reserves.

This action is taken pursuant to Notice No. WSR 87-06-049 filed with the code reviser on March 4, 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 48.05.300, 48.30.030, 48.12.010(8), 48.12.160, 48.05.140 and 48.12.030.

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

APPROVED AND ADOPTED April 20, 1987.

Dick Marquardt
Insurance Commissioner
By Melodie Bankers
Deputy Commissioner

**Chapter 284-13 WAC
ASSETS—LIABILITIES—INVESTMENTS AND
REINSURANCE**

WAC

LIFE REINSURANCE AGREEMENTS

- 284-13-110 Purpose.
- 284-13-120 Scope.
- 284-13-130 Accounting requirements.
- 284-13-140 Written agreements.

284-13-150 Existing agreements.

LIFE REINSURANCE AGREEMENTS

NEW SECTION

WAC 284-13-110 PURPOSE. The purpose of WAC 284-13-110 through 284-13-150, is to set standards for life reinsurance agreements in order that the financial statements of life insurers properly reflect the financial condition of the ceding insurer and properly credit reserves.

NEW SECTION

WAC 284-13-120 SCOPE. WAC 284-13-110 through 284-13-150 shall apply to all domestic life insurers and to all other life insurers authorized to do business in the state of Washington who are not subject to a substantially similar regulation in their domiciliary state.

NEW SECTION

WAC 284-13-130 ACCOUNTING REQUIREMENTS. (1) No life insurer subject to this chapter shall, for reinsurance ceded, reduce any liability or establish or increase any asset in any financial statement filed with the commissioner if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(a) The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: Lapse, surrender, mortality, morbidity, or investment;

(b) The reserve credit taken by the ceding insurer is not in compliance with the insurance code or its regulations, including actuarial interpretations or standards adopted by the commissioner;

(c) The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

(d) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience;

(e) The ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(f) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(g) No cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account," and no funds in such account are available for the payment of benefits; or

(h) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

(2) Accounting procedures precluded by this chapter shall not be construed as a limitation on the authority of the commissioner to disapprove other procedures in accordance with RCW 48.12.030.

(3) Notwithstanding any other provision of this section, a life insurer subject to this chapter may, with the prior approval of the commissioner take such reserve credit as the commissioner may deem consistent with the insurance code or its regulations, including actuarial interpretations or standards adopted by the commissioner.

NEW SECTION

WAC 284-13-140 WRITTEN AGREEMENTS.

(1) No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the commissioner, unless the agreement, amendment, or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

(2) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

NEW SECTION

WAC 284-13-150 EXISTING AGREEMENTS.

Life insurers subject to this chapter may continue to reduce liabilities or establish assets in financial statements filed with the commissioner for reinsurance ceded under unacceptable types of reinsurance agreements described in WAC 284-13-130, provided:

(1) The agreements were executed and in force prior to the effective date of this chapter;

(2) No new business is ceded under the agreements after the effective date of this chapter;

(3) The reduction of the liability reaches, or the asset established for the reinsurance ceded is reduced to, zero by December 31, 1989, or such later date approved by the commissioner as a result of an application made by the ceding insurer prior to December 31, 1987;

(4) The reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance code or its regulations, including actuarial interpretations or standards adopted by the commissioner; and

(5) The commissioner is notified, within ninety days following the effective date of this chapter, of the existence of such reinsurance agreements and all corresponding credits taken in the ceding insurer's 1986 annual statement.

WSR 87-09-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 20, 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 out-of-state provider billing limitations, amending WAC 388-87-005 and 388-87-105;

that the agency will at 10:00 a.m., Friday, May 29, 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 May 30, 1987.

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 1, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 15, 1987

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-87-005 and 388-87-105.

Purpose: To clarify the billing limitations for providers located outside the state of Washington.

Reason: The current regulations are unclear.

Statutory Authority: RCW 74.08.090.

Summary: WAC 388-87-005 is amended to include providers listed in subsections (1)(g) through (k) as eligible to receive payment. WAC 388-87-105 is amended to make the following changes: (1) The 120 day billing limitation for out-of-state providers shall be: (a) For out-of-state providers without a provider agreement the 120 days will begin the date a provider number is issued. However, the initial bill must be received within one

year from the last date of service. (b) Out-of-state providers with a provider agreement are subject to the same requirements as a provider in the state. (2) Out-of-state providers will be paid the lesser of the billed amount or the amount being paid to providers in the state.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules are not necessary as a result [of a] change in the federal or state law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2198, filed 1/30/85)

WAC 388-87-005 PAYMENT—ELIGIBLE PROVIDERS DEFINED. (1) Eligible providers are:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, nursing, chiropractic, or physical therapy,

(b) A hospital currently licensed by the department,

(c) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility,

(d) A hospital pharmacy,

(e) A home health services agency certified by the department,

(f) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the requirements for such participation,

(g) A company or individual (not excluded in subsection (3) of this section) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,

(h) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program,

(i) A certified center for the detoxification of acute alcoholic conditions,

(j) A certified outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic,

(k) A Medicare certified rural health clinic,

(l) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations,

(m) An out-of-state provider of services listed in ~~((subsection (1)))~~(a) through ~~((f))~~ (k) of this ~~((section, with comparable qualifications in state of residence or location of practice))~~ subsection subject to conditions specified in WAC 388-87-105.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners ~~((with))~~ shall not be furnished to applicants or recipients:

Sanipractors
Naturopaths
Homopathists
Herbalists
Masseurs or manipulators
Christian Science practitioners or theological healers
Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

(3) Conditions of eligibility:

(a) When a provider has a restricted professional license or previously has been terminated, excluded, or suspended from the Medicare/Medicaid programs, eligibility ~~((with))~~ shall be authorized only if the department has determined that the violations that led to the sanction or license restriction are not likely to be repeated. In making this determination, the department ~~((with))~~ shall consider, among other factors, whether the provider has been convicted of offenses related to the

delivery of medical care which were not considered during the development of the previous sanction by Medicare, Medicaid, or state or local licensing authorities.

(b) The department ~~((may))~~ shall not reinstate in the medical assistance program, a provider that has been suspended from Medicare or suspended at the direction of the department of health and human services until DHHS notifies the department that the provider may be reinstated.

(c) Nothing in this subsection shall preclude the department from denying authorization if, in the opinion of the medical director, division of medical assistance, the provider constitutes a danger to the health and safety of recipients.

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-87-105 PAYMENT—MEDICAL CARE OUTSIDE STATE OF WASHINGTON. (1) Medical care furnished in designated bordering cities is not considered to be out-of-state care. Payment is made to the provider of service as for care provided within the state of Washington. Provider licensure requirements ~~((, however, would be))~~ are those of the state in which care is rendered.

(2) Payment ~~((is))~~ shall not be authorized for out-of-state medical care furnished to state-funded recipients.

(3) The three-month retroactive coverage ~~((may))~~ shall apply to out-of-state care given for covered medical care to eligible ~~((applicants))~~ clients.

(4) ~~((When out-of-state service is provided (excluding state office approved care in a skilled nursing home) in a state with a Title XIX medical care program, payment shall be authorized at the rate paid by the medical care program of the state in which the service is rendered. If provided in a state without a Title XIX program, payment shall be authorized at the rate charged, but not to exceed the rate paid for the service under Title XVIII Medicare.~~

~~((5))~~ Out-of-state providers, who do not have a current provider number ~~((agreement))~~, shall be furnished with necessary billing forms ~~((and)), instructions, and a core provider agreement.~~

~~((6))~~ (5) Upon receipt of the signed core provider agreement from the out-of-state provider a provider number shall be issued.

~~((6))~~ Final charges from out-of-state providers without a current provider number must be presented within one hundred twenty days of the issuance of a provider number. In no case shall the state of Washington be liable for payment of charges received beyond one year from the termination of services.

~~((7))~~ Out-of-state providers with a current provider number ~~((agreement))~~ are subject to the billing requirements of WAC 388-87-015.

(8) If the deductible or coinsurance portions of Medicare are claimed, it will be necessary for the provider to submit his billing to the intermediary or carrier in his own state on the appropriate Medicare billing form. If the state of Washington is checked as being responsible for medical billing on the form, the intermediary or carrier may bill on behalf of the provider or may return the billing to the provider for submitting to the state.

~~((7))~~ (9) Approved ~~((care in))~~ out-of-state skilled nursing home ~~((will be paid either at the rates for care charged in that state for recipients of public assistance, or in an amount not to exceed the rate for skilled nursing home care in the state of Washington, whichever is the lesser amount. Exceptions to the rule in this subsection may be granted only by the director of the division of medical assistance or his designee))~~ reimbursement rate is the lower of:

(a) The billed amount; or

(b) The adjusted state-wide average reimbursement rate for in-state skilled nursing home care.

(10) The reimbursement rate for out-of-state hospitals is the lower of:

(a) The billed amount; or

(b) The adjusted state-wide average reimbursement rate for in-state hospitals.

(11) The reimbursement for other out-of-state services is the lower of:

(a) The billed amount; or

(b) The rate paid by the Washington state Title XIX Medicaid program.

WSR 87-09-058
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2485—Filed April 20, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing home accounting and reimbursement system, amending chapter 388-96 WAC.

This action is taken pursuant to Notice No. WSR 87-05-018 filed with the code reviser on February 12, 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 74.46.800 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 15, 1987.

By Leslie F. James, Director
 Administrative Services

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.

(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) 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 average sample costs for nursing services, food, and administration and operations cost centers inflated in accordance with the provisions of this chapter.

(A) Nursing services. The projected budget shall be followed for rate setting to the extent it does not exceed the sample average wages, hours, and inflated costs plus ten percent of such wages, hours, and inflated costs. The budget shall be allowed above the sample averages plus ten percent 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 the sample average inflated costs as determined under subsection (2)(a) of this section for administration and operations plus ten percent of such costs. The budget shall be allowed above the sample average inflated costs plus ten percent only to the extent costs are likely to exceed the inflated sample average plus ten percent 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 inflated sample average food cost. The budget will be allowed above the inflated sample average only to the extent food cost is likely to exceed the inflated 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, data used to set the preceding contractor's rate shall be used rather than data from a sample average. However, data used to set the preceding contractor's rate shall not be used if the department has assessed a civil penalty against such contractor for health or safety violations or has proposed licensed revocation, stop placement, or decertification for health or safety violations within six months preceding the effective date of the new contract. In such cases, sample average data shall be used.

(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.

(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;
- (g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.); and
- (h) Other items included by the marshall swift valuation service when deriving the calculator method costs.

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

Class and Quality	0 to 60 Beds	61 to 120 Beds	Over 120 Beds
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	189,620	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. The new contractor's costs will be adjusted to the cost year used to establish the most recent variable return ranking for all providers using inflation factors authorized by provisions of this chapter.

(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 87-09-059
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed April 20, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Board of Accountancy intends to adopt, amend, or repeal rules concerning the amending of WAC 4-25-141; that the agency will at 9:00 a.m., Friday, May 29, 1987, in the Tacoma City Council Chambers, 740 St. Helens, Tacoma, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.04.055.

The specific statute these rules are intended to implement is RCW 18.04.105.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1987.

Dated: April 20, 1987

By: Carey L. Rader
 Chief Executive Officer

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Accountancy.

Purpose: Define CPA examination application procedures, examination credits, requirement for ethics examination, and out-of-state candidate proctoring procedures.

Statutory Authority: RCW 18.04.055 and 18.04.105.

Summary of the Rules: Requires filing CPA examination applications by March 1 and September 1 for the May and November examinations, respectively; specifies documentation requirements and forfeiture provisions; establishes passing grades and credit for partial completion; provides for ethics examination; permits proctoring out-of-state candidates; and requires that education requirement be satisfied within 120 days of sitting for examination.

Reason Proposed: To conform application procedures to provisions of education requirements of WAC 4-25-140 and to recognize in rule agency practices in proctoring out-of-state candidates.

Responsible Personnel: In addition to the members of the board, the following Board of Accountancy personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Carey L. Rader, Chief Executive Officer, 210 East Union, Suite H, Olympia, WA 98504, phone (206) 753-2585 or scan 234-2585.

Proponents: Washington State Board of Accountancy.
 Agency Comments: None.

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

AMENDATORY SECTION (Amending Order ACB 105, filed 10/26/83)

WAC 4-25-141 (~~APPLICATIONS~~) CPA EXAM—APPLICATION. Applications to take the certified public accountant examination must be made on a form provided by the board and filed with the board on or before March 1 for the May examination and September 1 for the November examination.

An application will not be considered filed until the examination fee and ~~((att)) required ((supporting documents have been received, including))~~ photographs ~~((official transcripts and certification of degree~~

~~Applicants whose graduation occurs after the deadlines may file official transcripts and certification of degrees after those deadlines but not later than 150 days after the date of the examination)) have been received.~~

An applicant who fails to appear for examination or reexamination shall forfeit the fees charged ~~((the))~~ for examination and reexamination.

Notice of the time and place of the examination shall be mailed at least ten days prior to the date set for the examination to each candidate whose application to sit for the examination has been approved by the board.

(1) Form of exam. The examination required by ~~((section 7(c) of the act))~~ RCW 18.04.105 shall be the uniform CPA examination, including the following subjects:

- ~~((1))~~ (a) Auditing
- ~~((2))~~ (b) Business law
- ~~((3))~~ (c) Theory of accounts, and
- ~~((4))~~ (d) Accounting practices ~~((I and H)).~~

~~((In addition to the uniform CPA examination, candidates shall be required to pass an examination, or alternatively to complete a course of study, prescribed by or acceptable to the board, in professional ethics.))~~

A passing grade for each subject shall be seventy-five. The board uses the Advisory Grading Services of the American Institute of Certified Public Accountants.

An applicant, at each sitting of the examination in which he takes any part of the examination, must take all parts not previously passed.

(2) Conditional credits. An applicant who at one sitting for the examination receives a passing grade in any two parts of the examination, or in the subject accounting practice I and II, and who receives a grade of at least fifty in each of the remaining parts, shall be granted credit for parts passed, on the condition that the applicant receives a passing grade in each of the remaining parts of reexamination at one or more of the next six consecutive examinations.

An applicant who at one sitting for the examination receives a passing grade in any three parts of the examination shall, regardless of the grade received on the remaining part, be granted credit for the parts passed, on the condition that the applicant receives a passing grade in the remaining part on reexamination at one of the next six consecutive examinations.

~~((For purposes of satisfying the education requirements of section 7(b) of the act, an applicant holding a certificate of another state must complete semester hours, or the equivalent, in an accredited institution as defined by the foregoing rules which shall include not less than nine semester hours, or the equivalent, in accounting and auditing subjects and six semester hours, or the equivalent, in business administration subjects, such as economics, business law and finance.))~~

(3) Ethics exam. In addition to the uniform CPA examination, candidates shall be required to pass an examination, or alternatively to complete a course of study, prescribed by or acceptable to the board, in professional ethics.

(4) Proctoring CPA exam candidates. The board may agree to request the assistance of another accountancy board in proctoring Washington's applicants at out-of-state exam sites and may agree to proctor another accountancy board's applicants at a Washington exam site, both subject to space and staffing constraints. The board will not arrange for out-of-state proctoring for applicants domiciled out of state who wish to take the uniform CPA exam as Washington candidates. Such applicants must take the CPA exam in Washington on a space available basis.

(5) CPA exam—Completion of education requirement. A person who has met the education requirement of WAC 4-25-140, or who expects to meet it within one hundred twenty days following the examination, or with respect to whom it has been waived, is eligible to take the uniform CPA examination provided all other requisites have been satisfied. If a person is admitted to the examination on the expectation that he or she will complete the educational requirement within one hundred twenty days, no certificate may be issued, nor credit for the examination or any part of it be given, unless this requirement is in fact completed within that time or within such time as the board in its discretion may determine upon application.

WSR 87-09-060
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed April 20, 1987]

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

New	WAC 4-25-190	Experience, and
Rep	WAC 4-25-181	Experience; or
Am	WAC 4-25-181	Experience;

that the agency will at 9:00 a.m., Friday, May 29, 1987, in the Tacoma City Council Chambers, 740 St. Helens, Tacoma, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.04.055.

The specific statute these rules are intended to implement is RCW 18.04.215 (1)(a).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1987.

Dated: April 20, 1987
 By: Carey L. Rader
 Chief Executive Officer

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Accountancy.

Purpose: WAC 4-25-190, to define the experience required for licensure to practice public accounting.

Statutory Authority: RCW 18.04.055 and 18.04.215 (1)(a).

Summary of the Rules: WAC 4-25-190 quantifies the general and specific experience required for licensure to practice public accounting. This rule establishes three progressive license endorsements to assure that experience acquired is relevant to the level of practice authorized.

Reason Proposed: The proposed rule recognizes that the board regulates three different levels of financial reporting, that most CPAs do not practice at the highest (audit) level, and that requiring all CPAs to get experience at the audit level creates unwarranted costs for consumers of CPA services.

Purpose: WAC 4-25-181, to clarify the experience required for licensure to practice public accounting.

Statutory Authority: RCW 18.04.055.

Summary of the Rules: WAC 4-25-181 is amended to quantify the general and specific experience required for licensure to practice public accounting.

Reason Proposed: To eliminate the confusion over how much experience is a minimum acceptable level for purposes of licensure. This amendment has the effect of formally recognizing board policy.

Responsible Personnel: In addition to the members of the board, the following Board of Accountancy personnel have knowledge of and responsibility for drafting,

implementing and enforcing these rules: Carey L. Rader, Chief Executive Officer, 210 East Union, Suite H, Olympia, WA 98504, phone (206) 753-2585 or scan 234-2585.

Proponents: Washington State Board of Accountancy.

Agency Comments: These rules are promulgated pursuant to authority granted to the board in RCW 18.04.055, to implement provisions of RCW 18.04.215 (1)(a).

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

NEW SECTION

WAC 4-25-190 EXPERIENCE. Experience required to be demonstrated for issuance of an initial license pursuant to RCW 18.04.215 (1)(a) shall meet the requirements of this rule.

(1) Public accounting experience.

(a) An applicant shall show that he has had employment as a staff accountant for a certified public accountant or a firm of certified public accountants on a full-time basis, or its equivalent, for a period of not less than one year. Such employment shall have been obtained in audit, tax, management consulting, accounting and review services, financial planning, or other accounting related areas of practice under the direct supervision of a currently licensed certified public accountant. The board may, at its discretion, consider other public accounting experience in satisfaction of this requirement.

(b) Experience must have been gained within the ten-year period preceding the date of application provided the applicant has supplemented the experience during the two-year period preceding the application with at least eighty hours of continuing education. A CPA may apply for a license to practice public accountancy without endorsement as soon as the requirement of this public accounting experience section is satisfied.

(2) License endorsement—Audit, review, and compilation reports—Prohibited acts—Grandfather clause.

(a) Commencing January 1, 1988, initial or renewal licenses to practice public accountancy will be endorsed by the board to permit licensees with sufficient experience to issue audit and attest function, review or compilation reports. Separate endorsements will be provided for each level of report (audit and attest; review; and compilation.) An audit endorsement will be required for a licensee to issue an audit or attest function report. An audit endorsement will permit a licensee to issue all three levels of report. A review endorsement will be required for a licensee (who does not possess an audit endorsement) to issue a review report. A review endorsement will permit a licensee to issue review and compilation reports, but not audit or attest function reports. A compilation endorsement will be required for a licensee (who does not possess an audit or review endorsement) to issue compilation reports.

License endorsements shall be issued simultaneously with the initial license or biennial renewal of licenses under RCW 18.04.215 or at such time as a licensee or applicant first qualifies, and applies, for endorsement. Licensees not possessing the appropriate license endorsement for a particular level of financial report are hereby prohibited from issuing such reports.

All Washington CPAs who have held valid licenses to practice public accountancy at any time within the ten-year period ending January 1, 1988, will be deemed to have met the requirements of this rule for an audit endorsement. CPAs in this category will be granted audit endorsements at each license renewal, subject to continuing professional education requirements and other rules relating to license renewal, as long as there is not a break in licensure caused by the licensee's failure to renew or board action to suspend or revoke the license. The board may, at its discretion, grant endorsements to applicants who qualify for the endorsement but for the passage of time or breaks in continuity of licensure.

(b) Audit endorsement requirement. Commencing January 1, 1988, an applicant seeking initial licensure with an audit endorsement shall demonstrate, unless exempt under (a) of this subsection, that the public accounting experience obtained, as specified by subsection (1)(a) of this section, included at least five hundred hours of audit experience directly related to reports on audits of financial statements intended for

third-party users. The experience affidavit shall contain the attestation of the supervising CPA, who must be licensed to issue audit reports, and shall show that an applicant's audit experience has included the following:

(i) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(ii) Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;

(iii) Experience in planning programs of audit work including the selection of procedures to be followed;

(iv) Experience in the preparation of written explanation and comments on the findings of an examination and on the content of accounting records; and

(v) Experience in the preparation and analysis of financial statements together with explanation and notes thereon.

The demonstration of audit experience by an applicant shall have as its objective evidence that the applicant has obtained sufficient, diversified experience to enable him to conduct an audit of the financial statements of an entity and report thereon with a minimum of supervision.

(c) Review endorsement requirement. Commencing January 1, 1988, an applicant seeking initial licensure with a review endorsement shall demonstrate that the public accounting experience obtained, as specified by subsection (1)(a) of this section, included at least five hundred hours of experience directly related to reports on reviews of financial statements intended for third-party users. The experience affidavit shall contain the attestation of the supervising CPA, who must be licensed to issue review reports, and show that an applicant's review experience has included the following:

(i) Experience in applying a variety of review procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(ii) Experience in the preparation of review working papers covering the analysis of the accounts usually found in accounting records;

(iii) Experience in planning programs of review work including the selection of procedures to be followed;

(iv) Experience in the preparation of written explanation and comments on the content of accounting records; and

(v) Experience in the preparation and analysis of financial statements together with explanation and notes thereon.

The demonstration of review experience by an applicant shall have as its objective evidence that the applicant has obtained sufficient, diversified experience to enable him to conduct a review of the financial statements of an entity and report thereon with a minimum of supervision. Audit experience that satisfies the requirements of (b) of this subsection may be applied on an hour-for-hour basis to satisfy the requirements of this review endorsement section.

(d) Compilation endorsement requirement. Commencing January 1, 1988, an applicant seeking initial licensure with a compilation endorsement shall demonstrate that the public accounting experience obtained, as specified by subsection (1)(a) of this section, included at least two hundred fifty hours of experience directly related to reports on compilations of financial statements intended for third-party users. The experience affidavit shall contain the attestation of the supervising CPA, who must be licensed to issue compilation reports, and show that an applicant's compilation experience has included the following:

(i) Experience in applying a variety of compilation procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(ii) Experience in the preparation of working papers documenting the procedures applied during the compilation engagement;

(iii) Experience in planning programs of compilation work including the selection of procedures to be followed;

(iv) Experience in the preparation of written explanation and comments on the content of accounting records; and

(v) Experience in the preparation and analysis of financial statements together with explanation and notes thereon.

The demonstration of compilation experience by an applicant shall have as its objective evidence that the applicant has obtained sufficient, diversified experience to enable him to compile the financial statements of an entity and report thereon with a minimum of supervision. Audit experience that satisfies the requirements of (b) of this subsection or review experience that satisfies the requirements of (c) of this subsection may be applied on an hour-for-hour basis to satisfy the requirements of this compilation endorsement section.

(3) Other qualifying experience.

(a) Commencing January 1, 1988, experience obtained in government or industry to be deemed equivalent to that obtained in public accounting shall consist of not less than two years of full-time employment or its equivalent. Such employment shall have been obtained in audit, tax, management consulting, accounting and review services, financial planning, or other accounting related areas of practice. A CPA may apply for a license to practice public accountancy without endorsement as soon as the requirement of this other accounting experience section is satisfied.

(b) In order for government or private industry experience to qualify for license endorsement under subsection (2) of this section, experience must be gained under the direct supervision of a CPA licensed for the type of engagement for which endorsement, if any, is sought, within an organizational unit that is independent with respect to the units or divisions reported upon, and in an organization which has filed a sponsorship agreement with the board, acceptable to the board, which among other things specifies:

(i) The scope of accounting, auditing, and reporting work performed within the organization;

(ii) The professional education and on-job training an applicant will receive prior to application; and

(iii) The program of review and supervision performed by the individuals within the organization who are authorized to approve experience affidavits.

In appraising such experience, the board may require an interview and/or a review of workpapers and reports.

(4) Refusal to approve experience affidavit. Any licensee who, having been requested by an applicant to submit to the board evidence of the applicant's experience, has refused to do so, shall upon request by the board explain in writing or in person the basis for such refusal.

(5) Examination of experience documentation. Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided. The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspections may, at the option of the board, be made at the board's office, in which case any licensee having custody of such documentation shall produce it upon request at such office.

AMENDATORY SECTION (Amending Order ACB 105, filed 10/26/83)

WAC 4-25-181 EXPERIENCE. ~~((The e))~~ Experience in the practice of public accountancy, required to be demonstrated for issuance of an initial ~~((permit))~~ license pursuant to ~~((section 11(1)(a) of the act))~~ RCW 18.04.215(a) shall meet the requirements of this rule:

(1) GENERAL ACCOUNTING EXPERIENCE. The applicant shall show that he has had employment as a staff accountant for a certified public accountant or a firm of certified public accountants for a period of not less than one year, or equivalent experience in government or industry for not less than two years of a nature satisfactory to the board. Such employment shall ~~((include practical public accounting experience, or the equivalent of such experience, of reasonable variety and importance and requiring independent thought and judgment))~~ be gained in audit, tax or an accounting related area of practice under the direct supervision ~~((of a holder of a certificate as))~~ of a currently licensed certified public accountant. Such experience must have been gained within the five-year period preceding the date of application or, subject to the board's review and approval, within the ten-year period preceding application if the applicant has supplemented the experience during the two-year period preceding the application with at least 80 hours of continuing education, at least 40 hours of which must be in accounting or auditing subjects. The board may, at its discretion, consider other experience in satisfaction of this requirement.

(2) OTHER QUALIFYING GENERAL EXPERIENCE. Experience obtained outside public accounting must include the requirements of subsection (1), and must be obtained in an organization that has filed a sponsorship agreement with the board, acceptable to the board, which, among other things, specifies:

(a) The scope of accounting, auditing and reporting work performed within the organization; and

(b) The professional education and on-job training an applicant will receive prior to application; and

(c) The program of review and supervision performed by the individuals within the organization who are authorized to approve experience affidavits.

In appraising such experience, the board may require an interview and/or a review of audit workpapers and reports.

(3) ATTEST FUNCTION EXPERIENCE. The applicant shall also ~~((show to the satisfaction of the))~~ submit an experience affidavit satisfactory to the board ~~((that the employment has included all of the following:))~~ demonstrating that the applicant has at least 500 hours of attest function experience, of which at least 250 hours must be in opinion type audits intended for third party users. The remainder of the attest function experience may be in audit, review, compilation, operational audit or other form of attest function. The attest experience affidavit shall show that the applicant's experience has included all of the following:

(a) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records;

(b) Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;

(c) Experience in planning programs of audit work including the selection of procedures to be followed;

(d) Experience in the preparation of written explanation and comments on the findings of an examination and on the content of accounting records; and

(e) Experience in the preparation and analysis of financial statements together with explanation and notes thereon.

~~((3))~~ The experience prescribed by subsections (1) and (2) may be fulfilled by a combination of financial audits, reviews, compilations, compliance audits, operational audits and management audits.)

(4) REFUSAL TO APPROVE EXPERIENCE AFFIDAVIT. ~~((Experience obtained outside public accounting must include the requirements of subsections (1) and (2), and may require more than one year. In appraising such experience, the board may require an interview and/or a review of audit workpapers and reports:))~~ Any licensee who, having been requested by an applicant to submit to the board evidence of the applicant's experience, has refused to do so, shall upon request by the board explain in writing or in person the basis for such refusal.

(5) EXAMINATION OF EXPERIENCE DOCUMENTATION. Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided.

The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspections may, at the option of the board, be made at the board's office, in which case any licensee having custody of such documentation shall produce it upon request at such office.

WSR 87-09-061

**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER**

[Memorandum—April 17, 1987]

The regular board of directors meeting scheduled for May 21, 1987, has been rescheduled to May 14, 1987. The time and location of the meeting remain the same.

WSR 87-09-062

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 20, 1987]

Edmonds Community College announces a special meeting of the board of trustees April 23, 1987, in Lynnwood 424 starting at 1:00 p.m. for the purpose of an informal exchange of ideas with students.

From 4:00 to 5:30 p.m. the board of trustees will be in executive session to discuss upcoming negotiations. The

special meeting will conclude with dinner in the staff lounge from 5:30 to 7:00 p.m.

WSR 87-09-063

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—April 20, 1987]

April 23, 1987
Thursday, 7:00 p.m.
Board of Trustees Meeting
Lynnwood Hall, Room 424

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 87-09-064

**NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE**

[Memorandum—April 20, 1987]

The regular May 12, 1987, board of trustees meeting has been rescheduled to May 26, 1987. The time and place remain unchanged.

A special meeting has been scheduled for May 7, 1987, at 11:20 a.m. to 12:45 p.m. at Cassidy's, 119 North Commercial, Bellingham, WA, to discuss student services and activities.

WSR 87-09-065

**EMERGENCY RULES
DEPARTMENT OF FISHERIES**

[Order 87-30—Filed April 21, 1987]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to subsistence 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 foodfish are available for a subsistence fishery.

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

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

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

APPROVED AND ADOPTED April 20, 1987.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-32-05900K COLUMBIA RIVER TRIBUTARY SUBSISTENCE FISHING. Notwithstanding the provisions of WAC 220-32-059, effective immediately until further notice it is lawful for treaty Indian fishermen possessing treaty rights under the Yakima Treaty to fish for foodfish for subsistence purposes as provided for in this section:

(1) Klickitat River – Open noon Tuesday to 6:00 p.m. Saturday of each week through May 23, 1987; open only from the deadline 25 feet downstream of Fishway #5 (river mile 2.3) to the Swinging Bridge (river mile 1.5), except closed within 25 feet of any fishway. Lawful gear restricted to dip net, set bag net, and rod and reel using bait or lures. Snagging is unlawful.

(2) Yakima River – Open noon Thursday to 6:00 p.m. Saturday through June 27, 1987 at Horn Rapids and Prosser Dams. Open noon Monday to 6:00 p.m. Saturday of each week at Sunnyside and Wapato Dams only; In all open areas no fishing is allowed within 30 feet of any portion of a fish bypass or fish ladder and no fishing is allowed from boats or other floating devices. Lawful gear restricted to dip net, set bag net, and rod and reel using bait or lures. Snagging is unlawful.

(3) Icicle River – Open 9:00 p.m. Monday to 6:00 a.m. Tuesday and 9:00 p.m. Tuesday to 6:00 a.m. Wednesday of each week through June 24, 1987; open only in those waters of the Icicle River that border the property of the United States Fish and Wildlife Service Hatchery at Leavenworth, except that no fishing is allowed within 30 feet of the hatchery ladder. Lawful gear restricted to dip net, set bag net, and rod and reel using bait or lures. Snagging is unlawful.

(4) Violation of any of the provisions of this section is a violation of the Fisheries Code.

WSR 87-09-066

**ADOPTED RULES
DEPARTMENT OF FISHERIES**

[Order 87-16—Filed April 21, 1987]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

This action is taken pursuant to Notice No. WSR 87-03-056 filed with the code reviser on January 21, 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 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 March 6, 1987.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-16-395 BUOY 13 LINE. The term "Buoy 13 Line" is defined as a line drawn true north-south through Grays Harbor Channel Marker Number 13 near the mouth of Grays Harbor.

AMENDATORY SECTION (Amending Order 79-58, filed 8/10/79)

WAC 220-55-025 SIGNATURE REQUIRED. Each and every person obtaining a razor clam license under chapter 220-55 WAC must ~~((be present in order to))~~ sign the license card before the validating overlay is fixed in place. A license issued to a juvenile unable to sign his name must be signed by a parent or guardian.

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

WAC 220-55-065 EXPIRATION. The expiration date of each resident or nonresident license shall be ~~((June 30th))~~ December 31st next following the date of issuance. In case of a free license, the license shall not expire, except(:

~~((1))~~ a license issued to a person under 16 years of age shall expire on that person's 16th birthday.

~~((2) Any free license issued to a nonresident under the provisions of RCW 75.25.030 shall expire June 30, 1980.))~~

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

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

~~((d) It is lawful for each angler to use one line with two lures or two lines with one lure per line while fishing in all of Punch Card Area 12 and that portion of Punch Card Area 8 lying southeasterly of a line between East Point on Whidbey Island and the flashing light north of Lowell Point on Camano Island.))~~

(2) It shall be unlawful for any person to take, fish for or possess food fish for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel not utilizing power to retract the line in either case, except as provided in subsections (3) and (4) of this section.

(3) It shall be lawful, while angling for food fish in saltwater from shore, piers, jetties or docks, for an individual to:

(a) Leave the pole in a pole holder while playing or landing the fish. The pole holder may be affixed to a bench, pier railing, wheelchair or other solid object.

(b) Use a power-operated reel attached to a pole.

All other provisions of this section shall apply.

(4) It shall be unlawful to take, fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) in those waters west of the mouth of the Sekiu River, Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(5) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

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

WAC 220-56-120 CLOSED AREAS—ANGLING. It is unlawful to fish for or possess foodfish taken from the following areas during the times indicated.

(1) ~~((Budd Inlet at Olympia:))~~ Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed to food fish angling at all times.

(2) ~~((It shall be unlawful to take, fish for or possess food fish taken by any means in))~~ The waters of Percival Cove are closed to food fish angling at all times.

(3) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed to food fish angling from 12:01 a.m. August 1 through 11:59 p.m. November 30.

(4) Those waters of Elliott Bay southerly and upstream from lines described as a 1,000 foot radius north of a point midway between Port of Seattle Pier 37 and the Crowley Maritime Corporation Pier 18 and a 1,000 foot radius north of a point midway between the Todd Shipyard Pier 13 and the Lockheed Shipyard Pier 4 to the First Avenue South Bridge over the Duwamish River are closed to angling for food fish from 12:01 a.m. August 1 through 11:59 p.m. September 18.

(5) Those waters of the Columbia River downstream from the Vernita Bridge to the old Hanford townsite wooden power line towers are closed to angling for food fish from 12:01 a.m. October 16 to 11:59 p.m. June 15.

(6) Those waters of the Duwamish River downstream from the Oxbow Bridge (the first bridge downstream from the Pacific Highway Avenue South Bridge) to the First Avenue South Bridge are closed to angling for food fish from 12:01 a.m. July 1 to 11:59 p.m. October 5.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

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

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

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla-Tatoosh Line - Bag Limit F except during the period April 15 through June 15 maximum size limit of 30 inches on chinook salmon if the waters described in this subsection are open - open concurrently with the ocean, and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.

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

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) - (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) ~~((all Westport Boat Basin waters and adjacent waters of Grays Harbor when fishing from the Westport Marina Fishing Boardwalk only - special bag limit - six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30)) Bag Limit A - September 16 through November 30: Waters east of the Buoy 13 line - barbless hooks and handheld poles required; chinook salmon greater than 28 inches in length must be released.~~

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) - (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, (b) special bag limit - six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length; coho over 20 inches in length; pink, chum, or sockeye over 10 inches in length - open September 1 through November 30.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

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

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

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

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

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

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

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 14.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-295 STURGEON—UNLAWFUL ACTS. (1) It is unlawful to possess in the field or transport for personal use any sturgeon from which either the head or tail or both have been removed or to possess sturgeon eggs without having retained the carcass of the fish from which the eggs have been removed.

(2) It is unlawful to use a gaff or other fish landing aid that penetrates the fish while restraining, handling or landing any sturgeon.

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

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

AMENDATORY SECTION (Amending Order 86-190, filed 11/26/86)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

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

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

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

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

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

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

(f) Willapa Bay – twenty-four cockles.

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

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

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

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

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

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

(10) Octopus: 2 octopus.

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

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red rock crabs: (~~(+8)~~) 12 crabs.

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

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

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

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last

name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the shrimp license. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) It is unlawful for any person using shellfish traps for personal use shellfishing to allow said traps to become uncovered by water.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) Effective January 1, 1985, the sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and

Anacortes except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

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

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

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

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

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

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

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

(g) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed the entire year.

(h) State oyster reserves are closed to clam digging the entire year.

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

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

AMENDATORY SECTION (Amending Order 85-134, filed 9/17/85)

WAC 220-56-360 RAZOR CLAMS—AREAS AND SEASONS. (1) It is unlawful to take, dig for or

possess razor clams taken for personal use from any beaches in Razor Clam Areas 1, 2, and 3 except as provided for (~~in this section~~:

(1) ~~Razor clam digging is allowed from 12:01 a.m. October 15 to 11:59 p.m. December 15, 1985)~~ by emergency regulation adopted by the director.

(2) ~~((Razor clam digging is allowed on odd-numbered days only:~~

(3)) It is unlawful to dig for razor clams at any time in the Long Beach or ~~((Twin Harbor))~~ Copalis Beach Razor Clam Sanctuaries as defined in WAC 220-56-372.

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

WAC 220-56-372 RAZOR CLAM SANCTUARIES. The following areas are hereby set aside for experimental purposes by the department of fisheries razor clam enhancement project. As need arises in the future, specific sections of these areas will be closed to public use.

(1) Long Beach – from a line extending westward from the middle of the Oysterville approach – north for one quarter mile (1,320 feet).

(2) Twin Harbors Beach – from a line extending westward from the middle of the county line approach south for one quarter mile (1,320 feet).

(3) Copalis Beach – from a point beginning ~~((three-quarters))~~ two-tenths of a mile ~~((north of the Oychut approach and extending north))~~ south of the Copalis Beach approach (Heath Street) and extending south for one quarter mile (1,320 feet).

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

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

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

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

(4) It is unlawful to take or possess oysters for personal use from tidelands of Kitsap Memorial State Park except during the period May 16 through June 15.

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

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

(7)) It is unlawful to take or possess oysters for personal use from department of fisheries tidelands at

Hoodspout Salmon Hatchery except during the period May 16 through July 14.

~~((8))~~ (7) It is unlawful to take or possess oysters for personal use from state tidelands at Bywater Bay except during the period May 16 through July 14.

~~((9))~~ (8) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

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

WAC 220-57-130 BOGACHIEL RIVER. (1) Bag Limit C - July 1 through August 31: Downstream from the Highway 101 Bridge. ~~((All coho salmon greater than 20 inches in length must be released immediately.))~~

(2) ~~((Special))~~ Bag Limit A - ~~((Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length=))~~ September 1 through November 30: Downstream from the Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 85-33, filed 4/16/85)

WAC 220-57-135 CALAWAH RIVER. (1) Bag Limit C - July 1 through August 31: Downstream from the Highway 101 Bridge.

(2) ~~((Special))~~ Bag Limit A - ~~((Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length=))~~ September 1 through November 30: Downstream from the Highway 101 Bridge, except coho salmon greater than 20 inches in length must be released immediately.

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

WAC 220-57-155 CLEARWATER RIVER (JEFFERSON COUNTY). (1) Bag Limit C - July 1 through August 31: Downstream from the mouth of the Snahapish River ~~((to the Quinault Indian Reservation boundary)).~~

(2) ~~((Special))~~ Bag Limit A - ~~((Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length=))~~ September 1 through November 30: Downstream from the mouth of the Snahapish River ~~((to the Quinault Indian Reservation boundary)), except coho salmon over 20 inches must be released immediately.~~

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D - June 1 through December 31: Downstream from Chief Joseph Dam to ~~((Priest Rapids))~~ Rocky Reach Dam. The following are closed waters:

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

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

~~((c))~~ (2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D - June 1 through September 15; Bag Limit A September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and points 400 feet downstream.

~~((2))~~ (3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D - June 1 through August 15; ~~((Special daily))~~ Bag limit ~~((of 6 salmon))~~ A - August 16 through October 31; Bag Limit C - November 1 through December 31. The following are closed waters:

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

(b) Jackson (Moran) Creek - waters ~~((within))~~ out to midstream between markers located approximately 500 feet both upstream and downstream of the mouth.

~~((3))~~ (4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D - ~~((July 1))~~ June 16 through August 15; ~~((Special daily))~~ Bag Limit ~~((of 6 salmon))~~ A - August 16 through October 15.

~~((4))~~ (5) Old Hanford townsite wooden power line towers to Highway 12 Bridge at Pasco: Bag Limit D - June 1 through August 15 except when fishing from the east bank only in that portion from WDF boundary marker located approximately 1/2 mile upstream from Ringold hatchery rearing pond outlet downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet where the bag limit is A from April 1 through July 31; ~~((Special))~~ Bag limit ~~((of 6 salmon))~~ A - August 16 through December 31.

~~((5))~~ (6) Highway 12 Bridge at Pasco to ~~((Hood River))~~ the Interstate 5 Bridge: Bag Limit A - January 1 through March 15; Bag Limit C March 16 through March 31; Bag Limit D - ~~((July 1))~~ June 16 through ~~((August 15))~~ July 31; Bag Limit A - August ~~((16))~~ 1 through December 31.

The following waters are closed to fishing for food fish at all times:

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

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

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

~~((6))~~ Downstream from Hood River Bridge to the Interstate 5 Bridge: Bag Limit D - July 1 through July 31; Bag Limit A - August 1 through December 31. The following are closed waters:

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

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

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

(8) Megler–Astoria Bridge to the Buoy 10 Line: Bag Limit A – August 16 through March 31, except that during the period August 16 through September 30 size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of Punch Card Area 1.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

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

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

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

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

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

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

WAC 220-57-215 DUNGENESS RIVER. Special bag limit ((A)) – six salmon per day not less than 10

inches in length. Chinook salmon greater than 24 inches in length and pink salmon must be released immediately – October 1 through December 31: Downstream from markers at Duncan Road, the former Taylor Bridge site, approximately one mile below the state salmon hatchery rack. Chinook salmon over ((28)) 24 inches must be released. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-220 DUWAMISH RIVER. (1) Bag Limit A – July 1 through November 30: Upstream from the ~~((First Avenue South))~~ Oxbow Bridge (the first bridge downstream from the Pacific Highway South Bridge) to the Highway 405 Bridge except that all chinook salmon greater than 24 inches in length must be released immediately.

(2) Bag Limit A – October 6 through November 30: Upstream from the First Avenue South Bridge to the Oxbow Bridge except that all chinook salmon greater than 24 inches in length must be released.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-235 ELOCHOMAN RIVER. (1) Bag Limit A – September 1 through ~~((December 31))~~ September 30: Downstream from the mouth of the west fork((,-except)).

(2) Bag Limit A – October 1 through December 31: Downstream from the mouth of the west fork to the Foster Road Bridge. All chinook salmon greater than 28 inches in length must be released immediately.

(3) Bag Limit A – October 1 through December 31: Downstream from the Foster Road Bridge.

The following waters are closed to salmon angling ((in the following waters)) at all times:

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

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

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

~~((+))~~ (d) From the Beaver Creek Bridge to 200 feet below the weir at Beaver Creek Hatchery.

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

WAC 220-57-240 ELWHA RIVER. Special bag limit ((A)) – six salmon per day not less than ten inches in length except that chinook salmon greater than 28 inches in length and pink salmon must be released – October ((+5)) 1 through December 31((,-Chinook salmon over 28 inches must be released)). ((Closed to the taking of pink salmon in odd-numbered years.))

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

WAC 220-57-270 HOH RIVER. (1) Bag Limit C - ~~last Saturday ((preceding Memorial Day)) in May through November 30: Downstream from the ((Olympic National Park boundary below the confluence)) mouth of the south fork to the mouth of Willoughby Creek.~~

(2) ~~((Bag Limit C - Saturday preceding Memorial Day to June 30: Downstream from the mouth of Willoughby Creek to the Highway 101 Bridge.~~

(3)) Bag Limit A - ~~((July 1)) last Saturday in May through November 30: Downstream from the mouth of Willoughby Creek ((to the Highway 101 Bridge:)) except all coho salmon over 20 inches in length must be released immediately.~~

~~((4) Bag Limit A - Saturday preceding Memorial Day through September 30: Downstream from the Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.~~

(5) Special bag limit - ~~Six salmon not less than 10 inches in length not more than four of which may exceed 24 inches in length - October 1 through November 30: Downstream from the Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately:))~~

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

WAC 220-57-280 HOQUIAM RIVER. ~~((Special bag limit - Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through November 30 =)) Main Hoquiam River, west fork of Hoquiam River downstream from the bridge on the Dekay Road and east fork of Hoquiam River downstream from the ~~((game department access area)) abandoned flat car bridge below the mouth of Berryman Creek:~~~~

(1) Bag Limit C - July 1 through September 30;

(2) Bag Limit A - October 1 through January 31, except that chinook salmon greater than 28 inches in length must be released immediately.

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

WAC 220-57-300 JOHNS RIVER. ~~((Special bag limit - Six salmon including not more than two chum salmon. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length - July 1 through November 30:)) Open area: Downstream from Old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.~~

(1) Bag Limit C - July 1 through September 30.

(2) Bag Limit A - October 1 through January 31 except that chinook salmon greater than 28 inches in length must be released immediately.

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

WAC 220-57-310 KALAMA RIVER. (1) Bag Limit A ~~except minimum size limit is 12 inches in length - ((Saturday preceding Memorial Day)) last Saturday in May through ((November 30)) December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.~~

(2) Bag Limit A ~~except minimum size limit is 12 inches in length - ((Saturday preceding Memorial Day)) last Saturday in May through ((November 30)) December 31: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.~~

(3) Bag Limit A ~~except minimum size limit is 12 inches in length - open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only and lawful salmon angling gear in those waters upstream from the fly fishing area to a point 1,000 feet below the fishway at the upper salmon hatchery and downstream from the fly fishing area to the Interstate 5 Bridge is limited to bait or lures with one single point hook only, measuring not more than 1/2 inch from point to shank.~~

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling.

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

WAC 220-57-315 KLICKITAT RIVER. (1) Bag Limit A - April 1 through January 31: Downstream from the Fisher Hill Bridge approximately 1-1/2 miles above the mouth, except open to salmon angling only from 12:00 noon Thursdays to 12:00 noon Mondays from April 1 through May 31.

(2) Bag Limit C - ~~((Saturday preceding Memorial Day)) May 30 through ((November 30)) July 31 - Downstream from fishing boundary markers at the downstream end of the Klickitat River Salmon Hatchery grounds to a point 400 feet above the No. 5 Fishway.~~

(3) Bag Limit A - August 1 through January 31: ~~Downstream from fishing boundary markers at the downstream end of the Klickitat River Salmon Hatchery grounds to a point 400 feet above the No. 5 Fishway.~~

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-335 NASELLE RIVER. (1) Bag Limit A - July 1 through September 30: Downstream from a point 400 feet below the entrance to the Naselle Salmon Hatchery Attraction Channel to Highway 101 Bridge except only one chinook salmon greater than ~~((24))~~ 28 inches in length may be retained as part of the daily bag limit.

(2) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length and chum salmon greater than 10 inches in length. Not more than two of the salmon in the daily bag limit may be chum salmon, and all chinook salmon over 28 inches in length must be released immediately - October 1 through ~~((October 31))~~ November 30: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

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

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

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

WAC 220-57-380 QUILCENE (BIG QUILCENE) RIVER. Bag Limit A - ~~((October))~~ September 1 through January 31: Downstream from Highway 101 Bridge. During the month of September chinook salmon greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 85-33, filed 4/16/85)

WAC 220-57-385 QUILLAYUTE RIVER. (1) Bag Limit A - ~~((Saturday preceding Memorial Day))~~ last Saturday in May through August 31: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters, except chinook salmon greater than 24 inches in length must be released immediately.

(2) ~~((Special))~~ Bag Limit A - ~~((Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length=))~~ September 1 through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters. During the period September 20 through November 30, all coho salmon greater than 20 inches in length must be released immediately.

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

WAC 220-57-410 SAMMAMISH RIVER (SLOUGH). (1) Bag Limit A - ~~((October 15))~~ August

1 through December 31: ~~((Upstream of the Kenmore Highway Bridge))~~ Downstream from the 102 Avenue NE Bridge to the Kenmore Highway Bridge. All sockeye salmon must be released.

(2) Bag Limit A - October 15 through December 31: Upstream from the 102 Avenue NE Bridge to Lake Sammamish. All sockeye salmon must be released immediately.

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

WAC 220-57-415 SATSOP RIVER. (1) Bag Limit C - July 1 through September 30: Downstream from the bridge at Schafer State Park on east fork.

(2) Bag Limit A - October 1 through January 31: Downstream from the bridge at ~~((Shafer))~~ Schafer State Park on east fork. Chinook salmon over ~~((24))~~ 28 inches in length must be released.

AMENDATORY SECTION (Amending Order 85-33, filed 4/16/85)

WAC 220-57-460 SOLEDUCK RIVER. ~~((+))~~ Bag Limit A - ~~((Saturday preceding Memorial Day))~~ last Saturday in May through ~~((August 31))~~ November 30: Downstream from concrete pump station at Soleduck Hatchery ~~((except chinook salmon greater than 24 inches in length must be released immediately.~~

(2) ~~Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may be adults, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length, or pink, chum, or sockeye salmon greater than 10 inches in length - September 1 through October 31: Downstream from concrete pump station at Soleduck Hatchery. During the period October 1 through October 31, all coho salmon greater than 20 inches in length must be released immediately.~~

(4) Bag Limit A - November 1 through November 30: Downstream from concrete pump station at Soleduck Hatchery. All coho salmon greater than 20 inches in length must be released immediately. Chinook salmon greater than 24 inches in length caught prior to September 1 must be released immediately, and coho salmon greater than 20 inches in length caught after October 15 must be released immediately.

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

WAC 220-57-473 TILTON RIVER. (1) Mainstem - Bag Limit A - ~~((Saturday preceding Memorial Day))~~ last Saturday in May through December 31: Downstream from west fork Tilton River.

(2) North fork - Bag Limit A - ~~((Saturday preceding Memorial Day))~~ last Saturday in May through ~~((November 30))~~ October 31: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles).

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

WAC 220-57-495 WASHOUGAL RIVER. (1) ~~Bag Limit A - January 1 ((through October 15: Downstream from the former steel bridge site at the Washougal Mercantile. From October 1 through October 15 chinook salmon over 28 inches must be released. From September 1 through October 15, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.~~

(2) ~~Bag Limit A - October 16))~~ through December 31: Downstream from bridge at Salmon Falls to mouth. During the period October 1 through December 31, in waters upstream from the mouth of Little Washougal River, chinook salmon over 28 inches in length must be released. From ~~((October 16))~~ September 1 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

~~((3))~~ (2) "Washougal River - Special fishing area": Waters from markers 50 feet upstream from the fisheries department salmon hatchery rack, upstream to the barrier dam are open to salmon fishing from September 18 through December 31. This special fishery shall be limited to persons who are 65 years of age or older. Persons wishing to participate in this fishery must have proof of their age in their possession while fishing. Daily bag limit: Six salmon 10 inches or more in length. Possession limit: Two daily bag limits in any form. The first six salmon caught, regardless of where they are hooked (inside or outside their mouth), must be retained. In this special fishing area, legal fishing gear shall be limited to one hand-held rod to which may be attached not more than one hook (or one lure with one hook attached). This one hook shall not have more than three points, and the maximum distance between shank and points is not to exceed 1/2 inch.

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

WAC 220-57-505 WHITE SALMON RIVER. (1) Bag Limit C - January 1 through December 31: Upstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge to a line 400 feet downstream from Condit Dam.

(2) Bag Limit A - January 1 through December 31: Downstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge.

(3) (Little) White Salmon River (Drano Lake): Bag Limit A - September 1 through December 31: Downstream from markers on point of land downstream and across from Federal Salmon Hatchery.

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

WAC 220-57-510 WILLAPA RIVER. (1) ((Special)) Bag Limit A - ((six salmon per day not less than 10 inches in length not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in

length, or chum salmon greater than 10 inches in length, except no more than two of the six salmon may be adult chinook and chum salmon in any combination, and after October 14, all chinook salmon greater than 28 inches in length must be released immediately=)) July 1 through ~~((January 31))~~ September 30: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the Highway 101 Bridge.

(2) Bag Limit A - October 15 through January 31: Downstream from mouth of Fork Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. Chinook salmon greater than 28 inches in length must be released immediately.

(3) Special bag limit - six salmon per day, not more than four of which may be any combination of chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length, or chum salmon greater than 10 inches in length and all chinook salmon greater than 28 inches in length must be released immediately - October 1 through January 31: Downstream from the Highway 6 Bridge approximately two miles below the mouth of Trap Creek to the Highway 101 Bridge.

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

WAC 220-57-520 WISHKAH RIVER. ((Special)) (1) Bag Limit C - ((Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length=)) July 1 through ~~((November))~~ September 30: Downstream from the mouth of the west fork.

(2) Bag Limit A - October 1 through January 31: Downstream from the mouth of the west fork. Chinook salmon greater than 28 inches in length must be released immediately.

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

WAC 220-57-525 WYNOOCHEE RIVER. ((Special)) (1) Bag Limit C - ((Six salmon including not more than two chum. All salmon must be not less than 10 inches in length, chinook salmon may not be greater than 24 inches in length and coho salmon may not be greater than 20 inches in length=)) July 1 through ~~((November))~~ September 30: Downstream from the mouth of Schafer Creek.

(2) Bag Limit A - October 1 through January 31: Downstream from the mouth of Schafer Creek. Chinook salmon greater than 28 inches in length must be released immediately.

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

WAC 220-57-250 GRAYS RIVER. Bag Limit A - September 1 through December 31: Open from mouth to 7000-line bridge. During the period October 1 through December 31, chinook salmon greater than 28 inches in length must be released immediately in those

waters upstream from the covered bridge. West Fork Grays River closed to salmon angling.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57-290 ICICLE RIVER. Bag Limit A - ~~((Saturday preceding Memorial Day))~~ May 16 through June 30 ~~((in those waters))~~: Downstream from a point 400 feet below the Leavenworth National Fish Hatchery rack.

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

WAC 220-57-445 SNAKE RIVER. ~~((Closed the entire year:))~~ Bag Limit C - September 1 through November 30: Downstream from the mouth of the Palouse River to Lower Monument Dam.

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

WAC 220-57A-175 LAKE WASHINGTON. (1) Waters north of the Evergreen Point Floating Bridge - Bag Limit A - August ~~((+6))~~ 1 through December 31.

(2) Waters south of the Evergreen Point Floating Bridge - Bag Limit A - October 15 through December 31. Sockeye salmon must be released immediately.

Note: Waters within a 1,000-foot radius of the mouth of the Cedar River are closed to salmon angling at all times.

~~((3) It is unlawful to take, fish for or possess sockeye salmon in Lake Washington the entire year:))~~

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

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). ~~((+))~~ Bag Limit A - August ~~((+6))~~ 1 through December 31: West of University Bridge, to eastern end of the north wingwall of the Chittenden Locks. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge and waters between the eastern end of the north wingwall of the Chittenden Locks and the railroad bridge west of the locks are closed to salmon angling at all times.

~~((2) It shall be unlawful to take, fish for or possess sockeye salmon the entire year:))~~

WSR 87-09-067
RULES OF COURT
STATE SUPREME COURT
[April 6, 1987]

IN THE MATTER OF THE APPROVAL OF THE RULES FOR ADMISSION AND CERTIFICATION TO LIMITED PRACTICE NO. 25700-A-390 ORDER

The Limited Practice Board of the Washington State Bar Association having, pursuant to APR 12(b)(ix), recommended the approval of the Rules for Admission and Certification to Limited Practice and the Court

having determined that the Rules will aid the Limited Practice Board in fulfilling the duties as required under APR 12;

Now, therefore, it is hereby

ORDERED:

That the Rules for Admission and Certification to Limited Practice as attached hereto are approved.

DATED at Olympia, Washington this 6th day of April, 1987.

Vernon R. Pearson

CHIEF JUSTICE

Reviser's note: The material contained in this filing will appear in the 87-10 issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

WSR 87-09-068
RULES OF COURT
STATE SUPREME COURT
[April 14, 1987]

IN THE MATTER OF THE ADOPTION OF THE AMENDMENT TO CR 80(b) NO. 25700-A-391 ORDER

The Court having considered the proposed amendment to CR 80(b) and having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption; Now, therefore, it is hereby

ORDERED:

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

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

DATED at Olympia, Washington this 14th day of April, 1987.

Vernon R. Pearson

Robert F. Utter

Andersen, J.

Robert F. Brachtenbach

James M. Dolliver

Wm. C. Goodloe

Fred H. Dore

B. Durham

Rule 80
COURT REPORTERS

(a) [Reserved]

(b) Electronic Recording. In any civil or criminal proceedings, electronic or mechanical recording devices approved by the Administrator for the Courts may be used to record oral testimony and other oral proceedings in lieu of or supplementary to causing shorthand notes thereof to be taken. In all matters the use of such devices shall rest within the sole discretion of the court.

~~This provision shall be subject to review no later than September 30, 1986.~~

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

WSR 87-09-069
RULES OF COURT
STATE SUPREME COURT
[April 14, 1987]

IN THE MATTER OF THE ADOPTION OF THE AMENDMENT TO GR 8.3 NO. 25700-A-392 ORDER

The Court having considered the proposed amendment to GR 8.3 and having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption; Now, therefore, it is hereby

ORDERED:

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

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

DATED at Olympia, Washington this 14th day of April, 1987.

Vernon R. Pearson

Robert F. Utter

Andersen, J.

Robert F. Brachtenbach

James M. Dolliver

Wm. C. Goodloe

Fred H. Dore

B. Durham

RULE 8.3
JUDICIAL OFFICER EXAMINATION
COMMITTEE

The qualifying examination for lay candidates for judicial officers shall be prepared and administered by a committee, under the supervision of the Chief Justice of the Supreme Court, composed of the Administrator for the Courts, the Executive Secretary of the Judicial Council, the President of the Superior Court Judges' Association, and the President of the Washington Magistrates' Association. The Administrator for the Courts shall be the chairman of the committee.

WSR 87-09-070
RULES OF COURT
STATE SUPREME COURT
[April 14, 1987]

IN THE MATTER OF THE ADOPTION OF THE AMENDMENTS TO RPC 3.6 NO. 25700-A-393 ORDER

The Bench-Bar-Press Committee having recommended the amendments to RPC 3.6, and the Court having considered the proposed amendments and recommendations of the Bench-Bar-Press Committee and having determined that the amendments will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby ORDERED:

(a) That the amendments as attached are adopted. The comments thereto are provided as guidelines for the bench, bar and press.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 14th day of April, 1987.

Vernon R. Pearson

Robert F. Utter

Andersen, J.

Robert F. Brachtenbach

James M. Dolliver

Wm. C. Goodloe

Fred H. Dore

B. Durham

RULE 3.6
TRIAL PUBLICITY

(a) A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

(b) A statement referred to in section (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:

(1) The character, credibility, reputation or criminal record of a party, suspect in a criminal investigation, or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial, or

~~(6) The fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.~~

~~(c) Notwithstanding sections (a) and (b)(1)-(5), a lawyer involved in the investigation or litigation of a matter may state without elaboration:~~

- ~~(1) The general nature of the claim or defense;~~
- ~~(2) The information contained in a public record;~~
- ~~(3) That an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved;~~
- ~~(4) The scheduling or result of any step in litigation;~~
- ~~(5) A request for assistance in obtaining evidence and information necessary thereto;~~

~~(6) A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and~~

~~(7) In a criminal case:~~

- ~~(i) the identity, residence, occupation and family status of the accused;~~
- ~~(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;~~
- ~~(iii) the fact, time and place of arrest; and~~
- ~~(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.~~

RPC 3.6 COMMENTS

I. Criminal

A. The kinds of statements referred to in RPC 3.6 which may potentially prejudice criminal proceedings are statements which relate to:

- (1) The character, credibility, reputation or criminal record of a suspect or defendant;
- (2) The possibility of a plea of guilty to the offense or the existence or contents of a confession, admission or statement given by a suspect or defendant or that person's refusal or failure to make a statement;
- (3) The performance or results of any investigative examination or test such as a polygraph examination or a laboratory test or the failure of a person to submit to an examination or test;
- (4) Any opinion as to the guilt or innocence of any suspect or defendant;
- (5) The credibility or anticipated testimony of a prospective witness; and
- (6) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial.

B. The public has a legitimate interest in the conduct of judicial proceedings and the administration of justice. Lawyers involved in the litigation of criminal matters may state without elaboration:

- (1) The general nature of the charge or defense;
- (2) The information contained in the public record; and
- (3) The scheduling of any step in litigation, including a scheduled court hearing to enter a plea of guilty.

C. The public also has a right to know about threats to its safety and measures aimed at assuring its security. Toward that end a public prosecutor or other lawyer involved in the investigation of a criminal case may state:

- (1) That an investigation is in progress, including the general scope of the investigation and, except when prohibited by law, the identity of the persons involved;
- (2) A request for assistance in obtaining evidence and information;
- (3) A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (4)(i) The identity, residence, occupation and family status of the accused;
- (ii) Information necessary to aid in apprehension of the accused;
- (iii) The fact, time and place of arrest; and
- (iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

II. Civil

The kinds of statements referred to in RPC 3.6 which may potentially prejudice civil matters triable to a jury are statements designed to influence the jury or to detract from the impartiality of the proceedings.

WSR 87-09-071

ADOPTED RULES

INSURANCE COMMISSIONER

[Order R 87-5—Filed April 21, 1987]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to unfair practices with respect to insurers, insurance brokers and surplus line brokers, and prohibited practices with respect to health care service contractors and health maintenance organizations, by adding new sections to chapter 284-30 WAC, and amending WAC 284-30-330, 284-30-350, 284-30-390 and 284-30-500.

This action is taken pursuant to Notice No. WSR 87-06-039 filed with the code reviser on March 3, 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, 48.44.050 and 48.46.200 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.30.010, 48.44.050, 48.44.145, 48.46.200, 48.46.120, 48.46.130 and 48.46.370.

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

APPROVED AND ADOPTED April 21, 1987.

Dick Marquardt
Insurance Commissioner
By Robert E. Johnson
Deputy Commissioner

AMENDATORY SECTION (Amending Order R 78-3, filed 7/27/78, effective 9/1/78)

~~WAC 284-30-330 SPECIFIC UNFAIR ((METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR)) CLAIMS SETTLEMENT PRACTICES DEFINED.~~ The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, specifically applicable to the settlement of claims:

(1) Misrepresenting pertinent facts or insurance policy provisions.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(4) Refusing to pay claims without conducting a reasonable investigation.

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear. In particular, this includes an obligation to effectuate prompt payment of property damage claims to innocent third parties in clear liability situations. If two or more insurers are involved, they should arrange to make such payment, leaving to themselves the burden of apportioning it.

(7) Compelling insureds to institute or submit to litigation, arbitration, or appraisal to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in such actions ((brought by such insureds)) or proceedings.

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(9) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made.

(10) Asserting to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(11) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring subsequent submissions which contain substantially the same information.

(12) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(13) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to

the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(14) Unfairly discriminating against claimants because they are represented by a public adjuster.

(15) Failure to expeditiously honor drafts given in settlement of claims. A failure to honor a draft within three working days of notice of receipt by the payor bank will constitute a violation of this provision. Dishonor of any such draft for valid reasons related to the settlement of the claim will not constitute a violation of this provision.

(16) Failure to adopt and implement reasonable standards for the processing and payment of claims once the obligation to pay has been established. Except as to those instances where the time for payment is governed by statute or rule or is set forth in an applicable contract, procedures which are not designed to deliver a check or draft to the payee in payment of a settled claim within fifteen business days after receipt by the insurer or its attorney of properly executed releases or other settlement documents are not acceptable. Where the insurer is obligated to furnish an appropriate release or settlement document to an insured or claimant, it shall do so within twenty working days after a settlement has been reached.

(17) Delaying appraisals or adding to their cost under insurance policy appraisal provisions through the use of appraisers from outside of the loss area. The use of appraisers from outside the loss area is appropriate only where the unique nature of the loss or a lack of competent local appraisers make the use of out-of-area appraisers necessary.

(18) Failing to make a good faith effort to settle a claim before exercising a contract right to an appraisal.

(19) Negotiating or settling a claim directly with any claimant known to be represented by an attorney without the attorney's knowledge and consent. This does not prohibit routine inquiries to an insured claimant to identify the claimant or to obtain details concerning the claim.

AMENDATORY SECTION (Amending Order R 78-3, filed 7/27/78, effective 9/1/78)

WAC 284-30-350 MISREPRESENTATION OF POLICY PROVISIONS. (1) No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.

(2) No agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

(3) No insurer shall deny a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so.

(4) No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure

to comply with such time limit prejudices the insurer's rights.

(5) No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

(6) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which release the insurer or its insured from its total liability.

(7) No insurer shall make a payment of benefits without clearly advising the payee, in writing, that it may require reimbursement, when such is the case.

AMENDATORY SECTION (Amending Order R 84-8, filed 12/27/84)

WAC 284-30-390 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO AUTOMOBILE INSURANCE. The following standards apply to insurance claims relating to motorcycles and private passenger automobiles as defined in RCW 48.18.297: (1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(a) The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fee incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by

(i) The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area. Any settlement offer which relies upon prices of automobiles advertised for sale in local newspapers may include only prices for automobiles verified by the insurer as being comparable in age and condition to the insured automobile; or

(ii) One of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area. An insurer must accurately describe the age and condition of the insured automobile to the dealers surveyed and may use only price quotations for the retail selling price of a comparable automobile.

(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (1)(a) and (1)(b) of this section, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar

amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.

(2) Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.

(3) Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop, or to obtain a temporary rental or loaner automobile.

(4) Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. An insurer shall keep first party claimants apprised of its efforts relative to subrogation claims.

(5) If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be itemized and shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and shall, upon request, furnish to the claimant the names of repair shops convenient to the claimant that will satisfactorily complete the repairs for the estimated cost, having in mind, particularly, the problems associated with the repair of unibody vehicles.

(6) In first party claim situations, if an insurer elects to exercise a contract right to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

(7) In any claim situation, an insurer shall make a good faith effort to honor a claimant's request for repairs to be made in a specific repair shop of the claimant's choice, and shall not arbitrarily deny such request. A denial of such a request solely because of the repair shop's hourly rate is arbitrary if such rate does not result in a higher overall cost of repairs. The insurer shall make an appropriate notation in its claim file setting forth the reason it has rejected a claimant's request.

(8) Deductions for betterment and depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation shall be limited to the lesser of an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, or the amount which the resale value of the vehicle is increased by the repair or replacement. Calculations for betterment, depreciation, and normal useful life must be included in the insurer's claim file.

AMENDATORY SECTION (Amending Order R 84-8, filed 12/27/84)

WAC 284-30-500 UNFAIR PRACTICES WITH RESPECT TO VEHICLE INSURANCE. (1) Beginning July 1, 1985, the following practices by any insurer with respect to every vehicle liability insurance policy applicable to private passenger automobiles registered or principally garaged in this state are unfair and prohibited:

(a) Failing to provide, to any insured under such policy, liability limits at least as great as those required by RCW 46.29.090, as measured at the effective date of the pertinent policy or its renewal;

(b) Denying or limiting liability coverage in such policy to less than the limits required by RCW 46.29.090, solely because the injured person is related to the insured by blood or marriage, as, for example, through use of so-called "family" or "household" exclusions;

(c) Denying or limiting liability coverage in such policy, with respect to injuries sustained by motorcycle passengers, to an amount below the bodily injury liability limits required by RCW 46.29.090, if the policy provides liability coverage for an insured's ownership, operation, or use of a motorcycle.

(2) Beginning July 1, 1985, the following practices by any insurer, with respect to vehicle insurance policies applicable to private passenger vehicles registered or principally garaged in this state, are unfair and prohibited:

(a) Failing to provide a named insured under such policy an itemization of the premium costs for the coverages under the policy as to which there are identifiable separate premium charges. Such itemization shall be given no later than the time of delivery of a policy and with each offer to renew thereafter;

(b) Failing, except with respect to a motorcycle policy, to provide, to any named insured who so requests and pays the premium therefor, first party automobile benefits such as those in medical payments coverage or personal injury protection, on approved forms commonly used by the insurer in the state of Washington, with maximum benefit limits, as appropriate to the particular form, of at least:

(i) \$35,000 for medical and hospital benefits incurred within three years of the accident;

(ii) \$35,000 for one year's income continuation benefits, subject to a limit of the lesser of \$700 per week or eighty-five percent of the weekly income; and

(iii) \$40 per day for loss of services benefits, for at least a year.

(3) Beginning July 1, 1987, it shall be an unfair practice for any insurer to consider traffic violations or accidents which occurred more than three years in the past, with respect to the acceptance, rejection, cancellation or nonrenewal of any insured under a private passenger automobile insurance policy, unless, because of the individual's violations, accidents or driving record during the three years immediately past, the earlier violations or accidents are significantly relevant to the individual's qualifications for insurance.

(4) For purposes of this section, the definition of a "private passenger automobile" is that set forth in RCW 48.18.297, and includes a motorcycle except as otherwise specifically provided in this section.

NEW SECTION

WAC 284-30-572 DISCRIMINATION PROHIBITED. (1) It shall be an unfair practice for any insurer to decline, cancel, or refuse to renew any homeowners, dwelling fire or vehicle insurance policy, or to vary its terms, rates, conditions or benefits, because of an insured's or applicant's race, creed, color, national origin, religion, or ability to read, write, or speak the English language.

(2) It is an unfair practice for any insurer, and a prohibited practice for any health care service contractor or health maintenance organization, to discourage a claimant or an insured from contacting the insurance commissioner, or to unfairly discriminate against such person because of such contact.

NEW SECTION

WAC 284-30-574 INSURER MUST MAKE INDEPENDENT EVALUATION. It shall be an unfair practice for any insurer to rely solely on another insurer's denial, cancellation, or nonrenewal of insurance to support a denial or termination of coverage. In every case, an insurer must go behind another insurer's action and make its own independent decision on the merits. This section does not prohibit an insurer from denying a binder pending its evaluation of another insurer's action, and does not apply to an insurer-reinsurer relationship.

NEW SECTION

WAC 284-30-590 UNFAIR PRACTICES WITH RESPECT TO POLICY CANCELLATIONS, RENEWALS, AND CHANGES. (1) It is unfair practice to utilize a twenty-day notice to increase premiums by a change of rates or to change the terms of a policy to the adverse interest of the insured thereunder, except on a one time basis in connection with the renewal of a policy as permitted by RCW 48.18.2901(2), or to utilize such notice if it is not, by its contents, made clearly and specifically applicable to the particular policy and to the insured thereunder or does not provide sufficient information to enable the insured to understand the basic nature of any change in terms or to calculate any premium resulting from a change of rates.

(2) In the unusual situation where a contract permits a midterm change of rates or terms, other than in connection with a renewal, it is an unfair practice to effectuate such change with less than forty-five days advance written notice to the named insured, or to utilize a contract provision which is not set forth conspicuously in the contract under an appropriate caption of sufficient prominence that it will not be minimized or rendered obscure.

(3) It is an unfair practice to effectuate a change of rates or terms other than prospectively. Such changes may be effective no sooner than the first day following the expiration of the required notice.

(4) If an insured elects to not continue coverage beyond the effective date of any change of rates or terms, it is an unfair practice to refund any premium on less than a pro rata basis.

(5) The cancellation and renewal provisions set forth in chapter 48.18 RCW do not apply to surplus line policies. To avoid unfair competition and to prevent unfair practices with respect to consumers, it is an unfair practice for any surplus line broker to procure any policy of insurance pursuant to chapter 48.15 RCW that is cancelable by less than ten days advance notice for nonpayment of premium and twenty days for any other reason, except as to a policy of insurance of a kind exempted by RCW 48.15.160. This rule shall not prevent the cancellation of a fire insurance policy on shorter notice in accord with chapter 48.53 RCW.

(6) Except where the insurance policy is providing excess liability or excess property insurance including so-called umbrella coverage, it is an unfair practice for an insurer to make a common practice of giving a notice of nonrenewal of an insurance policy followed by its offer to re-write the insurance, unless the proposed renewal insurance is substantially different from that under the expiring policy.

(7) Where the rate has not changed but an incorrect premium has been charged, if the insurer elects to make a midterm premium revision, it is an unfair practice to treat the insured less favorably than as follows:

(a) If the premium revision is necessary because of an error made by the insurer or its agent, the insurer shall:

(i) Notify the applicant or insured of the nature of the error and the amount of additional premium required; and

(ii) Offer to cancel the policy or binder pro rata based on the original (incorrect) premium for the period for which coverage was provided; or

(iii) Offer to continue the policy for its full term with the correct premium applying no earlier than twenty days after the notice of additional premium is mailed to the insured.

(b) If the premium revision results from erroneous or incomplete information supplied by the applicant or insured, the insurer shall:

(i) Correct the premium or rate retroactive to the effective date of the policy; and

(ii) Notify the applicant or insured of the reason for the amount of the change. If the insured is not willing to pay the additional premium billed, the insurer shall cancel the policy, with appropriate statutory notice for nonpayment of premium, and compute any return premium based on the correct premium.

(c) This subsection recognizes that an insurer may elect to allow an incorrect premium to remain in effect to the end of the policy term because the insured is legally or equitably entitled to the benefit of a bargain made.

NEW SECTION

WAC 284-30-620 PERMISSIBLE TIME LIMIT FOR BENEFITS PAYABLE BECAUSE OF ACCIDENTAL INJURY OR DEATH. Beginning January 1, 1988, it shall be an unfair practice for any insurer to

deliver a policy of insurance in this state which provides for benefits in case of accidental death or accidental injury, if it limits the benefits payable thereunder to losses occurring within a stated period of time after the accident, unless such period of time extends for at least one year from the time of the accident. In other words, benefits for accidental death or for covered expenses incurred because of an accidental injury shall be paid if the covered death occurs, or the covered services are incurred, within one year of the accident.

NEW SECTION

WAC 284-30-630 HEALTH QUESTIONS IN APPLICATIONS TO BE CLEAR AND PRECISE. If an insurer, including a health care service contractor or a health maintenance organization, intends to rely on an applicant's or enrollee's answers to health questions in an application to determine eligibility for coverage or the existence of a preexisting condition, such questions must be clear and precise. Simply asking whether the applicant has been under the care of a physician during the preceding year, for example, is not sufficient to require a "yes" answer where the applicant has been using medications that were prescribed prior to the start of the preceding year and the applicant has not seen a physician for more than a year.

NEW SECTION

WAC 284-30-650 PROMPT RESPONSES REQUIRED. It is an unfair practice for an insurer, and a prohibited practice for a health care service contractor or a health maintenance organization, to fail to respond promptly to any inquiry from the insurance commissioner relative to the business of insurance. A lack of response within fifteen business days from receipt of an inquiry will be considered untimely. A response must be in writing, unless otherwise indicated in the inquiry.

NEW SECTION

WAC 284-30-750 BROKERS' FEES TO BE DISCLOSED. It shall be an unfair practice for any broker providing services in connection with the procurement of insurance to charge a fee in excess of the usual commission which would be paid to an agent without having advised the insured or prospective insured, in writing, in advance of the rendering of services, that there will be a charge and its amount or the basis on which such charge will be determined.

WSR 87-09-072

EXECUTIVE ORDER

OFFICE OF THE GOVERNOR

[EO 87-04]

STATE USE OF HISTORIC PROPERTIES

The legislature has shown support for the preservation of Washington state's unique architectural heritage which can be accomplished by finding new uses for historic properties. Public agencies provide leadership in historic

preservation by assuring that historic properties are given special consideration when additional space must be purchased, rented or leased.

NOW, THEREFORE, I, Booth Gardner, Governor of the state of Washington, do hereby order and direct the following:

1. The Department of Community Development shall solicit voluntary nominations from the owners of historic properties who wish to have their property considered for possible purchase, rent or lease.
2. Owners who wish to have their property determined eligible for listing in the National or State Register may do so at any time by submitting a properly completed historic sites inventory form to the Director of Community Development for consideration.
3. To be eligible for special consideration under this Executive Order, the property must be either listed in the National or Washington State Register of Historic Places or be certified by the Director of Community Development as eligible for listing in the National or State Register.
4. Owners requesting special consideration under this Executive Order will be asked to furnish to the Department of Community Development information concerning the location of the property, the number of stories and gross square footage available, the present use and other characteristics deemed necessary for evaluation.
5. The Director of Community Development will maintain a list of eligible historic places that may be suitable for the state's use either in existing condition or through repair or alteration. A current copy of this list will be provided to the Director of General Administration.
6. The Department of General Administration will once a month forward to the Department of Community Development a copy of the space request register which will provide the Department of Community Development with the information of what space is being solicited by state agencies.
7. In renting, leasing or purchasing space for use by state agencies, the Director of General Administration shall consider proposals from the owners of historical properties that are available and could potentially meet the state's requirements.
8. In evaluating the alternatives for the location of state agencies in the purchase, rent or lease of space, the Director of General Administration shall include historical significance as one of the criteria in selecting properties for state use.
9. The Director of General Administration shall maintain records concerning the evaluation of historic properties that have been considered for state use.

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 17th day of April, A.D., nineteen hundred and eighty-seven.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 87-09-073
ADOPTED RULES
DEPARTMENT OF LICENSING
[Order TL/RG-32—Filed April 22, 1987]

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

Amd WAC 308-93-010 Definitions.
Amd WAC 308-93-074 Class "A" titles issued.

This action is taken pursuant to Notice No. WSR 87-04-068 filed with the code reviser on February 4, 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 88.02.120 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 88.02.100 which directs that the Department of Licensing has authority to implement the provisions of chapter 88.02 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.
APPROVED AND ADOPTED April 15, 1987.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order TL/RG 25, filed 5/7/86)

WAC 308-93-010 DEFINITIONS. Unless the context clearly (~~provides~~ ~~prescribes~~) indicates otherwise, the following definitions apply to the rules in this chapter:

(1) "Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such

certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Commercial fishing" means operating under a currently valid commercial or charter fishing license.

(4) "Declaration of value form" means the department of revenue form used when a vessel is acquired by lease or gift, homemade or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest (~~for the lessor of a vessel unencumbered by a security interest~~) or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for life-saving purposes.

(11) "Manufacturer's statement of origin (MSO)" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(13) "Prebill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

(14) "Previous ownership document" means the last issued certificate of title and/or registration.

(15) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(16) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(17) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

(18) "Tender" means a craft used exclusively to furnish transportation from a larger vessel to shore and return.

(19) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

(20) "Valid marine document" means a document issued by the United States federal government which declares a vessel to be a documented vessel of the United States.

(21) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

(22) "Waters of this state" means any waters within the territorial limits of this state.

(23) "Time share" charters means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

(24) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single-family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

(25) "UCC" means Uniform Commercial Code.

(26) "UCC search" means a Uniform Commercial Code financing statement search pursuant to RCW 62A.9-407(2).

AMENDATORY SECTION (Amending Order TL/RG 25, filed 5/7/86)

WAC 308-93-074 CLASS "A" TITLES ISSUED. The department may issue a Class "A" certificate of title to a vessel when an application includes one or more of the following:

(1) A manufacturer's statement of origin, carpenter certificate, or factory invoice indicating a date of sale on or after July 1, 1985.

(2) A manufacturer's statement of origin, carpenter certificate, or factory invoice indicating a date of sale prior to July 1, 1985, accompanied by a UCC search and proper releases.

(3) A previously issued and properly released Washington Class "A" title for the vessel.

(4) A Class "B" title accompanied by UCC search and proper releases.

(5) A certificate of title issued by a foreign state or jurisdiction accompanied by a UCC search conducted in the state or jurisdiction issuing such title and the proper releases of interest.

(6) A properly released certificate of title where the title was issued by a foreign state or jurisdiction, if the only method of perfecting a lien in that state or jurisdiction is by notation on the certificate of title.

WSR 87-09-074
PROPOSED RULES
DEPARTMENT OF LICENSING
(Optometry Board)
 [Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Optometry Board intends to adopt, amend, or repeal

rules concerning examination appeal procedures, new section WAC 308-53-320;

that the agency will at 10:00 a.m., Tuesday, June 2, 1987, in Nendel's Southcenter, 15801 West Valley Road, Tukwila, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.54.070.

The specific statute these rules are intended to implement is RCW 18.54.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Friday, May 29, 1987.

Dated: April 6, 1987

By: Delores E. Spice
Program Manager

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Optometry.

Purpose of Proposed Rule: To establish procedures of the board relating to the appeal of examination results.

Statutory Authority: RCW 18.54.070.

Summary of the Rules: To provide procedures for informal review of examination results by the Optometry Board and for formal hearing if the candidate is not satisfied with the informal review.

Responsible Personnel: The Washington State Board of Optometry and the program manager for the board have the responsibility for drafting, implementing and enforcing these rules. The program manager is Delores Spice, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 753-3834.

Proponents of Proposed Rules: Washington State Optometry Board.

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

Small Business Economic Impact Statement: Not required as these rules do not impact small business as that term is defined in RCW 43.31.920.

NEW SECTION

WAC 308-53-320 EXAMINATION APPEAL PROCEDURES.

(1) Any candidate who takes the state examination for licensure and does not pass may request informal review by the board of his or her examination results. This request must be in writing and must be received by the department within thirty (30) days of the postmark of notification of the examination results. The board will not set aside their prior determination unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness by the board. The board will not consider any challenges to examination scores unless the total revised score could result in issuance of a license.

(2) The procedure for filing an informal review is as follows:

(a) Contact the Department of Licensing office in Olympia for an appointment to appear personally to review incorrect answers on failed written tests and score sheets on failed practical tests.

(b) Candidate will be provided a form to complete in the Department of Licensing office in Olympia in defense of test answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the test should be changed.

(d) Candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the board.

(e) Candidate may not bring in notes or texts for use while completing the informal review form.

(f) Candidate will not be allowed to take any notes or materials from the office upon leaving.

(g) The Optometry Board will schedule a closed session meeting to review the tests and forms completed by the candidate for the purpose of informal review.

(h) The candidate will be notified in writing of the results.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing to be held before the board pursuant to the administrative procedures act. Such hearing must be requested within twenty (20) days of the postmark of the result of the board's review of the examination results. The request must state the specific reason or reasons why the candidate feels the results of the examination should be changed. These reasons shall not be broader than those stated for the informal review. The board will not set aside its prior determination unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness by the board. The board will not consider any challenges to examination scores unless the total revised score could result in issuance of a license.

WSR 87-09-075

PROPOSED RULES

DEPARTMENT OF LICENSING

(Optometry Board)

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Optometry Board intends to adopt, amend, or repeal rules concerning improper professional relationship with physicians, new section WAC 308-53-330;

that the agency will at 10:30 a.m., Tuesday, June 2, 1987, in Nendel's Southcenter, 15801 West Valley Road, Tukwila, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.54.070.

The specific statute these rules are intended to implement is RCW 18.54.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., Friday, May 29, 1987.

Dated: April 16, 1987

By: Delores E. Spice
Program Manager

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Optometry.

Purpose of Proposed Rule: To establish procedures of the board relating to the relationship between optometrists and physicians.

Statutory Authority: RCW 18.54.070.

Summary of the Rules: To govern the financial and referral arrangements between optometrists and physicians.

Responsible Personnel: The Washington State Board of Optometry and the program manager for the board

have the responsibility for drafting, implementing and enforcing these rules. The program manager is Delores Spice, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 753-3834.

Proponents of Proposed Rules: Washington State Academy of Ophthalmology.

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

Small Business Economic Impact Statement: Not required as these rules do not impact small business as that term is defined in RCW 43.31.920.

NEW SECTION

WAC 308-53-330 IMPROPER PROFESSIONAL RELATIONSHIP WITH PHYSICIANS. No doctor of optometry shall make any contracts or agreements, whether express or implied, nor engage in any arrangement with a physician whereby the physician or his agent shall:

- (1) Pay any professional expenses for the doctor of optometry.
- (2) Pay any or all of the professional fees of a doctor of optometry;
- (3) Pay any commission, bonus, or rebate for volume of materials or services received from a doctor of optometry;
- (4) Receive any commission, bonus or rebate for volume of materials or services furnished to a doctor of optometry;
- (5) Pay any commission to the doctor of optometry in return for referral of patients to the physician;
- (6) Receive any commission from a doctor of optometry in return for referral of patients to such doctors of optometry.

Nothing herein shall apply to relationships between optometrists and physicians who have an employment relationship.

WSR 87-09-076 **WITHDRAWAL OF PROPOSED RULES** **HORSE RACING COMMISSION**

[Filed April 22, 1987]

The following rules published by the code reviser under Notice No. WSR 87-08-029 are being withdrawn at this time. Some changes have been made to them and thus, they will be republished in another notice. The rules are as follows:

Amd	WAC 260-70-010	Definitions applicable to chapter 260-70 WAC.
Amd	WAC 260-70-021	Medication standards.
Amd	WAC 260-70-025	Bleeder lists.
Amd	WAC 260-70-026	Bleeder treatment.
Amd	WAC 260-70-050	Procedure for taking specimens.
Amd	WAC 260-70-090	Permitted medications.
Amd	WAC 260-70-100	Penalties for overage of permitted medications.
Amd	WAC 260-70-120	Sampling medication and drugs.
Amd	WAC 260-70-170	Veterinarian report.

Will Bachofner
Executive Secretary

WSR 87-09-077 **PROPOSED RULES** **HORSE RACING COMMISSION**

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Horse

Racing Commission intends to adopt, amend, or repeal rules concerning:

Amd	WAC 260-70-010	Definitions applicable to chapter 260-70 WAC.
Amd	WAC 260-70-021	Medication standards.
Amd	WAC 260-70-025	Bleeder list.
Amd	WAC 260-70-026	Bleeder treatment.
Amd	WAC 260-70-050	Procedure for taking specimens.
Amd	WAC 260-70-090	Permitted medications.
Amd	WAC 260-70-100	Penalties for overage of permitted medications.
Amd	WAC 260-70-120	Sampling medication and drugs.
Amd	WAC 260-70-170	Veterinarian report;

that the agency will at 1:00 p.m., Thursday, May 28, 1987, in Nendel's Motor Inn, 15900 West Valley Road, Tukwila, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.16.020 and 67.16.040.

The specific statute these rules are intended to implement is RCW 67.16.020 and 67.16.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 19, 1987.

Dated: April 22, 1987
By: Will Bachofner
Executive Secretary

STATEMENT OF PURPOSE

In the matter of amending WAC 260-70-010, 260-70-021, 260-70-025, 260-70-026, 260-70-050, 260-70-090, 260-70-100, 260-70-120 and 260-70-170 relating to the rules of horse racing.

WAC 260-70-010 through 260-70-170 are proposed for amendment as indicated in the notice of intention to adopt rules filed this date with the code reviser.

The enactment of these rules is proposed pursuant to RCW 67.16.020 and 67.16.040 under the general rule-making authority of the Washington Horse Racing Commission.

The rules are proposed for the following reasons: To clarify some existing rules which contain some unnecessary ambiguity; to specify certain policy changes of the Racing Commission which ensure that they are promulgated in this way to all those who participate in racing in the state; and to implement certain procedural changes which ensure that there is uniformity in the handling of medication issues and drug issues before the Racing Commission.

Will Bachofner, Executive Secretary, Suites B and C, 210 East Union Avenue, Olympia, Washington 98504, phone 753-3741, and members of the Racing Commission staff were responsible for the drafting of the amendments and are to be responsible for their implementation and enforcement.

The proponent of the amendments and enactments is the Washington Horse Racing Commission, Lyle Smith, Chairman.

The Washington Horse Racing Commission recommends the adoption of the amendments. They have been

drafted with consideration for rules that have been adopted in other states in regard to the subject matter.

The rules are not in response to or the result of any particular state law, federal law or court decision.

This certifies that copies of this statement are on file with the Racing Commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Small Business Economic Impact Statement: The amendments and enactments listed above are not anticipated to affect more than 20 percent of all industries, nor more than 10 percent of any one industry as defined by section 2(3), chapter 6, Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

AMENDATORY SECTION (Amending Order 86-02, filed 4/21/86)

WAC 260-70-010 DEFINITIONS APPLICABLE TO CHAPTER 260-70 WAC. As used in this chapter, unless the context clearly requires a different meaning, the following terms shall have the following meanings:

(1) "Permitted medication" or "medication" means and includes any substance used to treat (~~to cure, and~~) or prevent disease, relieve pain, or improve (~~to preserve~~) health (~~including vitamins, food additives, minerals, and domestic remedies~~) with the exception of prohibited drugs.

(2) "Prohibited drugs" means (a) any medication or metabolic derivatives thereof which is (~~an~~) an analgesic, including narcotics (~~or~~) or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, or bronchial dilators; or (b) any interfering substance.

(3) "Interfering substance" or "interfere" means and refers to any medication which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures. Such terms include permitted medication when used in quantities which might mask or screen the presence of prohibited drugs or prevent or delay testing procedures.

(4) "Approved nonsteroidal anti-inflammatory drug (NSAID)" includes and is limited to phenylbutazone (~~means phenylbutazone~~) or oxyphenylbutazone (~~or their derivatives or metabolites thereof~~); flunixin; naproxen and meclufenamic acid used in the manner described in WAC 260-70-090.

(5) "Bleeder" means a horse which hemorrhages from (~~the respiratory tract~~) a nostril or into its trachea during a race or (~~within one hour post race or~~) during exercise or within one hour of (~~such~~) the race or exercise.

(6) "Bleeder list" means a tabulation of all bleeders to be maintained by the commission veterinarian.

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

WAC 260-70-021 MEDICATION STANDARDS. (1) No horse shall have in its body any prohibited drug or interfering substance while participating in a race.

(2) No person shall administer, attempt to administer, or aid or abet in the administration of, any medication or drug to a horse on the day of a race in which the horse is entered at any time prior to the race except in accordance with this rule.

(3) Subject to the provisions of this rule, medication calculated to improve or protect the health of a horse may be administered to a horse in training.

(4) The administration of medication to any horse on race day, except as hereinafter provided, is prohibited. For the purpose of this rule, the day of the race shall be deemed to commence at 9:00 p.m. on the day preceding the race.

(5) (~~Nutritional aids, administered orally only, will be permitted at any time.~~)

(~~6~~) Approved nonsteroidal anti-inflammatory drugs (NSAIDS) may be administered to a horse, but not on race day. No more than one of the NSAIDS may be used on or carried in a horse's body at any one time.

(~~7~~) (6) Notwithstanding any other provision of this rule, no two-year old horse shall carry in its body while participating in a race any medication, including medications defined in WAC 260-70-010 (1) through (4) and 260-70-090 (1) through (~~5~~) (4). Vitamins are permitted, however, if they do not interfere with testing. The finding of any medication (~~prohibited herein~~) in a two-year old horse participating in a race shall disqualify the owner of such horse from participating in the purse distribution; and in addition the stewards may take any authorized action they may consider necessary to preserve the integrity of racing.

(~~8~~) (7) In the case of delayed-release substances, the time of administration shall be deemed that time at which such medication, drug, or substance is released within the body of a horse.

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

WAC 260-70-025 BLEEDER LIST. A horse which during the race or following the race, or which during exercise or following exercise is found to be hemorrhaging from one or both nostrils (~~or is found to have bled internally~~) or is found to have bled into the trachea is eligible to be placed on a bleeder list and treated on race day to prevent bleeding during its race. In order to obtain authorization for race day treatment of the bleeder, the trainer must obtain a certificate of examination from the commission veterinarian and the horse is then placed on the official bleeder list. The commission veterinarian must, by examination, and/or in consultation with the stewards, establish that the horse did in fact hemorrhage from one or both nostrils or that an endoscopic examination in the test barn (~~of the horse~~) or receiving barn showed observable amounts of free blood in the respiratory tract. When confirmed by the commission veterinarian, the horse shall be placed on the bleeder list which is maintained by the commission veterinarian. Once on the list, a horse shall be removed from the bleeder list only upon the directions of the commission veterinarian, who must certify in writing to the commission his recommendation for removal of the horse from the list. The list is a state-wide list (~~and~~) that applies only at all race meetings at Longacres, Playfair, and Yakima Meadows and not at any other track.

Once a horse is placed on the bleeder list, the horse must be assigned to a prerace security stall, to be known as a detention stall, no later than four hours prior to the scheduled post time for any race in which it is entered to start. The detention stall is assigned by the commission veterinarian and may at his discretion be the stall regularly assigned that horse for its customary stabling. Once placed in the detention stall, a horse must remain there until it is taken to the receiving barn or to the paddock to be saddled or harnessed for the race, except that the stewards may permit horses to leave the secured stall to engage in exercise blowouts or warm-up heats. If the horse on the bleeder list is assigned as a detention stall its regular stall, that stall must be posted and the stall must be under direct observation of a responsible, licensed employee of the trainer or the owner.

Where facilities permit, the commission veterinarian may designate a secured area and assign stalls within that secured area to those horses on the bleeder list who are entered to race that day or night.

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

WAC 260-70-026 BLEEDER TREATMENT. A horse on the bleeder list must be treated at least four hours prior to post time with (~~bleeder medication, which may be~~) furosemide (i.e., Lasix®). No other medication is permitted for bleeder treatment unless or except as approved by the commission. Bleeder medication must be administered in the manner approved by the commission veterinarian, and furosemide (i.e., Lasix®) by oral administration is NOT PERMITTED for such purposes. The bleeder medication shall be administered by the horse's regular veterinarian, and may be witnessed by the commission veterinarian or his designee.

AMENDATORY SECTION (Amending Order 78-1, filed 5/4/78)

WAC 260-70-050 PROCEDURE FOR TAKING SPECIMENS. All horses from which specimens are to be drawn are to be taken to the detention area at the prescribed time and remain there until released by the commission veterinarian. No person other than the owner, trainer, groom, or hotwalker of a horse to be tested, and no lead pony, shall be admitted to the detention area without permission of the commission veterinarian.

(a) During the taking of specimens from a horse, the owner or responsible trainer (who in the case of a claimed horse shall be the person in whose name such horse raced), or a stable representative designated by such owner or trainer, shall be present and witness the taking of such specimens and so signify in writing.

(b) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a ~~((double))~~ triple identification tag. One portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the witness and the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portion of identification tag shall be kept by the commission veterinarian for delivery only to the stewards and/or the racing commission. The commission veterinarian shall take every precaution to insure that the commission chemist and no member of the laboratory staff shall know the identity of the horse from which the specimen has been taken prior to the completion of all testing thereon.

(c)(1) If, after a horse remains a reasonable time in the detention area and a specimen may not be taken from such a horse, the commission veterinarian may permit such horse to be returned to its barn in usual surroundings for the taking of the specimen under the supervision of the commission veterinarian.

(2) With the consent of the trainer or attendant the commission veterinarian may administer to the horse a diuretic to facilitate urination. Quantity, identity, and time of administration shall be noted on both portions of the specimen tag by the commission veterinarian.

(d) The commission veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause such specimens to be delivered only to the chief chemist as soon as possible after sealing, but in such order or in such manner as not to reveal the identity of any horse from which each sample was taken.

(e) All specimens taken by or under the supervision of the commission veterinarian or other authorized representative of the commission shall be delivered to the chief chemist at the laboratory of the commission for official analysis.

(f) Notwithstanding the provisions of these rules requiring certain functions to be performed by the commission veterinarian, he may delegate any of such duties to an authorized representative or representatives, approved by the commission, so long as such delegation is not of a duty which would under the appropriate statutes be defined as the practice of veterinary medicine.

AMENDATORY SECTION (Amending Order 84-01, filed 3/7/84)

WAC 260-70-090 PERMITTED ~~((MEDICATION))~~ LEVEL OF APPROVED NSAIDS. ~~((Horses))~~ Trainers using permitted medication in the care of their horses are subject to all rules governing such medications ~~((plus))~~. Those using approved NSAIDS are also subject to these additional rules:

(1) PHENYLBUTAZONE ~~((and))~~ or OXYPHENYLBUTAZONE shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of ~~((the drug substance, its metabolites and analogs))~~ phenylbutazone or 5 micrograms of oxyphenylbutazone per milliliter of blood plasma or more than 165 micrograms of the drug substance, its metabolites and analogs per milliliter of urine.

(2) NAPROXEN shall be administered in such dosage amount that the test sample shall contain not more than 5 micrograms of the drug substance, its metabolites or analogs per milliliter of blood plasma or more than 165 micrograms of the drug substance, its metabolites or analogs per milliliter of urine.

(3) FLUNIXIN shall be administered in such dosage amount that the test sample shall not contain more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.

(4) MECLOFENAMIC ACID shall be administered in such dosage amount that the test sample shall contain not more than 1 microgram of the drug substance, its metabolites or analogs per milliliter of blood plasma.

(5) No horse on a program of permitted medication shall be permitted to race without such medication ~~((unless authorized to do so by the stewards or their representative))~~.

AMENDATORY SECTION (Amending Order 85-02, filed 6/5/85)

WAC 260-70-100 PENALTIES RELATING TO ~~((OVERAGE OF))~~ PERMITTED MEDICATION. Should the laboratory analysis of urine or blood taken from a horse, other than a two-year old, show

the presence of more than one approved nonsteroidal anti-inflammatory drug (NSAID) in violation of WAC 260-70-021, or the presence of ~~((phenylbutazone))~~ one NSAID in excess of the quantities authorized by WAC 260-70-090, or, the presence of furosemide ~~((i.e., Lasix®))~~ without permission from the commission veterinarian, or if a horse is on a program of permitted medication and was raced without the medication, the stewards or commission shall levy the following penalties against each person found responsible:

(1) For a first offense within any calendar year, a fine of \$300;

(2) The second offense, within any calendar year, \$750;

(3) For a third offense, within any calendar year, a fine of \$750 with a sixty-day suspension.

If any NSAID or other permitted medication is found in the body of a horse which alone or in combination with a second medication is of such a quantity so as to interfere with the testing process the penalties for use of a prohibited drug or medication shall apply irrespective of the provisions of this rule. The finding of any diuretic, including furosemide ~~((i.e., Lasix®))~~ ~~((furosemide))~~, in the body of a horse shall constitute the presence of an interfering substance and the penalties for use of a prohibited drug or medication shall apply, unless the horse is on the official commission bleeder list.

AMENDATORY SECTION (Amending Order 74.1, filed 5/22/74, effective 7/1/74)

WAC 260-70-120 SAMPLING MEDICATIONS AND DRUGS. The state veterinarian, the test barn veterinarian, any duly authorized inspector of the commission, or any member of the board of stewards may take samples of any medicine or other materials suspected of containing improper medication or drugs which would affect the racing condition of a horse in a race, which may be found in stables or elsewhere on race tracks or in the possession of such tracks or any person connected with racing on the grounds of an association and the same shall be delivered to the chief chemist of the commission for analysis under the same conditions as in this article prescribed for analysis of ~~((saliva))~~ blood and urine.

AMENDATORY SECTION (Amending Order 79-03, filed 5/7/80)

WAC 260-70-170 VETERINARIAN REPORT. Every veterinarian who treats a horse upon the approved grounds shall, in writing on a form prescribed by the commission, report to the commission veterinarian in a manner and at a time prescribed by him/her, the name of the horse treated, the name of the trainer of the horse, the time of treatment, and any other information requested by the commission veterinarian. Detection of any unreported medication, drug, or substance; or failure to detect any permitted medication, drug or substance by the chief chemist in a test may be grounds for disciplinary action. A list of horses on a program of permitted medication shall be kept in the office of the commission and shall be available for public inspection.

WSR 87-09-078

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning the generation and management of dangerous waste;

that the agency will at 7:00 p.m., May 26, 1987, in the Department of Ecology, Hearings Room, 3601 West Washington, Yakima, WA, and at 7:00 p.m., May 27, 1987, in the Spokane County Health District, Auditorium, West 1101 College, Spokane, WA, and at 7:00 p.m., May 28, 1987, in the Port of Seattle, Commissioners Chambers, 2201 Alaskan Way South, Pier 66, Seattle, WA, conduct public hearings on the proposed rules.

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

The authority under which these rules are proposed is chapter 70.105 RCW.

The specific statute these rules are intended to implement is chapter 70.105 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 5, 1987.

Dated: April 21, 1987

By: Phillip C. Johnson
Deputy Director

STATEMENT OF PURPOSE

Title: Chapter 173-303 WAC, Dangerous waste regulations.

Description of Purpose: To regulate the generation and management of dangerous waste.

Statutory Authority: Chapter 70.105 RCW, Hazardous Waste Management Act.

Summary of Rule: The state dangerous waste regulations, chapter 173-303 WAC, establish requirements for persons generating and managing dangerous waste. These regulations reflect both federal requirements and state concerns. As the federal provisions change, the state must amend regulations to remain at least as stringent as EPA. Local concerns and experiences with implementing the regulations have also identified needed changes and clarifications. These proposed amendments are a combination of both EPA-required and ecology-initiated changes. They can be divided into three categories: Overall prohibitions or allowances; generator requirements; and management facility standards.

Overall Prohibitions/Allowances

WAC 173-303-017, recycling of state-only wastes – facilities recycling state-only wastes may apply on a case-by-case basis for a variance from the definition of solid waste.

WAC 173-303-017, typographical error – a significant typographical error was corrected. The phrase "generated without first being" was added to WAC 173-303-017 (2)(a)(iii), which concerns a type of potentially exempt recycling practice.

WAC 173-303-040, 173-303-170, 173-303-280, 173-303-400, 173-303-420, 173-303-550, 173-303-560, 173-303-600, 173-303-801, 173-303-805 and 173-303-806, moderate risk waste – replaced the term "moderate risk waste" with "special waste." Both the old and new term identify the same category of waste: Solid only (not liquid, gas, or sludge), not regulated by EPA and designated as only DW waste.

WAC 173-303-071, excluded categories of waste. Closed loop exclusion – wastes internal to closed loop systems may be able to qualify for an exclusion from the regulations. This provision contains several conditions that must be met in order to qualify for the exclusion. One of the major conditions is that any residues (i.e., sludges, filters, etc.) generated from the otherwise "closed" loop must be sent to a dangerous waste management facility or legitimate recycler. If the recycling operation does not meet all of the conditions of the closed loop exemption, the wastes internal to the recycling process would have to be counted the same as any

other dangerous waste. This exemption could potentially apply to many dry cleaners but has few known industrial applications. Domestic sewage exclusion – clarified the intent of the exclusion concerning domestic sewage, mixed with other wastes, that passes through a publicly-owned treatment works.

WAC 173-303-120, dust suppression – modified an exemption which inadvertently allowed used oil to be applied to the land in a manner constituting disposal. The effect of modifying this exemption is to prohibit the application of used oil to the land, if the oil is a dangerous waste.

WAC 173-303-9904, EBDC listing – added new wastes associated with the production of ethylenebis-dithiocarbamic acid and its salts to the dangerous waste sources list.

WAC 173-303-9904, spent pickle liquor listing – EPA recently clarified the listing description of K062, spent pickle liquor from steel finishing operations. The effect of the change was to narrow the scope of the listing. Ecology has incorporated the same wording.

Generators

WAC 173-303-070 and 173-303-515, mixing DW with used oil – deleted an exemption which previously allowed small quantity generators to mix their dangerous waste with used oil.

WAC 173-303-081, 173-303-082, 173-303-084, 173-303-090, 173-303-101, 173-303-102, 173-303-103, 173-303-9906 and 173-303-9907, 220 pound limit – dropped the quantity exclusion limit to 220 pounds for most wastes (it used to be 400 pounds).

[WAC 173-303-201], "small" quantity generators – provided special rules for those who generate or accumulate less than 2200 pounds per month of dangerous waste. These rules are less stringent than the ones applicable to fully regulated generators but are more stringent than EPA's equivalent rules. Also clarified that the 180 day time limit applies not only to generators of less than 2200 pounds per month, but also to those who accumulate at any time up to 2200 pounds.

WAC 173-303-230, exporting dangerous waste – modified the export requirements. No longer incorporate EPA's rules by reference, but any reports submitted to EPA under the federal export requirements must also be sent to ecology.

Management Facilities

WAC 173-303-145 and 173-303-620, liability insurance – modified the liability provisions to allow the use of the corporate guarantee to satisfy liability coverage requirements.

WAC 173-303-360, incident report – added 2 new items to be included in written incident reports: Cause of incident and corrective action taken to prevent recurrence.

WAC 173-303-515, burning PCB contaminated used oil – deleted a previous allowance to burn off-specification used oil in marine or diesel engines.

WAC 173-303-610, 173-303-620, 173-303-805, 173-303-806 and 173-303-830, closure/postclosure – incorporated revised final status facility standards for

closure/postclosure requirements, especially relating to cost estimates. These amendments reflect the federal changes promulgated in the May 2, 1986, Federal Register. Associated changes include adjustments to the financial assurance requirements.

WAC 173-303-809, RD&D permits – changed to include EPA's new research, development and demonstration permit requirements.

WAC 173-303-810, certification language – modified the certification language for owners of dangerous waste management facilities required on permit applications to comply with RCW 70.105.215.

Reasons Supporting Proposed Action: Maintain final authorization of the state's dangerous waste program; respond to new issues and concerns in implementing those regulations; and provide clarifications of existing requirements.

Agency Personnel Responsible for Drafting: Ross Potter, (206) 459-6516; Implementation: Thomas Eaton, (206) 459-6316; and Enforcement: Marc Horton, (206) 459-6053, Department of Ecology, Mailstop PV-11, Olympia.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: Some changes are necessary as a result of federal RCRA requirements.

Small Business Economic Impact Statement: The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry be reviewed and altered to minimize their impact upon small businesses. This regulatory proposal has been reviewed in light of that requirement. The conclusions of this review are summarized below.

A portion of the proposed amendments to this regulation have been included in order to achieve Department of Ecology consistency with recently adopted federal (Environmental Protection Agency) regulations. Since the department has essentially no choice with respect to these, and because they would apply anyway in the absence of any state action, these will not be considered during this review. The remainder of the proposed amendments have been initiated by the department in response to implementation concerns.

The Department of Ecology-initiated amendments appear in large measure to be for the purposes of clarifying language and providing regulatory relief from existing state requirements. For example, an amendment concerning closed loop systems, potentially applicable to many dry cleaners, would provide significant relief from existing state regulations by eliminating many of the requirements previously applied to this type of operation. With modest exceptions, the amendments do not imply any significant increase in the regulatory burdens of small businesses. One exception may be with the disposal of used oils, as noted below:

(1) If a used oil is a dangerous waste, it is subject to land disposal permit requirements if the oil is used in a manner constituting disposal, (2) dangerous wastes may not be mixed with used oil, and (3) used oil that is a dangerous waste may not be burned in marine or diesel engines, unless the oil meets certain specifications.

An estimate of potential cost impact for these requirements is impossible because there is not any data or previous documentation regarding disposal practices of used oil generated by small businesses. The potential cost impacts will have to be assessed after some experience with these regulations.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-017 RECYCLING PROCESSES INVOLVING SOLID WASTE. (1) The purpose of this section is to identify those materials that are and are not solid wastes when recycled. Certain materials, as described in subsection (2) of this section, would not typically be considered to involve waste management and are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the recycling requirements of WAC 173-303-120.

(2) General categories of materials that are not solid waste when recycled.

(a) Except as provided in subsection (3) of this section, materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated without first being reclaimed. The material must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

(b) Except as provided in subsection (3) of this section, the department has determined that the following materials when used as described are not solid wastes:

(i) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process;

(ii) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(iii) Spent sulfuric acid used to produce virgin sulfuric acid.

(3) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (as described in subsection (2)(a) of this section):

(a) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii); or

(d) Materials listed in WAC 173-303-016(6); or

(e) Any materials that the department determines are being accumulated, used, reused or handled in a manner that poses a threat to public health or the environment.

(4) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(5) Variances from classification as a solid waste.

(a) In accordance with the standards and criteria in (b) of this subsection and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in WAC 173-303-016 (5)(d)(ii));

(ii) Materials that are reclaimed and then reused within the original primary production process in which they were generated;

(iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;

(iv) State-only dangerous materials (not regulated as hazardous wastes (defined in WAC 173-303-040(39)) by EPA) which serve as an effective substitute for a commercial product or raw material.

(b) Standards and criteria for variances from classification as a solid waste.

(i) The department may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The department's decision will be based on the following standards and criteria:

(A) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

(B) The reason that the applicant has accumulated the material for one or more years without recycling seventy-five percent of the volume accumulated at the beginning of the year;

(C) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

(D) The extent to which the material is handled to minimize loss;

(E) Other relevant factors.

(ii) The department may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(A) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

(B) The prevalence of the practice on an industry-wide basis;

(C) The extent to which the material is handled before reclamation to minimize loss;

(D) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

(E) The location of the reclamation operation in relation to the production process;

(F) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(G) Whether the person who generates the material also reclaims it;

(H) Other relevant factors.

(iii) The department may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

(A) The degree of processing the material has undergone and the degree of further processing that is required;

(B) The value of the material after it has been reclaimed;

(C) The degree to which the reclaimed material is like an analogous raw material;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The extent to which the reclaimed material is handled to minimize loss;

(F) Other relevant factors.

(iv) The department may grant requests for a variance from classifying as a solid waste those materials that serve as an effective substitute for a commercial product or raw material, when such material is

not regulated as hazardous waste (defined in WAC 173-303-040(39)) by EPA, if the materials are recycled in a manner such that they more closely resemble products or raw materials rather than wastes. This determination will be based on the following factors:

(A) The effectiveness of the material for the claimed use;

(B) The degree to which the material is like an analogous raw material or product;

(C) The extent to which the material is handled to minimize loss or escape to the environment;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The time period between generating the material and its recycling;

(F) Other factors as appropriate.

(6) Variance to be classified as a boiler.

In accordance with the standards and criteria in WAC 173-303-040(8) (definition of "boiler"), and the procedures in subsection (7) of this section the department may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in WAC 173-303-040(8), after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

(f) Other factors, as appropriate.

(7) Procedures for variances from classification as a solid waste or to be classified as a boiler.

The department will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed flame combustion devices as boilers:

(a) The applicant must apply to the department. The application must address the relevant criteria contained in subsections (5)(b) or (6) of this section.

(b) The department will evaluate the application and issue a draft public notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The department will accept comment on the tentative decision for thirty days, and may also hold a public hearing upon request or at its discretion. The department will issue a final decision after receipt of comments and after the hearing (if any), and this decision may not be appealed to the department.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-040 DEFINITIONS. When used in this regulation, the following terms have the meanings given below.

(1) "Active portion" means that portion of a facility which is not a closed portion (subsection (11) of this section), and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

(a) The effective date of the waste's designation by 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

(2) "Acutely hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column.

(3) "Aquatic LC₅₀" (same as TLM₉₆) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as *Lepomis macrochirus* (bluegill) or *Pimephales promelas* (flathead minnow), or cold

water species such as salmonidae, when using the testing method described in WAC 173-303-110.

(4) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

(5) "Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.

(6) "Batch" means any waste which is generated less frequently than once a month.

(7) "Berm" means the shoulder of a dike.

(8) "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

(a)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(b) The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

(9) "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(10) "Carcinogenic" means a material known to contain an IARC positive or suspected, human or animal carcinogen.

(11) "Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

(12) "Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

(13) "Compliance procedure" shall mean any proceedings instituted pursuant to the Hazardous Waste Disposal Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

(14) "Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

(15) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(16) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case

of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

(17) "Contract" means the written agreement signed by the department and the state operator.

(18) "Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter (including dangerous and extremely hazardous waste), while the abbreviation "DW" will refer to that part of the regulated universe which is dangerous only, and not extremely hazardous. (See also "extremely hazardous waste" and "hazardous waste" definitions.)

(19) "Department" means the department of ecology.

(20) "Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

(21) "Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste shipment and which is authorized pursuant to this chapter or RCRA to recycle or manage dangerous waste.

(22) "Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

(23) "Director" means the director of the department of ecology.

(24) "Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment. Release includes, but is not limited to, the actions of: Spilling, leaking, pumping, pouring, emitting, dumping, emptying, depositing, placing, or injecting.

(25) "Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

(26) "Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

(27) "Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

(b) Meets the definition of tank, container, transport vehicle, or vessel.

(28) "EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

(29) "Extremely hazardous waste" means those dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

(30) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" shall be used interchangeably.

(31) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

(32) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

(33) "Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

(34) "Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

(35) "Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

(36) "Ground water" means water which fills voids below the land surface and in the earth's crust.

(37) "Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

(38) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103.

(39) "Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

(40) "Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

(a) The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

(b) March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(41) "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

(42) "Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(43) "Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy; cement kilns, lime kilns, aggregate kilns, phosphate kilns, blast furnaces, smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces), titanium dioxide chloride process oxidation reactors, coke ovens, methane reforming furnaces, combustion devices used in the recovery of sulfur values from spent sulfuric acid, and pulping liquor recovery furnaces. The department may decide to add devices to this list on the basis of one or more of the following factors:

(a) The device is designed and used primarily to accomplish recovery of material products;

(b) The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

(c) The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

(d) The device burns or reduces raw materials to make a material product;

(e) The device is in common industrial use to produce a material product; and

(f) Other factors, as appropriate.

(44) "Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.

(45) "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours, kills within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

(46) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

(47) "Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

(48) "Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(49) "Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

(50) "Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

(51) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(52) "Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

(53) "Major facility" means a facility or activity classified by the department as major.

(54) "Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

(55) (~~"Moderate risk waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090, 173-303-101, 173-303-102 or 173-303-103. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a moderate risk waste.~~) (Reserved.)

(56) "NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

(57) "Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

(58) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

(59) "On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, shall be considered on-site travel if: (a) The travel crosses the right of way at a perpendicular intersection; or, (b) the right of way is controlled by the property owner and is inaccessible to the public.

(60) "Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

(61) "Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

(62) "Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

(a) The department, pursuant to this chapter;

(b) United States EPA, pursuant to 40 CFR Part 270; or

(c) Another state authorized by EPA, pursuant to 40 CFR Part 271.

(63) "Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

(64) "Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

(65) "Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

(66) "Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances

intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

(67) "Pile" means any noncontainerized accumulation of solid, non-flowing dangerous waste that is used for treatment or storage.

(68) "Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

(69) "Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more benzene rings. For the purposes of this chapter, the PAH of concern for designation are only those PAH with more than three rings and less than seven rings.

(70) "Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

(71) "Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

(72) "Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

(73) "Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

(74) "Recycle" means to use, reuse, or reclaim a material.

(75) "Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

(a) January 26, 1983 for wastes regulated by 40 CFR Part 261;

(b) October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

(c) The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

(76) "Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

(77) "Reuse or use" means to employ a material either:

(a) As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

(b) In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(78) "Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

(79) "Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

(80) "Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

(81) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

(82) "Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

(83) "Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

(84) "State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

(85) "Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

(86) "Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

(87) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

(88) "Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

(89) "Thermal treatment" means the use of a device which uses primarily elevated temperatures to treat a dangerous waste.

(90) "TL_{m96}" means the same as "Aquatic LC₅₀."

(91) "Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

(92) "Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

(93) "Transfer facility" or "collection facility" means a facility at which dangerous waste shipments are collected, consolidated, and stored for more than ten days before transfer to a storage, treatment, or disposal facility.

(94) "Transportation" means the movement of dangerous waste by air, rail, highway, or water.

(95) "Transporter" means a person engaged in the off-site transportation of dangerous waste.

(96) "Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

(97) "Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

(98) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

(99) "Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

(100) "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

(101) "Unsaturated zone" means the zone between the land surface and the water table.

(102) "Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

(103) "Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

(104) "Waste water treatment unit" means a device which:

(a) Is part of a waste water treatment facility which is subject to regulation under either:

(i) Section 402 or section 307(b) of the Federal Clean Water Act; or

(ii) Chapter 90.48 RCW, State Water Pollution Control Act, provided that any dangerous waste treated at the facility is designated only by this chapter 173-303 WAC and is not regulated as hazardous waste under 40 CFR Part 261; and

(b) Handles dangerous waste as defined in WAC 173-303-070 through 173-303-103 in either of the following manner:

(i) Receives and treats or stores an influent dangerous waste water; or

(ii) Generates and accumulates or treats or stores a dangerous waste water treatment sludge; and

(c) Meets the definition of tank in WAC 173-303-040.

(105) "Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982,

for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state and local statutes, regulations and ordinances and either:

(a) A continuous on-site, physical construction program has begun; or

(b) The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(106) "New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

(107) "Special waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090, 173-303-101, 173-303-102, or 173-303-103. Any solid waste that is EHW or that is regulated by the United States EPA as hazardous waste cannot be a special waste.

(108) "Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

(109) "Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility unless subject to the provisions in WAC 173-303-200.

(110) "Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-670 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

(111) "Dangerous hazardous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

Any terms used in this chapter which have not been defined in this section shall have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else shall have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-045 REFERENCES TO EPA'S HAZARDOUS WASTE AND PERMIT REGULATIONS. Any references in this chapter to any parts, subparts, or sections from EPA's Hazardous Waste Regulations, including 40 CFR Parts 260 through 270 and Part 124, shall be in reference to those rules as they existed on (~~June 3~~) July 11, 1986, with the exception of rules adopted by EPA pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA), Public Law 98-616, amending RCRA. Copies of the appropriate referenced federal requirements are available upon request from the department.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-060 NOTIFICATION AND IDENTIFICATION NUMBERS. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility shall have a current EPA/state identification number (EPA/state ID#). Any person who offers a dangerous

waste to a transporter or to a dangerous waste TSD facility which does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled (~~(-closed;)~~) or withdrawn, shall be in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received his ID#, must notify the department by obtaining and completing a Washington state notification of dangerous waste activities, Form 2, and submitting the completed form to the department. Any person already assigned an EPA/state ID# must submit a revised notification Form 2 to the department prior to any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity. Any change in location will require the issuance of a new EPA/state ID#. An EPA/state ID# may not be used at new company locations. Notification of dangerous waste activities, Form 2 and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted (~~(if an ID# will not be used for at least two years)~~) when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that his ID# be cancelled (~~(or closed)~~) if he will no longer occupy the site. Notification must be in writing. An EPA/state ID# shall be considered cancelled (~~(or closed)~~) only after issuance of written confirmation by the department and when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(5) Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-220, and 173-303-390. Any person that has withdrawn (~~(-closed;)~~) or cancelled their ID# and received confirmation from the department must submit an annual report for the calendar year in which their request was approved.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-070 DESIGNATION OF DANGEROUS WASTE. (1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not his solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that his waste is designated DW or EHW shall be subject to all applicable requirements of this chapter.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i)(A) It does not exhibit any of the characteristics of WAC 173-303-090; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083 has been exempted pursuant to WAC 173-303-910(3); or

(ii) If originally designated only through WAC 173-303-084 or 173-303-101 through 173-303-103, does not exhibit any of the criteria of WAC 173-303-101 through 173-303-103.

Such solid waste shall include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(3) Designation procedures.

(a) To determine whether or not his waste is designated a person shall check his waste against the following sections, and in the following order:

- (i) First, Discarded chemical products, WAC 173-303-081;
- (ii) Second, Dangerous waste sources, WAC 173-303-082;
- (iii) Third, Infectious dangerous wastes, WAC 173-303-083;
- (iv) Fourth, Dangerous waste mixtures, WAC 173-303-084; and
- (v) Last, Dangerous waste characteristics, WAC 173-303-090.

(b) In addition to the designation procedures specified in (a) of this subsection, a person may choose or may be required under subsection (4) of this section to check his waste against the following sections, and in the following order:

- (i) First, Toxic dangerous wastes, WAC 173-303-101;
- (ii) Second, Persistent dangerous wastes, WAC 173-303-102;
- (iii) Last, Carcinogenic dangerous wastes, WAC 173-303-103.

(c) A person shall check each section, in the order set forth, until he determines that his waste is designated. Once his waste is designated through the lists or characteristics, he need not determine any other designations for his waste, except as required by subsection (4) or (5) of this section. For the purposes of designating through the criteria, if a person determines that his waste is designated DW, then he must assure that it is not also EHW by checking it against the remaining sections. If the designation procedures identify a waste as both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for EP toxicity), the waste must be designated EHW. If a person has checked his waste against each section that he is required by this section to check and his waste is not designated, then his waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW shall comply with the requirements of WAC 173-303-072.

(4) Criteria designation required. Notwithstanding any other provisions of this chapter, the department may require any person to determine whether or not his waste is designated under the dangerous waste criteria, WAC 173-303-100 through 173-303-103, if the department has reason to believe that his waste would be designated DW or EHW by the dangerous waste criteria, or if the department has reason to believe that his waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW by the criteria). If a person, pursuant to the requirements of this subsection, determines that his waste is a dangerous waste or that its designation must be changed, then he shall be subject to the applicable requirements of this chapter 173-303 WAC. The department shall base a requirement to designate a waste by the dangerous waste criteria on evidence that includes, but is not limited to:

- (a) Test information indicating that the person's waste may be DW or EHW;
- (b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;
- (c) Evidence that the persons' waste has historically been a DW or EHW; or
- (d) Evidence or information about a person's manufacturing materials or processes which indicate that his wastes may be DW or EHW.

(5) Special knowledge. If a generator has designated his waste under the dangerous waste lists, WAC 173-303-080 through 173-303-084, and has knowledge that his waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that his waste also meets any of the dangerous waste criteria, WAC 173-303-101 through 173-303-103, or both, then he shall also designate his waste in accordance with those dangerous waste characteristics, or criteria, or both.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, he shall use all the dangerous waste numbers which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria. For example, if his waste is ignitable and contains extremely hazardous concentrations of halogenated hydrocarbons, he shall use the dangerous waste numbers of D001 and WP01. This shall not be construed as requiring a person to designate his waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is fully subject to the requirements of this chapter. Any solid waste which is not excluded or exempted and which

is listed by or exhibits the characteristics or criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to certain requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste identified by this chapter. In such cases, the person must consider the aggregate quantity of his wastes when determining whether or not his waste amounts exceed the specific quantity exclusion limits (QEL). Waste quantities must be aggregated for all wastes with common QEL's. For the purposes of this subsection, when aggregating waste quantities, a person shall include in his calculation dangerous wastes produced by on-site treatment or recycling of dangerous wastes and dangerous wastes being accumulated or stored. For example, if a person generates, accumulates, or stores 300 pounds of an ignitable waste and 300 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (600 pounds) exceeds their common QEL of 400 pounds. On the other hand, if a person generates, accumulates, or stores one pound of an EHW discarded chemical product and 300 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 400 pounds, respective QEL's). Additional guidance on aggregating waste quantities is available from the department.

(c) The following are categories of waste that are excluded from the quantity determination and need not be aggregated as required by (b) of this subsection when calculating total waste quantities.

(i) Dangerous waste that is recycled and that is excluded from regulation under WAC 173-303-120 (2)(a), (3)(d) or (e) is not included in the quantity determinations of this section and is not subject to any requirements of this section.

(ii) ~~((Reserved))~~ Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(8) Small quantity generators.

(a) A person is a small quantity generator and is subject to the requirements of this subsection if his waste is designated under subsection (3) of this section, and the quantity of waste that he generates, accumulates, or stores (or the aggregated quantity if he generates more than one kind of waste) does not exceed the quantity exclusion limit for such waste (or wastes). If a person generates, accumulates, or stores any dangerous wastes that exceed the QEL, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is ~~((400))~~ 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter. A small quantity generator who generates, accumulates, or stores waste in excess of the quantity exclusion limit and becomes subject to the full requirements of this chapter cannot again be a small quantity generator until after all dangerous waste on-site at the time he became fully regulated have been removed, treated, or disposed.

(b) A small quantity generator will not be subject to the requirements of this chapter if he:

(i) Complies with subsections (1), (2), (3), and (4) of this section; and

(ii) Either treats or disposes of his dangerous waste in an on-site facility, or ensures delivery to an off-site facility, either of which is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage municipal or industrial solid waste in accordance with state or local regulations, or in accordance with another state's solid waste laws if the waste is sent out of state; or

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims his dangerous waste, or that treats his waste prior to such recycling activities; and

(iii) Submits an annual report in accordance with WAC 173-303-220 if he has notified as a generator pursuant to WAC 173-303-060.

~~((c) If a small quantity generator's dangerous wastes are mixed with used oil, the mixture is subject to WAC 173-303-515 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.))~~

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-071 EXCLUDED CATEGORIES OF WASTE.

(1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter shall comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050:

(a) Domestic sewage, and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works (POTW) for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system. This exclusion does not apply to the generation, treatment, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment;

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes which are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas);

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-084(6) or 173-303-102. For the purposes of this exclusion, asphaltic materials means materials intended and used for structural and construction purposes (e.g., roads, dikes, paving) which are produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Waste wood or wood products treated with preservatives if the waste is generated by persons who utilize the treated wood or wood products for these materials' intended end use;

(h) Irrigation return flows;

(i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes.

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when, using EPA's PCB testing method 600/4-81-045, the waste can be shown to contain less than one part per million (ppm) PCB or when, using ASTM method D 4059-86, the waste can be shown to contain less than two parts per million (ppm) PCB;

(iii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are:

(A) Stored in a manner equivalent to the requirements of 40 CFR 761.65; and

(B) Within one year of removal from service, disposed of either in an incinerator that complies with 40 CFR 761.70, in a chemical waste landfill that complies with 40 CFR 761.75, in a high efficiency boiler that complies with 40 CFR 761.60 (a)(2)(iii) or (a)(3)(iii), or in a facility other otherwise approved in accordance with 40 CFR 761.60(e);

(I) Samples.

(i) Except as provided in (I)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemption in (I)(i)(A) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(aa) The sample collector's name, mailing address, and telephone number;

(bb) The laboratory's name, mailing address, and telephone number;

(cc) The quantity of the sample;

(dd) The date of shipment;

(ee) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (I)(i) of this subsection;

(m) Asbestos wastes or asbestos containing wastes which would be designated only as respiratory carcinogens by WAC 173-303-084 or 173-303-103, and any other inorganic wastes which are designated only under WAC 173-303-084 or 173-303-103 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the asbestos management procedures of 40 CFR Part 61;

(n) Dangerous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100 through 173-303-103) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(v), (vi), (vii), (viii), or (ix);

(q) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) The generator ensures that any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials are delivered to a dangerous waste treatment, storage, or disposal facility or legitimate recycler. The generator must be able to provide documentation of such delivery. If the generator can demonstrate that the residues do not exhibit any of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100 through 173-303-101), then he is exempt from the requirements of this condition (v).

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-081 DISCARDED CHEMICAL PRODUCTS.

(1) A waste shall be designated as a dangerous waste if it is handled in any of the manners described in (e) of this subsection, and if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) Any containers or inner liners that have been used to hold any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the acutely dangerous chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty and have been triple rinsed as described in WAC 173-303-160(2) (~~and (3)~~);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(e) The materials or items described in (a), (b), (c), and (d) of this subsection are dangerous wastes when they are:

(i) Discarded or intended to be discarded as described in WAC 173-303-016 (3)(b)(i);

(ii) Burned for purposes of energy recovery in lieu of their original intended use;

(iii) Used to produce fuels in lieu of their original intended use;

(iv) Applied to the land in lieu of their original intended use; or

(v) Contained in products that are applied to the land in lieu of their original intended use.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated EHW;

(ii) For chemicals and for residues from the cleanup of spills involving chemicals designated on the moderately dangerous chemical products list of WAC 173-303-9903 - ~~((400 lbs. (181.8 kg)))~~ 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch unless the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160 (2) (~~and (3)~~);

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the acutely dangerous chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated EHW.

(b) A person's total monthly waste quantity shall be the sum of all his wastes which share a common quantity exclusion limit (e.g., the total quantity of all EHW discarded chemical products, the total quantity of all residues contaminated by EHW discarded chemical products, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product dangerous waste shall be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture shall be designated. The mixture designation shall be the same as the designation for the discarded chemical product which was mixed with the solid waste. For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004; EHW designation) and 22 lbs. (10 kg) of a solid waste, would be designated as an EHW, and would have the dangerous waste number P004.

(4) For the purposes of this chapter, the term "acutely hazardous waste" shall include discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-082 DANGEROUS WASTE SOURCES.

(1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste which is listed or which is a residue from the management of a waste listed on the dangerous waste sources list shall be designated a dangerous waste, and shall be identified as DW, except that WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW.

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. For the purposes of this chapter, the term "acutely hazardous waste" shall include dangerous waste sources F020, F021, F022, F023, F026, and F027;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection; or

(c) ~~((400 lbs. (181.8 kg)))~~ 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture shall be designated as a dangerous waste source. The mixture shall have the same designation (DW or EHW), and shall have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-084 DANGEROUS WASTE MIXTURES. (1) Purpose. It is the purpose of this section to describe the means for designating a waste mixture containing dangerous wastes which are not listed in WAC 173-303-081 through 173-303-083.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (Registry) is adopted by reference. The table in the United States EPA's regulations 40 CFR Table 302.4 (Spill Table) is adopted by reference.

(3) Waste mixture defined. For the purposes of this section, a waste mixture shall be any waste about which some or all of its constituents and concentrations are known, and which has not been designated as:

(a) A discarded chemical product under WAC 173-303-081;

- (b) A dangerous waste source under WAC 173-303-082;
- (c) An infectious dangerous waste under WAC 173-303-083; or
- (d) A dangerous waste that has been designated by the criteria of WAC 173-303-101 through 173-303-103.

(4) A person who has a waste mixture shall use data which is available to him, and, when such data is inadequate for the purposes of this section, shall refer to the NIOSH Registry and/or to the EPA Spill Table to determine:

- (a) Toxicity data or category for each known constituent in his waste;
- (b) Whether or not each known constituent of his waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings; and,
- (c) Whether or not each known constituent of his waste is an International Agency for Research on Cancer (IARC) human or animal, positive or suspected carcinogen.

(5) Toxicity.

(a) If a person has toxic constituents in his waste, he shall determine the toxic category for each known toxic constituent. The toxic category for each constituent may be determined directly from EPA'S Spill Table, or by obtaining data from the NIOSH Registry and checking this data against the toxic category table, below. If data is available for more than one of the four toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used, and the most acutely toxic category shall be assigned to the constituent. If toxicity data for a constituent cannot be found in EPA'S Spill Table, NIOSH Registry, or other source reasonably available to a person, then he need not determine the toxic category for that constituent.

TOXIC CATEGORY TABLE

Category	TLm ₉₆ (Fish) or, Aquatic (Fish) LC ₅₀ (ppm)	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	< 2
A	.1 - 1	.5 - 5	.02 - .2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) A person whose waste mixture contains one or more toxic constituents shall determine the equivalent concentration for his waste from the following formula:

$$\text{Equivalent Concentration(\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where $\Sigma(X,A,B,C, \text{ or } D) \%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste mixture contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\text{E.C. (\%)} = \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10000} + \frac{0\%}{100000}$$

$$= .01\% + 0\% + .01\% + .011\% + 0\% = .031\%$$

So his equivalent concentration equals .031%.

(c) A person whose waste mixture contains toxic constituents shall determine his designation from the toxic dangerous waste mixtures graph in WAC 173-303-9906 by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste as DW; if the plotted point is in the area marked EHW, he shall designate his waste as EHW.

(d) If a person knows only some of the toxic constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for toxicity under this subsection.

(e) Toxic dangerous waste mixtures graph. The toxic dangerous waste mixtures graph appears in WAC 173-303-9906.

(6) Persistence.

(a) A person whose waste mixture contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of those halogenated hydrocarbons for which he knows the concentrations in his waste mixture.

Example 2. A person's waste mixture contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(b) A person whose waste mixture contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in his waste mixture.

Example 3. A person's waste mixture contains: Chrysenes - .08%; 3, 4 - benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(c) A person whose waste mixture contains halogenated hydrocarbons shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total halogenated hydrocarbon concentration for his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total halogenated hydrocarbon concentration. If the plotted point is in the area marked DW, then he shall designate his waste DW; if the plotted point is in the area marked EHW, then he shall designate his waste EHW.

(d) A person whose waste mixture contains polycyclic aromatic hydrocarbons with more than three rings and less than seven rings shall determine his designation from the persistent dangerous waste mixtures graph in WAC 173-303-9907 by finding the total polycyclic aromatic hydrocarbon concentration of his waste along the abscissa, finding his total waste mixture quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste mixture quantity intersects the vertical line drawn from his waste mixture's total polycyclic aromatic hydrocarbon concentration. If the plotted point is in the area marked EHW, then he shall designate his waste EHW. If the plotted point is outside of the area marked EHW, then his waste is not designated.

(e) If a person knows only some of the persistent constituents in his waste mixture, or only some of the constituent concentrations, and if his waste is undesignated for those known constituents or concentrations, then his waste is not designated for persistence under this subsection.

(f) Persistent dangerous waste mixtures graph. The persistent dangerous waste mixtures graph appears in WAC 173-303-9907.

(7) Carcinogens. Any person whose waste mixture contains one or more IARC human or animal, positive or suspected carcinogen(s) shall designate his waste DW if:

(a) The total concentration of carcinogen(s) in his waste exceeds 1.0% of the waste quantity; and

(b) The monthly or batch waste quantity exceeds ((400 lbs - (181.8 kg)) 220 lbs. (100 kg)).

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.

(8) Assigning dangerous waste numbers. A person whose waste is a dangerous waste mixture shall assign a dangerous waste number from the generic dangerous waste numbers table in WAC 173-303-104, Generic dangerous waste numbers. He shall assign the dangerous waste number from the table which corresponds to the designation for his dangerous waste.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-090 DANGEROUS WASTE CHARACTERISTICS. (1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section shall be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he shall be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of his waste exceeds ((400 lbs. (181.8 kg)) 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setafash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using Method 5.2 in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, available from the department;

(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods. The NACE Standard is available from the department; or

(iii) It is solid or semi-solid, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110 (3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D002.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, shall be designated DW, and shall be assigned the dangerous waste number of D003.

(8) Characteristic of EP toxicity.

(a) A solid waste exhibits the characteristic of EP toxicity if, using Extraction Procedure Test Methods - 1981 on file with the department, the extract from a representative sample of the waste contains any of the contaminants listed in the EP toxicity list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of this subsection.

(b) A solid waste that exhibits the characteristic of EP toxicity, but is not designated as a dangerous waste under any of the dangerous waste lists, WAC 173-303-080 through 173-303-084, or dangerous waste criteria, WAC 173-303-101 through 173-303-103, has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) EP toxicity list. Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations in the EHW range shall cause that waste to be designated EHW. Any waste containing contaminants which occur at concentrations in the DW range only (i.e., no EHW contaminants), shall be designated DW.

EP TOXICITY LIST

Dangerous Waste Number	Contaminant	EHW Maximum Concentration In Extract (mg/L)	DW Maximum Concentration In Extract (mg/L)
D004	Arsenic	> 500	5 - 500
D005	Barium	> 10,000	100 - 10,000
D006	Cadmium	> 100	1 - 100
D007	Chromium	> 500	5 - 500
D008	Lead	> 500	5 - 500
D009	Mercury	> 20	0.2 - 20
D010	Selenium	> 100	1 - 100
D011	Silver	> 500	5 - 500
D012	Endrin	> 2	0.02 - 2
D013	Lindane	> 40	0.4 - 40
D014	Methoxychlor	> 1,000	10 - 1,000
D015	Toxaphene	> 50	0.5 - 50
D016	2,4-D	> 1,000	10 - 1,000
D017	2,4,5-TP Silvex	> 100	1 - 100

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-101 TOXIC DANGEROUS WASTES. (1) Purpose. This section describes methods for determining the toxicity of a waste and the criteria by which a toxic waste shall be designated DW or EHW.

(2) Categorization.

(a) The following toxic category table establishes categories (X, A, B, C, or D) for particular toxicity levels. The X category is the most toxic, and the D category is least toxic. Substances which have toxicity levels below the D category are generally considered to be nontoxic.

TOXIC CATEGORY TABLE

Category	TLm ₉₆ (Fish) or Aquatic (Fish) LC ₅₀ (ppm)	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<.1	<.5	<.02	<2
A	.1 - 1	.5 - 5.02	.2 - 2	2 - 20
B	1 - 10	5 - 50	.2 - 2	20 - 200
C	10 - 100	50 - 500	2 - 20	200 - 2000
D	100 - 1000	500 - 5000	20 - 200	2000 - 20,000

(b) In order to determine the toxic categories for the constituents in his waste, a person must obtain toxicity data on the constituents either through knowledge he has about his waste, or by obtaining data from the two sources referenced in subsection (3)(a) and (b) of this section, (EPA's Spill Table and NIOSH Registry). If data obtained for a constituent is available for more than one of the toxicity criteria (aquatic, oral, inhalation, or dermal), then the data of severest toxicity shall be used to assign the most acutely toxic category to the waste constituent.

(3) Establishing waste toxicity. A person shall establish the toxicity of his waste or waste constituents by applying his knowledge about his waste, or by using the following information sources or testing methods, or all of these:

(a) The National Institute for Occupational Safety and Health (NIOSH) document Registry of Toxic Effects of Chemical Substances (Registry);

(b) The United States EPA's regulation 40 CFR Table 302.4 (Spill Table); and

(c) The bioassay testing methods adopted under WAC 173-303-110(3).

(4) Book designation procedure.

(a) A person may use the book designation procedure described in this paragraph only if:

(i) He knows the toxic categories (as set forth in subsection (2) of this section) for the significant toxic constituents in his waste;

(ii) He knows the concentrations of the significant toxic constituents in his waste; and

(iii) He can demonstrate to the department beyond a reasonable doubt that any waste constituents about which he has limited or no knowledge do not significantly affect the toxicity of his waste.

(b) Equivalent concentration. A person who is book designating his waste shall determine the equivalent concentration (in percent) of the toxic constituents in his waste by using the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\Sigma X\%}{10} + \frac{\Sigma A\%}{100} + \frac{\Sigma B\%}{1000} + \frac{\Sigma C\%}{10000} + \frac{\Sigma D\%}{100000}$$

where $\Sigma(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (X Category) - .01%; Diuron (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. His equivalent concentration (E.C.) would be:

$$\text{E.C. (\%)} = \frac{.01\%}{10} + \frac{0\%}{100} + \frac{1\%}{1000} + \frac{(4\% + 2\% + 5\%)}{10000} + \frac{0\%}{100000} = .01\% + 0\% + .01\% + .011\% + 0\% = .031\%$$

So his equivalent concentration equals .031%.

(c) Toxic dangerous waste graph. To book designate his waste, a person shall use the toxic dangerous waste mixtures graph in WAC 173-303-9906, by finding the equivalent concentration percentage for his waste along the abscissa, finding his total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from his total waste quantity intersects the vertical line drawn from his waste mixture's equivalent concentration. If the plotted point is in the area marked DW, he shall designate his waste DW; if the plotted point is in the area marked EHW, he shall designate his waste EHW.

(5) Designation from bioassay data. If a person has established the toxicity of his waste by means of the bioassay test methods adopted

under WAC 173-303-110(3), and has determined his waste's toxicity range (C category or greater toxicity, or D category toxicity), then he shall designate his waste according to the toxic dangerous waste designation table, below.

TOXIC DANGEROUS WASTE DESIGNATION TABLE

If your waste's toxic range falls in the . . .	And your monthly or batch waste quantity is . . .	Then your waste's designation is . . .
D Category	Greater than ((400)) 220 lbs. ((+8+8)) 100 kg	DW
X, A, B, or C Category	40 - ((400)) 220 lbs. ((18.2 - ((+8+8)) 100 kg)	DW
	Greater than ((400)) 220 lbs. ((+8+8)) 100 kg	EHW

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-102 PERSISTENT DANGEROUS WASTES.

(1) Purpose. This section describes the procedures for designating wastes which contain halogenated hydrocarbons (HH) and/or polycyclic aromatic hydrocarbons with more than three rings and less than seven rings (PAH).

(2) Concentration determination. A person shall determine the concentration of HH and/or PAH in his waste by either testing his waste as specified in (a) of this subsection, or by the calculation procedures described in (b) of this subsection.

(a) Concentration tests. A person shall test his waste to determine its concentration level as follows:

(i) For HH - By using the testing methods specified in WAC 173-303-110 (3)(a)(v); and,

(ii) For PAH - By using the testing methods specified in WAC 173-303-110 (3)(a)(vi).

(b) Concentration calculations. If a person knows the concentrations of the significant persistent constituents in his waste, and if he can demonstrate to the department beyond a reasonable doubt that any remaining persistent constituents for which he does not know the concentrations would not contribute significantly to the total persistent concentration, then he may calculate the concentration of persistent constituents in his waste as follows:

(i) A person whose waste contains one or more halogenated hydrocarbons for which the concentrations are known shall determine his total halogenated hydrocarbon concentration by summing the concentration percentages for all of his waste's significant halogenated hydrocarbons.

Example 1. A person's waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .02%. His total halogenated hydrocarbon concentration would be:

$$\text{Total HH Concentration (\%)} = .009\% + .012\% + .02\% = .041\%$$

(ii) A person whose waste contains one or more polycyclic aromatic hydrocarbons with more than three rings and less than seven rings for which the concentrations are known shall determine his total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of his waste's significant polycyclic aromatic hydrocarbons with more than three rings and less than seven rings.

Example 2. A person's waste contains: Chrysene - .08%; 3, 4 - benzopyrene - 1.22%. His total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.3\%$$

(3) Designation criteria and quantity. A person whose waste contains persistent (HH or PAH) constituents shall designate his waste according to the persistent dangerous waste table, below, if his monthly or batch waste quantity exceeds ~~((400 lbs. (+8+8 kg)))~~ 220 lbs. (100 kg).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains	At a concentration level of	Then your waste's designation is
Halogenated	0.01 to 1.0%	DW
Hydrocarbons (HH)	greater than 1.0%	EHW
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*

* No DW concentration level for PAH.

AMENDATORY SECTION (Amending Order DE 84-22, filed 6/27/84)

WAC 173-303-103 CARCINOGENIC DANGEROUS WASTES. (1) Criteria. A substance which is listed in the National Institute for Occupational Safety and Health (NIOSH) document Registry of Toxic Effects of Chemical Substances (Registry), or any other scientific or technical documents, as an IARC (International Agency for Research on Cancer) human or animal, positive or suspected carcinogen, shall be a carcinogenic substance for the purposes of this section. Any IARC identified substance which is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled).

(2) Designation. Any person whose waste contains one or more IARC carcinogen(s) shall designate his waste if:

(a) The monthly or batch waste quantity exceeds ((400 lbs. (181.8 kg)) 220 lbs. (100 kg)); and either

(b)(i) The concentration of any one IARC positive (human or animal) carcinogen exceeds 1.0% of the waste quantity. Such waste shall be designated EHW, and such designation shall take precedence over any DW designation determined by (b)(ii) or (iii) of this subsection; or

(ii) The concentration of any one IARC positive (human or animal) carcinogen exceeds 0.01% of the waste quantity. Such waste shall be designated DW; or

(iii) The total concentration summed for all IARC positive and suspected (human and animal) carcinogens exceeds 1.0% of the waste quantity. Such waste shall be designated DW.

(c) For designation purposes, any IARC human or animal, positive or suspected carcinogen that is so rated because of studies involving implantation of the substance into test animals as sole cause for the IARC rating, shall not be carcinogenic. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-120 RECYCLED, RECLAIMED, AND RECOVERED WASTES. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

(i) Industrial ethyl alcohol that is reclaimed;

(ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

(iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some ((other)) manner other than being burned for energy recovery, or being used in a manner constituting disposal;

(iv) Scrap metal;

(v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

(vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is

to be refined along with normal process streams at a petroleum refining facility;

(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;

(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)((e)) (d) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(d) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001, (see WAC 173-303-515);

(e) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(f) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060, and

- (ii) WAC 173-303-370;
- (d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:
- (i) For all recyclers, the applicable provisions of:
- (A) WAC 173-303-280 through 173-303-395,
- (B) WAC 173-303-420 through 173-303-440,
- (C) WAC 173-303-800 through 173-303-840;
- (ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;
- (iii) For recyclers with final facility permits, the applicable storage provisions of:
- (A) WAC 173-303-600 through 173-303-650, and
- (B) WAC 173-303-660.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-170 REQUIREMENTS FOR GENERATORS OF DANGEROUS WASTE. (1) A person shall be a dangerous waste generator if his solid waste is designated by the requirements of WAC 173-303-070 through 173-303-103.

(a) The generator shall be responsible for designating his waste as DW or EHW.

(b) The generator may request an exemption for his dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator shall notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and shall comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Except for the accumulation and storage of dangerous wastes for less than ninety days as allowed under WAC 173-303-200, any generator who transfers, stores, treats, or disposes of dangerous waste on-site shall perform his operations in accordance with the TSD facility requirements of this chapter.

(4) The generator of a ~~((moderate risk))~~ special waste may, upon approval by the department, for ~~((moderate risk))~~ special waste only:

(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for ~~((moderate risk))~~ special waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same ~~((moderate risk))~~ special waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction before implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and

(b) Pursuant to the requirements of WAC 173-303-200, accumulate ~~((moderate risk))~~ special waste in containers and tanks for up to one hundred eighty days, and accumulate ~~((moderate risk))~~ special waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3)(a), (b)(i), (ii)(A), (7), (8), and (9)(a).

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-201 SPECIAL ACCUMULATION STANDARDS. (1) This section applies to persons who generate less than 2200 pounds (1000 kg) per month and do not accumulate on-site more than 2200 pounds (1000 kg) of dangerous waste. The special provisions of this section do not apply to any acutely hazardous wastes (as defined in WAC 173-303-040(2)) that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate per month and accumulate on-site less than 2200 pounds (1000 kg) per month of dangerous waste are subject to all applicable provisions of WAC 173-303-200 except ~~((that in lieu of the ninety-day accumulation period, dangerous waste may be accumulated for one hundred eighty days or less))~~ as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training); and

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;
(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802.) The report must include the following information:

(I) The name, address, and United States EPA Identification Number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-220 GENERATOR REPORTING. The generator shall submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who ~~((holds an active EPA/state identification number))~~ has notified as a generator pursuant to WAC 173-303-060 shall submit an annual report(s) to the department, on the Generator Annual Dangerous Waste Report - Form 4 according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site shall comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports concerning the quantities and disposition of his dangerous waste.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-230 SPECIAL CONDITIONS. (1) Exporting dangerous waste.

~~((a) The requirements of 40 CFR, Section 262.50 (a), (b) and (c), International Shipments, are adopted by reference.~~

~~((b)) Federal export requirements, administered by EPA, are set forth in 40 CFR 262.50 and specify the procedures applicable to generators of dangerous waste. Copies of any ((exception)) forms or reports submitted to the administrator of United States EPA as required by 40 CFR 262.50 shall also be submitted to the director of the department.~~

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer shall comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number shall be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.

(3) Triple rinsing. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use shall not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars shall handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-240 REQUIREMENTS FOR TRANSPORTERS OF DANGEROUS WASTE. (1) Transporters shall comply with the requirements of WAC 173-303-060, notification and identification numbers. Transporters who are involved in interstate transport shall use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport shall use the identification number assigned to their headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport shall obtain a separate generator EPA/state ID# for such spill or terminal.

(2) Any person who transports a dangerous waste shall comply with the requirements of WAC 173-303-240 through 173-303-270, when

such dangerous waste is required to be manifested by WAC 173-303-180.

Any person who transports (~~(moderate-risk)~~) special waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170 ~~((2)(b)(i))~~ (4)(a), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.

(3) Any person who transports a dangerous waste shall also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(4) These requirements shall not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities.

(5) Transporters may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters may not accumulate or store manifested shipments of dangerous waste for more than ten days. Reference to WAC 173-303-200 in 173-303-240(3) does not constitute authority for storage in excess of ten days for transporters. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-280 GENERAL REQUIREMENTS FOR DANGEROUS WASTE MANAGEMENT FACILITIES. (1) Applicability. The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. The owner or operator of a facility which manages (~~(moderate-risk)~~) special waste may comply with the special requirements specified in WAC 173-303-550 through 173-303-560 in lieu of the general requirements of WAC 173-303-280 through 173-303-395, but only for those (~~(moderate-risk)~~) special wastes which he manages. Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) Imminent hazard. Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) Identification numbers. Every facility owner or operator shall apply for an EPA/state identification number from the department in accordance with WAC 173-303-060.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-360 EMERGENCIES. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures shall be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator shall assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment outside the facility, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; ~~(and)~~

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(viii) Cause of incident; and

(ix) Description of corrective action taken to prevent reoccurrence of the incident.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-400 INTERIM STATUS FACILITY STANDARDS. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste

during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status shall apply to all facilities which comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards shall also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status shall end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(7).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Persons disposing of dangerous waste by underground injection which is permitted under the Safe Drinking Water Act;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes;

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise; and

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(d) The owner or operator of an interim status facility which manages (~~moderate-risk~~) special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those (~~moderate-risk~~) special wastes which he manages and only after the owner or operator has requested and the department has issued a notice of interim status modification.

(3) Standards.

(a) Interim status standards shall be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Subparts F through R which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) WAC 173-303-280 through 173-303-440;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (2)(c), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R to the state of Washington facilities, the federal terms shall have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, shall be replaced with) the following state of Washington meanings:

(i) "Regional administrator" shall mean the "department";

(ii) "Hazardous" shall mean "dangerous"; and

(iii) "Compliance procedure" shall have the meaning set forth in WAC 173-303-040, Definitions.

(c) In addition to the changes described in (b) of this subsection, the following modifications shall be made to interim status standards of 40 CFR Part 265 Subparts F through R:

- (i) The words "the effective date of these regulations" shall mean:
 - (A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261; and
 - (B) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-103 and not designated by 40 CFR Part 261;
 - (ii) "Subpart N - landfills" shall have an additional section added which reads: "An owner/operator shall not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 to 173-303-103, except at the EHW facility at Hanford";
 - (iii) "Subpart R - underground injection" shall have an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-103";
 - (iv) "Subpart M - land treatment," section 265.273(b) shall be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";
 - (v) "Subpart F - ground water monitoring," section 265.91(c) shall include the requirement that: "Groundwater monitoring wells shall be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells"; and
 - (vi) "Subpart H - financial requirements" shall have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H."

AMENDATORY SECTION (Amending Order 86-37, filed 1/13/87)

WAC 173-303-420 SITING STANDARDS. (1) Purpose. This section provides criteria for the siting of dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.

(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.

(3) Earthquake fault criteria.
 (a) Active portions of new TSD facilities will not be located within two hundred feet of a fault which has had displacement in Holocene times. For facilities managing (~~moderate-risk~~) special waste only, engineering efforts, as approved by the department, may be substituted for the two hundred-foot buffer zone.

- (b) As used in (a) of this subsection:
 - (i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;
 - (ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and
 - (iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection.

Chelan	Grant	Lewis	Skagit
Clallam	Grays Harbor	Mason	Skamania
Clark	Jefferson	Okanogan	Snohomish
Cowlitz	King	Pacific	Thurston
Douglas	Kitsap	Pierce	Wahkiakum
Ferry	Kititas	San Juan	Whatcom
			Yakima

(4) Floodplain criteria.
 (a) A facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a one hundred-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a one hundred-year flood. Contingency procedures for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:
 (i) "One hundred-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "One hundred-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW).

(a) Areas defined as "wetlands" under RCW 90.58.030 (2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523).

(7) Interim siting standards.
 (a) Purpose. The purpose of this subsection is to establish interim siting considerations and criteria for preempted facilities requiring permits pursuant to WAC 173-303-805 or 173-303-806. These interim sitings standards are to be used until superseded by final siting regulations adopted pursuant to RCW 70.105.200 through 70.105.270.

(b) Applicability. The interim siting standards described in this subsection apply to owners and operators of any preempted facilities for which:

(i) Interim or final status permits have been issued by the department, pursuant to WAC 173-303-805 or 173-303-806; or

(ii) Interim or final status permit applications that will be or have been submitted to the department, pursuant to WAC 173-303-805 or 173-303-806. This subsection does not apply to owners or operators of facilities who prior to July 28, 1985, manage wastes in landfills, land treatment, surface impoundments, or waste piles to be closed as landfills, or through incineration. In addition, this subsection does not apply to owners/operators of facilities or portions of facilities applying for research, development, and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65.

(c) Implementation. Owners/operators of preempted facilities to which the interim siting standards of this subsection apply must include in (or amend the existing) TSD facility application, submitted pursuant to WAC 173-303-805 or 173-303-806, information that demonstrates consideration of and compliance with the interim siting standards of this subsection.

(i) Applications for facilities that do not meet prohibitions or set back requirements specified in this subsection will be rejected by the department.

(ii) The department may place additional restrictions and conditions on a facility permit (including interim status) pursuant to its authority under this chapter and the State Environmental Policy Act, chapter 43.21C RCW.

(d) Definitions. Any terms used in this subsection that are not defined below shall have the meanings provided in WAC 173-303-040. For the purposes of this subsection, the following terms shall have the described meanings:

(i) "Preempted facility" means any facility that includes as a significant part of its activities the following operations: (A) Landfill, (B) incineration, (C) land treatment, (D) surface impoundment to be closed as a landfill, or (E) waste pile to be closed as a landfill.

(ii) "Perennial surface water body" means any lake, river, pond, canal, stream, reservoir, inland water, saltwater, and other surface waters under the jurisdiction of the state of Washington that normally has continuous flow throughout the year. This does not include man-made lagoons, or impoundments associated with a facility.

(iii) "Area of influence" means the area surface and subsurface area surrounding a well(s) within which the potentiometric surface has been changed due to ground water withdrawal.

(iv) "Residences" means any dwelling, including private homes, rental homes, boarding houses, apartments, motels, and hotels.

(v) "Institution" means any public or private:

- (A) School, college, university, hospital, health care facility, church;
- (B) Retail shopping center;
- (C) Stadium and auditorium; and
- (D) Building with free public access that is operated by a local, state, or federal government.
- (e) Structural stability.
 - (i) Proximity to Holocene earthquake fault – All provisions of subsection (3) of this section shall apply.
 - (ii) Subsidence. Consideration shall be given to any sinking of the land surface within the facility boundaries due to the removal of solid mineral matter or fluids from the subsurface.
 - (iii) Unstable slopes. Consideration shall be given to any steeply sloping areas within facility boundaries where the rapid mass movement of earth materials is likely to occur.
 - (iv) Soils stability. Consideration shall be given to any weak or unstable soils within the facility boundaries. Weak or unstable soils or conditions include, but are not limited to, organic soils, expansive soils, sands subject to liquefaction during seismic events, soft clays, sensitive clays, loess and quick conditions.
 - (v) Tsunami/storm surge. Consideration shall be given to shoreline areas bordering the Pacific Ocean and the Straits of Juan De Fuca that may flood because of tsunamis or storm surges.
- (f) Surface water quality protection.
 - (i) One hundred-year floodplain. All requirements of subsection (4) of this section shall apply.
 - (ii) Proximity to surface water. No preempted facility shall be located within five hundred feet of a perennial surface water body. Five hundred feet shall be measured horizontally from the ordinary high water mark of the perennial surface water body to the nearest portion of the facility.
 - (g) Ground water protection.
 - (i) Minimum depth to regional aquifer. Consideration shall be given to the depth from any portion of the facility to the regional aquifer. Regional aquifer shall be determined by the department.
 - (ii) Regional aquifer recharge areas. Consideration shall be given to the areas that provide principal recharge to regional aquifers. Such areas shall be determined by the department.
 - (iii) Ground water travel time. Consideration shall be given to the rate of ground water movement in all directions from the facility to the facility property boundary.
 - (h) Drinking water protection.
 - (i) Public water supply watersheds. No facility shall be located within the boundaries of a designated public water supply watershed.
 - (ii) Sole source aquifer. All provisions of subsection (6) of this section shall apply.
 - (iii) Proximity to drinking water intakes. No preempted facilities shall be located within:
 - (A) Five hundred feet, measured horizontally from the nearest portion of the facility, of a surface or ground water intake for public or private drinking water if the facility is located up gradient from such an intake; or
 - (B) Two hundred fifty feet, measured horizontally from the nearest point of the facility boundary, of a surface or ground water intake for public or private drinking water if the facility is located down gradient or cross gradient from such an intake.
 - (iv) Wellhead protection areas. No preempted facility shall be located within the area of influence surrounding a water well or wellfield that is supplying potable water to a domestic water supply system for use outside the facility boundaries.
 - (i) Sensitive area protection. Preempted facilities shall be subject to the following locational standards for sensitive areas:
 - (i) Threatened and endangered species. No preempted facility shall locate in an area that would result in the taking of individuals of a species, or the direct elimination of habitat of species that are on the federal list of threatened and endangered species;
 - (ii) Shorelines and wetlands. All provisions of subsection (5) of this section shall apply;
 - (iii) Wilderness areas. No preempted facility shall locate in a wilderness area as so designated under the Wilderness Protection Act;
 - (iv) State and federal wildlife refuges. No preempted facility shall locate in a state or federal refuge as so designated under state and federal laws and regulations;
 - (v) Parks, scenic and recreational areas. No preempted facility shall be located in a city, county, state, or federally designated park, scenic area, or recreational area; and
 - (vi) Archeological and historic areas, national monuments. No preempted facility shall be located within any area designated by a city,

county, state, or federal agency as an archeological or historic area or a national monument.

(j) Air quality protection. Evaluation shall be made of air impacts considering the effect of local meteorology, control technology and facility operation and maintenance on air emissions. The maximum ambient air concentration for toxic air contaminant emissions at or beyond the facility property boundaries, as estimated by dispersion modeling, shall not exceed an acceptable ambient level as determined by the department.

(k) Transportation routes.

(i) Traffic flow and capacity. Consideration shall be given to the traffic flow and capacity of existing or proposed roadways in the immediate area leading to a facility.

(ii) Safety standards for transport routes. Consideration shall be given to safety factors of primary and secondary access routes to a facility, including road, rail, and marine, as appropriate. Such factors shall include freedom from obstructions, sight distance, traffic flow and capacity at critical intersections, and such other traffic safety requirements designed to minimize public exposure to transport vehicles.

(l) Adjacent land use considerations.

(i) Proximity to residences. No preempted facility shall be located within:

(A) Two thousand feet from the nearest point of the facility property boundary to the boundary of an area zoned for residential uses by local governments. For the purposes of this subsection, the department shall consider local zoning in place as of July 28, 1985; and

(B) For areas not zoned for residential purposes, five hundred feet from the nearest point of the facility property boundary to the nearest property boundary of a residence.

(ii) Proximity to institutions. Consideration shall be given to a facility's proximity to institutions, as defined in (d) of this subsection. No preempted facility shall be located within two thousand feet from the nearest point of the facility property boundary to the nearest property boundary of an institution.

(iii) Proximity to agricultural lands. Consideration shall be given to a facility's proximity to lands used for raising agricultural crops or livestock. Such consideration shall include emissions to the air, water, and soils due to operation that may cause known adverse impacts to agricultural crops or livestock.

(m) Host community considerations.

(i) Utilities and public services. The availability of utilities and public services (such as water, gas, electricity, sewage, and refuse collection), and the costs for necessary increases in capacity shall be considered when siting any preempted facility.

(ii) Emergency services. The availability of emergency responses services (such as police, fire departments, and hospitals), and costs for necessary increases in capacity shall be considered when siting any preempted facility.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-515 SPECIAL REQUIREMENTS FOR USED OIL BURNED FOR ENERGY RECOVERY. (1) Applicability.

(a) This section applies to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits any characteristic of a dangerous waste identified in WAC 173-303-090; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001(;-or

~~(iv) Contains dangerous waste generated only by a person subject to the special requirements for small quantity generators under WAC 173-303-070(8)).~~

(b)(i) This section does not apply to used oil burned for energy recovery that is mixed with a listed waste (except as provided in (a) (iii) ~~(and (iv))~~) of this subsection) or that is designated as EHW through WAC 173-303-084 or 173-303-101 through 173-303-103. Such used oil is subject to the requirements of WAC 173-303-510.

(ii) Used oil containing more than 1000 ppm of total halogens is presumed to be a dangerous waste because it has been mixed with halogenated dangerous waste listed in WAC 173-303-9903 or 173-303-9904. Such dangerous wastes are subject to the requirements of WAC 173-303-510. Persons may rebut this presumption by demonstrating that the used oil does not contain dangerous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated dangerous constituents listed in WAC 173-303-9905).

~~((iii) This section does not apply to used oil burned for energy recovery in marine or diesel engines, except that marketers of such used oil are subject to the notification requirements of WAC 173-303-060, and the presumptive test of (b)(ii) of this subsection:))~~

(c) If a used oil subject to this section does not exceed any of the specifications of Table 1, it is subject only to the analysis and record-keeping requirements under subsection (4)(b)(i) and (vi) of this section; otherwise, it is subject to all applicable provisions of this section.

(d) For the purposes of this chapter:

(i) "Used oil" means any oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities;

(ii) Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatments;

(iii) Used oil fuel that exceeds any specification level (described in Table 1) is termed "off-specification used oil fuel."

TABLE 1
USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS SUBJECT TO THIS SECTION WHEN BURNED FOR ENERGY RECOVERY^a

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium.....	2 ppm maximum
Chromium.....	10 ppm maximum
Lead.....	100 ppm maximum
Flash Point.....	100° F minimum
Total Halogens	4,000 ppm maximum ^b
Polychlorinated Biphenyls.....	2 ppm maximum ^(b)

^aThe specification does not apply to used oil fuel mixed with a dangerous waste other than small quantity generator dangerous waste.

^bUsed oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under WAC 173-303-515 (1)(b)(ii). Such used oil is subject to WAC 173-303-510 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(2) Prohibitions.

(a) A person may market off-specification used oil for energy recovery only:

(i) To burners or other marketers who have notified the department of their used oil management activities stating the location and general description of such activities, and who have an EPA/state identification number; and

(ii) To burners who burn the used oil in an industrial furnace or boiler identified in (b) of this subsection.

(b) Off-specification used oil may be burned for energy recovery in only the following devices:

(i) Industrial furnaces identified in WAC 173-303-040; or

(ii) Boilers, as defined in WAC 173-303-040 that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

(C) Used oil-fired space heaters provided that:

(I) The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(II) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(III) The combustion gases from the heater are vented to the ambient air.

(3) Standards applicable to generators of used oil burned for energy recovery.

(a) Except as provided in (b) and (c) of this subsection generators of used oil are not subject to this section.

(b) Generators who market used oil directly to a burner are subject to subsection (4) of this section.

(c) Generators who burn used oil are subject to subsection (5) of this section.

(4) Standards applicable to marketers of used oil burned for energy recovery.

(a) Persons who market used oil fuel are termed "marketers." However, the following persons are not marketers subject to this section:

(i) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to this section;

(ii) Persons who market only used oil fuel that meets the specification under Table 1 of subsection (1) of this section and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel).

(b) Marketers are subject to the following requirements:

(i) Analysis of used oil fuel. Used oil fuel is subject to regulation under this section unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Prohibitions. The prohibitions under subsection (2)(a) of this section;

(iii) Notification. Notification to the department stating the location and general description of used oil management activities. Even if a marketer has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an EPA/state identification number, he must renotify to identify his used oil management activities.

(iv) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:

(A) An invoice number;

(B) His own EPA/state identification number and the EPA/state identification number of the receiving facility;

(C) The names and addresses of the shipping and receiving facilities;

(D) The quantity of off-specification used oil to be delivered;

(E) The date(s) of shipment or delivery; and

(F) The following statement: "This used oil subject to Washington state department of ecology regulation under WAC 173-303-515;

Note—Used oil that meets the definition of combustible liquid (flash point below 200°F but at or greater than 100°F) or flammable liquid (flash point below 100°F) is subject to Department of Transportation Hazardous Materials Regulations at 49 CFR Parts 100-177.

(v) Required notices.

(A) Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(I) The burner or marketer has notified the department stating the location and general description of his used oil management activities; and

(II) If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(B) Before a marketer accepts the first shipment of off-specification used oil from another marketer subject to the requirements of this subsection, he must provide the marketer with a one-time written and signed notice certifying that he has notified the department of his used oil management activities; and

(vi) Recordkeeping.

(A) Used oil fuel that meets the specification. A marketer who first claims under (b)(i) of this subsection that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three years. Such marketers must also record in an operating log and keep for three years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with dangerous waste or unless it is mixed with used oil so that it no longer meets the specification.

(I) The name and address of the facility receiving the shipment;

(II) The quantity of used oil fuel delivered;

(III) The date of shipment or delivery; and

(IV) A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under (b)(vi)(A) of this subsection.

(B) Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.

(5) Standards applicable to burners of used oil burned for energy recovery.

Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:

(a) Prohibition. The prohibition under subsection (2)(b) of this section;

(b) Notification. Burners of off-specification used oil fuel must notify the department stating the location and general description of used oil management activities, except that owners and operators of used oil-fired space heaters that burn used oil fuel under the provisions of subsection (2)(b)(ii) of this section are exempt from these notification requirements. Even if a burner has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an identification number, he must renotify to identify his used oil management activities.

(c) Required notices. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department stating the location and general description of his used oil management activities; and

(ii) He will burn the used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(d) Used oil fuel analysis.

(i) Used oil fuel burned by the generator is subject to regulation under this section unless the burner obtains analysis (or other information) documenting that the used oil meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Table 1 of subsection (1) of this section must obtain analyses (or other information) documenting that the used oil meets the specification.

(e) Recordkeeping. A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received. Burners must also keep for three years copies of analyses of used oil fuel as may be required by (d) of this subsection. In addition, he must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives off-specification used oil from that marketer.

(f) Local requirements. Any person who burns used oil for energy recovery, except for burning in used oil-fired space heaters that meet the provisions of subsection (2)(b)(ii) of this section, must comply with the air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-550 SPECIAL REQUIREMENTS FOR FACILITIES MANAGING ((~~MODERATE RISK~~)) SPECIAL WASTE. (1) Purpose. ((~~Moderate risk~~)) Special wastes (as defined in WAC 173-303-040 ((~~55~~))(107)) pose less risk to public health and the environment than do other dangerous wastes, therefore, they do not require as high a level of regulation. The purpose of WAC 173-303-550 through 173-303-560 is to set forth those mandatory standards which are minimally acceptable for managing ((~~moderate risk~~)) special waste, and the criteria and selective standards which will be applied based on the specific risks posed by such wastes.

(2) Applicability. The requirements of WAC 173-303-550 through 173-303-560 apply to owners and operators of facilities which manage ((~~moderate risk~~)) special waste, and are only applicable to such ((~~moderate risk~~)) special wastes as are being managed. Whenever a ((~~moderate risk~~)) special waste is shipped from a facility, the owner or operator must comply with WAC 173-303-170 through 173-303-230, requirements for generators.

(3) Standards. The owner/operator of a facility managing moderate risk wastes must comply with all applicable standards of this chapter unless he requests (as described in subsection (4) of this section) and the department approves (as described in subsection (5) of this section) the application of less stringent standards to his facility. The owner/operator may request relief from any standards except those minimum

standards specified in WAC 173-303-560. Failure to comply with an approval issued by the department pursuant to subsection (5) of this section, will be a violation of this chapter. Failure to comply with all applicable requirements of this chapter while the department is considering a request or after a request has been denied will be a violation of this chapter.

(4) Request. The owner/operator may request that less stringent standards be applied to his ((~~moderate risk~~)) special waste management activities in any manner or form that he chooses. His request must be submitted in writing to the department, and must include:

(a) The facility name, EPA/state identification #, address, telephone number, and a contact person at the facility;

(b) The ((~~moderate risk~~)) special waste(s) managed at the facility and the type(s) of management applied to them;

(c) The specific standards from which the owner/operator seeks relief;

(d) A description, for each standard, demonstrating:

(i) Why the owner/operator believes the standard to be unnecessary;

(ii) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(iii) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(e) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required by this subsection may result in the department's denying the owner's/operator's request.

(5) Approval or denial. The department will review any requests submitted pursuant to subsection (4) of this section, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the owner/operator of its decision in writing. Approval of a request will not be final until the permit has been modified or issued as described in (a) or (b) of this subsection. If the department decides to approve all or part of the request and the owner/operator agrees with the department's decision, then the department will proceed to grant such approval as follows:

(a) Interim status facilities. For a facility which qualifies for interim status (as described in WAC 173-303-805), the department shall issue a notice of interim status modification in accordance with WAC 173-303-805(8) stating what standards the owner/operator must meet;

(b) Final facilities.

(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.

(ii) The department may request that an applicant for a final facility permit submit his planned ((~~moderate risk~~)) special waste demonstrations (prepared in accordance with subsection (4) of this section) a maximum of three months prior to submittal of his Part B application.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-560 MINIMUM STANDARDS FOR FACILITIES MANAGING ((~~MODERATE RISK~~)) SPECIAL WASTE. In no case will the department approve standards for facilities managing ((~~moderate risk~~)) special waste which do not include, at a minimum, the following applicable requirements:

(1) WAC 173-303-060;

(2) WAC 173-303-350;

(3) WAC 173-303-360;

(4) WAC 173-303-370;

(5) WAC 173-303-380;

- (6) WAC 173-303-390; and
 (7) WAC 173-303-430.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-600 FINAL FACILITY STANDARDS. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-303-280 through 173-303-395, and 173-303-420 through 173-303-440.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the Underground Injection Control Program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter ~~((+73-304))~~ 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages ~~((moderate-risk))~~ special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those ~~((moderate-risk))~~ special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

AMENDATORY SECTION (Amending Order DE 84-22, filed 6/27/84)

WAC 173-303-610 CLOSURE AND POSTCLOSURE. (1) Applicability.

(a) Subsections (2) to (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) to (10) of this section, (which concern postclosure care), apply to the owners and operators of all regulated

units (as defined in WAC 173-303-040(75)) at which dangerous waste will remain after closure, to surface impoundments and waste piles as specified in WAC 173-303-650(6) and 173-303-660(9), and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and postclosure requirements, any portion of a facility which closes is subject to the applicable closure and postclosure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to ~~((prevent threats to))~~ protect human health and the environment, postclosure escape of dangerous waste, dangerous ~~((waste))~~ constituents, leachate, contaminated ~~((rainfall))~~ run-off, or dangerous waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), or 173-303-670(8) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) Background environmental levels, for any dangerous waste, managed at the facility, which either is listed under WAC 173-303-081 or 173-303-082 or is designated by the characteristics of WAC 173-303-090; and

(ii) At least the designation limits of WAC 173-303-084, or 173-303-101 through 173-303-103 for any dangerous waste, managed at the facility, which is not listed under WAC 173-303-081 or 173-303-082 and is not designated by the characteristics of WAC 173-303-090. In addition to these limits, the department may specify in the closure plan for a facility any lower limits for removal or decontamination which the department deems appropriate.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance ~~((proceeding))~~ procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). A copy of the approved plan and all revisions to the plan must be ~~((kept at the facility))~~ furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to ~~((completely or partially close))~~ perform partial and/or final closure of the facility at any point during its ~~((intended operating))~~ active life ~~((and to completely close the facility at the end of its intended operating life))~~. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how ~~((and when the facility will be partially closed, if applicable, and finally closed))~~ final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility ~~((and how the requirements of subsections (2) to (6) of this section, and the applicable closure requirements of WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8) will be met))~~;

~~((iii))~~ (iii) An estimate of the maximum inventory of dangerous wastes ~~((in storage and in treatment at any time during))~~ ever on-site over the active life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

~~((iii))~~ (v) A detailed description of the steps needed to remove or decontaminate ~~((facility equipment during closure))~~ all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and

~~((iv))~~ An estimate of the expected year of closure and a schedule for final closure; (vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close ~~((the facility))~~ each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat ~~((and))~~ or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.) Additionally, for facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(b) The owner or operator ~~((may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically managed on-site or received from off-site.)~~ The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure. When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time. If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within sixty days after the change in plans or design occurs.

(c) The owner or operator must notify the department at least one hundred eighty days prior to the date he expects to begin closure) must submit a written request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The written request must include a copy of the amended closure plan for approval by the department.

(i) The owner or operator may submit a written request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended

closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(ii) The date when he "expects to begin closure" must be either no later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection shall preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes at a dangerous waste management unit or facility, the owner or operator must treat, remove from the ~~((site))~~ unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes;

(B) There is a reasonable likelihood that ~~((a))~~ he or another person ~~((other than the owner or operator))~~ will recommence operation of the ~~((site))~~ dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of dangerous wastes at the dangerous waste management unit or facility. The department may approve ~~((a longer))~~ an extension to the closure period if the owner or operator complies with all applicable requirements for

requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii) (A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes;

(B) There is reasonable likelihood that ((a) he or another person ((other than the owner or operator)) will recommence operation of the ((site)) dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a) and (b) of this subsection must be made as follows: The demonstrations in (a) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period.

(5) Disposal or decontamination of equipment (~~When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all dangerous waste and residues~~), structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. (~~When closure is completed, the owner or operator must submit to the department certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.~~) Within sixty days of completion of closure of each dangerous waste surface impoundment, waste pile, land treatment, and landfill unit, and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Postclosure care and use of property.

(a) Postclosure care for each dangerous waste management unit subject to postclosure requirements must begin after completion of closure of the unit and continue for thirty years after ((the)) that date ((of completing closure)) and must consist of at least the following:

(i) Ground water monitoring and reporting as applicable; and

(ii) Maintenance ((of)) and monitoring ((and)) of waste containment systems as applicable.

(b) ((During the one hundred eighty-day period preceding closure (see subsection (3)(c) of this section) or at any time thereafter, the department may reduce the postclosure care period to less than thirty years.) Any time preceding partial closure of a dangerous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the postclosure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); (Prior to the time that the postclosure care period is due to expire the department may extend the postclosure care period if); or

(ii) Extend the postclosure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is

necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period ((after the date of completing closure)) when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health ((or may disturb the postclosure monitoring or waste containment systems)).

(d) Postclosure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal ((facility)) unit must have a written postclosure plan. In addition, certain piles and certain surface impoundments from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent postclosure plans. ((The plan must be submitted with the permit application in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance proceeding under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued. The department's decision must assure that the approved postclosure plan is consistent with subsections (7), (8), (9), and (10) of this section, and the applicable requirements of WAC 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). A copy of the approved plan and all revisions to the plan must be kept at the facility until the postclosure care period begins. This)) Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the postclosure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the postclosure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) The integrity of the cap and final cover or other containment structures where applicable; and

(B) The function of the facility monitoring equipment;

(iii) And the name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period. ((This person or office must keep an updated postclosure plan during the postclosure period.

(b) The owner or operator may amend his postclosure plan at any time during the active life of the disposal facility or during the postclosure care period. The owner or operator must amend his plan whenever changes in operating plans or facility design, or events which occur during the active life of the facility or during the postclosure period, affect his postclosure plan. He must also amend his plan whenever there is a change in the expected year of closure.

(c) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design which affects the postclosure plan, modification of the postclosure plan

must be requested at the same time. In all other cases the request for modification of the postclosure plan must be made within sixty days after the change in operating plans or facility design or the events which affect his postclosure plan occur.)

(c) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved postclosure plan during the remainder of the postclosure period.

(d) Amendment of plan. The owner or operator must request a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written request must include a copy of the amended postclosure plan for approval by the department.

(i) The owner or operator may submit a written request to the department for a permit modification to amend the postclosure plan at any time during the active life of the facility or during the postclosure care period.

(ii) The owner or operator must submit a written request for a permit modification to authorize a change in the approved postclosure plan whenever:

(A) Changes in operating plans or facility design affect the approved postclosure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan.

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent postclosure plan under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved postclosure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. (~~Within ninety days after closure is completed~~) No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal (~~areas~~) units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the (~~site as specified in subsection (7)(d))~~ dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or (~~area~~) other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept (~~(including, but not limited to, records kept in compliance with 40 CFR Part 265)~~). Any changes

in the type, location, or quantity of dangerous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the department).

(10) Notice in deed to property.

(a) (~~The owner of the property on which a disposal facility is located~~) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040(39)) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

((+)) (A) The land has been used to manage dangerous wastes;

((+)) (B) Its use is restricted under (~~subsection (7)(d) of~~) this section; and

((+)) (C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or (~~area~~) other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

((b)) (c) If (~~at any time~~) the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located (~~removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste~~) wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the postclosure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of postclosure care. No later than sixty days after completion of the established postclosure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail, a certification that the postclosure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under WAC 173-303-620(6).

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-620 FINANCIAL REQUIREMENTS. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply only to owners and operators of dangerous waste disposal facilities, and piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section.

(c) States and the federal government are exempt from the requirements of this section, except that operators of facilities who are under contract with the state or federal government must meet the requirements of this section.

(2) Definitions. As used in this section, the following listed or referenced terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f) and (g) are adopted by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-670(8). The closure cost estimate:

(i) ~~((The estimate))~~ Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes that might have economic value.

~~(b) ((The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan increases the cost of closure.~~

~~(c) The owner or operator must adjust the closure cost estimate for inflation within thirty days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in (c) (i) and (ii) of this subsection;)) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.~~

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may

be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the ((annual)) most recent Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

~~(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.~~

~~(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.~~

~~(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.~~

~~(4) Financial assurance for facility closure.~~

~~(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:~~

~~(i) Closure trust fund;~~

~~(ii) Surety bond guaranteeing payment into a closure trust fund;~~

~~(iii) Surety bond guaranteeing performance of closure;~~

~~(iv) Closure letter of credit;~~

~~(v) Closure insurance; or~~

~~(vi) Financial test and corporate guarantee for closure.~~

~~(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.143.~~

~~(5) Cost estimate for postclosure monitoring and maintenance.~~

~~(a) The owner or operator of a facility subject to postclosure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6). The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required by WAC 173-303-610.~~

~~(b) ((The owner or operator must prepare a new annual postclosure cost estimate whenever a change in the postclosure plan increases the cost of postclosure care;)) During the active life of the facility, the owner or operator must revise the postclosure cost estimate within thirty days after the department has approved the request to modify the postclosure plan, if the change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for inflation as specified in (c) (i) and (ii) of this subsection.~~

~~(c) During the ((operating)) active life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within ((thirty days after each anniversary of the date on which the first postclosure cost estimate was prepared. The adjustment must be made as specified in (c)(i) and (ii) of this subsection)) sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the postclosure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the postclosure cost estimate in current dollars or by using an inflation factor derived from the ((annual)) most recent Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.~~

~~(i) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.~~

~~(ii) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.~~

~~(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared~~

in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted postclosure cost estimate.

(6) Financial assurance for postclosure monitoring and maintenance.

(a) An owner or operator of a facility subject to postclosure monitoring or maintenance requirements must establish financial assurance for postclosure care in accordance with the approved postclosure care plan. He must choose from the following options or combination of options:

- (i) Postclosure trust fund;
- (ii) Surety bond guaranteeing payment into a postclosure trust fund;
- (iii) Surety bond guaranteeing performance of postclosure care;
- (iv) Postclosure letter of credit;
- (v) Postclosure insurance; or
- (vi) Financial test and corporate guarantee for postclosure care.

(b) In satisfying the requirements of financial assurance for facility postclosure care in this subsection, the owner or operator shall meet all the requirements set forth in 40 CFR 264.145.

(7) Use of a mechanism for financial assurance of both closure and postclosure care. An owner or operator may satisfy the requirements for financial assurance for both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) or, when applicable, (f).

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040(75)) used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b) or, when applicable, (f).

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040(75)), it may require that the owner or operator of the facility comply with (b) of

this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section shall contain the wording specified by 40 CFR 264.151, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the word "department";

(b) The words "hazardous waste" must be replaced with the words "dangerous waste"; and

(c) Any other words specified by the department shall be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-660 WASTE PILES. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.

(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:

(i) Liquids or materials containing free liquids are not placed in the pile;

(ii) The pile is protected from surface water run-on by the structure or in some other manner;

(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and

(iv) The pile will not generate leachate through decomposition or other reactions.

(d) All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).

(2) Design and operating requirements.

(a) A waste pile (except for an existing portion of a waste pile) must have:

(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent sub-surface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into

the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the pile; and

(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.

(c) For EHW management, the owner or operator shall submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement shall be certified by a licensed professional engineer.

(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.

(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii) (A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(4) Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.

(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;

(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;

(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;

(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection; and

(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.

(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:

(i) Notify the department of the condition in writing within seven days after detecting the condition; and

(ii)(A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;

(iii) Proper functioning of wind dispersal control systems; and

(iv) The presence of leachate in and proper functioning of leachate collection and removal systems.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

(i) Immediately stop adding wastes to the pile;

(ii) Immediately contain any leakage which has occurred or is occurring;

(iii) Immediately cause the leak to be stopped; and

(iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of (c) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by a licensed professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

(i) The containment system has been repaired; and

(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a pile, unless:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395 (1)(b); or

(b)(i) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(ii) The generator complies with WAC 173-303-395 (1)(d).

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395 (1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by the same containment system.

(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395 (1)(b).

(9) Closure and postclosure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must close the facility and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills, WAC 173-303-665(6).

(c) (i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620(3) and (5) for closure and postclosure care of a pile must include the cost of complying with the contingent closure plan and the contingent postclosure plan but are not required to include the cost of expected closure under (a) of this subsection.

(10) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in subsection (1)(c) of this section) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, to surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-801 TYPES OF DANGEROUS WASTE MANAGEMENT FACILITY PERMITS. The following types of permits may be issued by the department to carry out the purpose of this regulation.

(1) Permits by rule:

(a) Ocean disposal - See WAC 173-303-802(2);

(b) Underground injection wells - See WAC 173-303-802(3);

(c) Publicly owned treatment works - See WAC 173-303-802(4); and

(d) Totally enclosed treatment facilities and elementary neutralization and wastewater treatment units - See WAC 173-303-802(5).

(2) Emergency permits - See WAC 173-303-804.

(3) Interim status permits - See WAC 173-303-805.

(4) Final facility permits:

(a) Final status TSD permits - See WAC 173-303-806;

(b) (Moderate-risk) Special waste permits - See WAC 173-303-806; and

(c) Recycling permits - See WAC 173-303-806.

(5) Trial burns for dangerous waste incinerator final facility permits - See WAC 173-303-807.

(6) Demonstrations for dangerous waste land treatment final facility permits - See WAC 173-303-808.

(7) (~~Demonstration permit for new chemical, physical or biological treatment processes~~) Research, development, and demonstration permits - See WAC 173-303-809.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-802 PERMITS BY RULE. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities (~~and~~) or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380 (1)(d), and 173-303-390 of the general facility standards; and

(iii) WAC 173-303-430, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

(i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, state waste discharge, pretreatment, etc.); and

(ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit; ~~(or)~~

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under chapter 173-303 WAC are necessary to provide such protection; or

(iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-805 INTERIM STATUS PERMITS. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under chapter 173-303 WAC provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within six months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection shall not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes (along with a justification explaining the need for the change) and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in the ownership or operational control of the facility. All other interim status ((permit)) duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(f) Any revisions to an existing interim status permit must be made on the applicable Part A form(s), (forms 1 or 3 are available from the department). The owner and operator certification page must be signed and included with those sections completed.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application; or

(d) Violation of applicable interim status standards.

(9) ((Moderate risk)) Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a

notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-806 FINAL FACILITY PERMITS. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities;

(b) ((Moderate risk)) Special waste management facilities; and

(c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the ((application for the)) permit is ((submitted to)) issued by the department. ((If new regulations become effective between the date that the permit application is submitted and the date that public notice of the draft permit is issued under WAC 173-303-840(3), then the permit applicant may, at his option, request that the final facility permit include the new regulatory requirements and provide the additional information necessary to do so.)) WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640(4), 173-303-650(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(8), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; and

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information;

(A) In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.

(Comment: If the county is not listed in WAC 173-303-420 (3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)

(B) If the facility is proposed to be located in a county listed in WAC 173-303-420 (3)(c), the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:

(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or

(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of

the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

(C) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)

(D) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

(III) If applicable, and in lieu of (a)(xi)(D)(I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.

(E) Existing facilities not in compliance with WAC 173-303-420(4) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(F) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC 173-303-420(5).

(G) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC 173-303-420(6).

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the postclosure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For ~~((existing disposal facilities, documentation that a notice has been placed in the deed or appropriate alternate instrument as required by WAC 173-303-610(10)))~~ dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) ~~((plus))~~ and a copy of the documentation required to demonstrate financial assurance ~~((mechanism adopted in compliance with))~~ under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted

sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent postclosure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance (~~((mechanism adopted in compliance with))~~ under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620(8)(a) and, if applicable, WAC 173-303-620(8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620(8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
- (B) One hundred-year floodplain area;
- (C) Surface waters including intermittent streams;
- (D) Surrounding land uses (residential, commercial, agricultural, recreational);
- (E) A wind rose (i.e., prevailing windspeed and direction);
- (F) Orientation of the map (north arrow);
- (G) Legal boundaries of the TSD facility site;
- (H) Access control (fences, gates);
- (I) Injection and withdrawal wells both on-site and off-site;
- (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
- (K) Barriers for drainage or flood control; and
- (L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645(1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645(9)(h)(v). To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645(8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645(5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken; and

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and the basis for selecting shell thickness, certified by a licensed professional engineer;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones;

(vii) A description of the containment system to demonstrate compliance with WAC 173-303-640 (2)(b) and, where applicable, WAC 173-303-640(8). Show at least the following:

(A) Drawings and a description of the basic design parameters, dimensions, and materials of construction of the containment system;

(B) Capacity of the containment system relative to the design capacity of the tank(s) within the system;

(C) Description of the system to detect leaks and spills, and how precipitation and run-on will be prevented from entering into the detection system;

(viii) A description of the marking and/or labeling of tanks; and

(ix) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This

submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and apertures for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the postclosure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the postclosure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and postclosure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with;

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-665(11).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under WAC 173-303-806(7).

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination.

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final ~~((moderate-risk))~~ special waste and recycling facility permits. In lieu of issuing a final ~~((moderate risk))~~ special waste or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through ~~((173-303-520))~~ 173-303-525 for recycling facilities or WAC 173-303-550 through 173-303-560 for ~~((moderate-risk))~~ special waste facilities.

AMENDATORY SECTION (Amending Order DE 84-22, filed 6/27/84)

WAC 173-303-809 ~~((DEMONSTRATION PERMIT FOR NEW CHEMICAL, PHYSICAL, OR BIOLOGICAL TREATMENT PROCESSES))~~ RESEARCH, DEVELOPMENT AND DEMONSTRATION PERMITS. ~~((1))~~ Purpose and applicability: This section applies to TSD facilities which will be chemically, physically, or biologically treating dangerous waste through new processes, and which are applying for a final facility permit. The purpose of this section is to provide permits which will allow new treatment processes (NTP) to operate and demonstrate the conditions of operation. The department will use the demonstration information developed under

permits issued pursuant to this section to specify the final operating conditions in the final facility permit. Demonstration permits will not be issued under this section to applicants whose NTP will be treating dangerous waste which is also designated as hazardous waste under 40 CFR Part 261. Demonstration permits for trial burns or land treatment will not be issued under this section; they must be issued under WAC 173-303-807 and 173-303-808 respectively.

(2) Permit issuance. The department may issue a NTP demonstration permit either in advance of or as part of a final facility permit. The demonstration permit will include the demonstration and performance standards of subsection (3) of this section. If issued in lieu of the final facility permit, the NTP demonstration permit shall be issued as described in subsection (4) of this section. If issued as part of the final facility permit, the NTP demonstration permit and final facility permit shall be issued as described in subsection (5) of this section. The department will decide which permit issuance procedure will be followed based on information provided by the NTP applicant in Part B of the facility permit application.

(3) Demonstration and performance standards. This subsection describes the standards that will be included in a NTP demonstration permit to determine and establish the effectiveness of the NTP and the necessary final facility operating conditions. These standards will also assure that the NTP demonstration will be performed in a manner which will not pose a threat to public health and the environment.

(a) Demonstration. The NTP demonstration must be likely to show whether or not the NTP will effectively treat the dangerous waste. If the information provided by the applicant in his Part B application is determined by the department to be inadequate or to provide insufficient information regarding the likelihood of effective treatment, then a permit will not be issued under subsection (4) or (5) of this section. At a minimum, the NTP demonstration must:

(i) Accurately simulate the operating conditions of the NTP;

(ii) Specify the wastes and waste quantities to be treated and the duration of the demonstration;

(iii) Be likely to result in effective treatment; and

(iv) Obtain the following information during the demonstration:

(A) Data on the concentrations and quantities of dangerous and nondangerous wastes and constituents before and after treatment;

(B) Recommended changes in operating conditions that could provide for more effective treatment;

(C) Identification of situations which resulted in not meeting the operating conditions, or in releases of dangerous waste or constituents to the environment;

(D) Data from any required monitoring equipment and process control instruments, such as temperature or pressure gauges, level indicators, waste feed rate and flow meters, etc.;

(E) The effectiveness of any emergency control equipment or measures, when tested or implemented, such as shut-off valves, spill containment systems, cleanup actions, etc.; and

(F) Such other information or data as required by the department.

(b) Performance. The NTP demonstration must be performed in a manner which will not pose a threat to public health or the environment. If the department determines, from the information provided by the applicant in his Part B application, that the NTP demonstration would pose a threat to public health or the environment, then a permit will not be issued under subsection (4) or (5) of this section. The NTP demonstration will be considered to pose a threat if it cannot comply with the performance standards of WAC 173-303-430(3).

(4) Demonstration permit only. If the department finds that the Part B application does not contain enough information regarding the NTP to establish the full final facility operating conditions, then the department will issue a demonstration permit only. This permit will be issued in accordance with the decision-making procedures of WAC 173-303-840, and will cover only the NTP demonstration. The duration of the demonstration, and applicable operating conditions and performance standards will be specified in the permit. The department may extend the demonstration as a modification (or minor modification, if applicable) to the permit.

Within thirty days of the end of the demonstration, the owner/operator shall provide to the department the information obtained under subsection (2)(a)(iv) of this section, and a revised Part B application covering any necessary changes or new operating conditions. Based on the adequacy of the information and the revised Part B application, the department will either:

(a) Issue a final facility permit under WAC 173-303-806, if the available information is sufficient to establish all necessary operating conditions; or

(b) Issue a phased permit under subsection (5) of this section, if the available information is nearly sufficient to establish the necessary operating conditions; or

(c) Deny the final facility permit under WAC 173-303-840, if the available information indicates that the NTP cannot operate without posing a threat to public health or the environment.

(5) Phased permit. If the department finds that the Part B application contains substantial information regarding the NTP that would be sufficient to establish nearly all final operating conditions, then the department may issue a two-phase final facility permit. This phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it shall contain a first phase for a NTP demonstration, and a second phase (to become effective as described in (b) of this subsection) for establishing the NTP facility operating conditions.

(a) First phase. The department will establish, as requirements in the first phase of the permit, conditions for conducting the NTP demonstration. The NTP demonstration may be conducted, if approved by the department, as an actual trial run of the NTP facility itself. The demonstration conditions will include design and operating parameters, demonstration duration, monitoring procedures, information to be collected pursuant to subsection (2)(a)(iv) of this section, performance standards, and such other conditions deemed appropriate by the department.

Upon completion of the first phase, the owner/operator must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the NTP demonstration has been carried out in accordance with the conditions specified in the first phase of the permit. The owner/operator must also submit a report containing all information and data collected and identifying any significant problems encountered during the demonstration. The owner/operator shall not implement the second phase of his permit until after the certification and report have been submitted to the department, and he has been notified by the department in accordance with (b) of this subsection that the second phase of his permit is effective.

(b) Second phase. The department will establish, as requirements in the second phase of the permit, final operating conditions for the NTP facility. These conditions will, to the maximum extent possible given the information available and provided in the Part B application, include all applicable requirements necessary to comply with the final facility standards of this chapter (including, but not limited to, WAC 173-303-600 through 173-303-670 and 173-303-806). The second phase shall also identify those operating conditions which are reasonably expected to change as a result of information developed during the first phase demonstration, and the maximum extent to which those conditions are expected to change. The second phase shall also specify what criteria, if met, will result in a need to terminate the permit or to make a major modification to the permit under WAC 173-303-830 because of new information developed during the first phase.

Upon completion of the first phase, the department will review the certification and report submitted pursuant to (a) of this subsection. Based on the new information provided in the certification and report, the department will either:

(i) Notify the owner/operator that the second phase of his permit is effective immediately, if the new information indicates that the second phase is adequate and no changes are necessary; or

(ii) Notify the owner/operator that the second phase of his permit will not be effective until changes to the second phase are made, if the new information indicates that the requirements of the second phase must be changed.

(A) If the necessary changes have already been identified in the second phase prior to permit issuance and the changes are no greater in extent than already identified in the second phase, then the department shall immediately make the appropriate changes to the requirements in the second phase of the permit. Upon completing the changes, the department shall notify the owner/operator of the changes and that, as soon as the owner/operator has included the new requirements into his facility operations, the second phase of his permit is effective.

(B) If the necessary changes are not already identified, or are greater than the extent specified in the second phase so that the changes cannot be included as provided in (b)(ii)(A) of this subsection, or if the necessary changes meet the criteria already specified in the second phase as being cause for major modification of the permit, then the department will proceed to modify the permit in accordance with

WAC 173-303-830(3). The second phase of the permit will be effective only after the permit modifications have been made and the department has notified the owner/operator that his permit is effective; or

(iii) Notify the owner/operator that the second phase will not be effective and that his permit will be terminated, if the new information indicates radical problems with the NTP that cannot be addressed through a permit modification, or if the new information meets the criteria already specified in the second phase as being cause for termination of the permit. Permit termination will proceed in accordance with WAC 173-303-830(5).) This section provides for research, development and demonstration (RDD) permits for particular facilities and activities managing dangerous waste, provided that certain criteria are met. These facilities, activities, and criteria are presented in this section. Owners and operators with RDD permits issued pursuant to this section are not required to submit an application for a dangerous waste facility permit for any activity covered under the RDD permit unless otherwise required by the department.

(1) Purpose and applicability. The purpose of the RDD permitting authority is to develop and demonstrate new technologies that will provide safe dangerous waste treatment alternatives to land disposal. The RDD permit is intended to provide for demonstration of innovative, alternative, or experimental activities (e.g., research, state-of-the-art treatment, modification of existing processes or technology) for the sole purpose of generating new information to evaluate the technical or economic feasibility of a particular waste management technology, process, method, or device.

(2) Prohibitions.

(a) Projects that involve the placement of dangerous waste directly onto or into the land or water, or placement of waste in surface impoundments, landfills, or piles, are not eligible for RDD permits.

(b) Facilities whose primary purpose of an innovative or experimental operation is to produce revenue or to commercially treat dangerous waste, are not eligible for a RDD permit.

(3) Criteria. All facilities operating under a RDD permit are subject to the following:

(a) Reaction vessels. RDD activity can occur indoors or outdoors, provided that the activity is conducted in controlled vessels, such as drums or tanks, made primarily from nonearthen materials such as metal, plastic, or glass;

(b) Scale of operation. RDD activity is generally limited in scale to:

(i) Treatment of a maximum of 15,000 kilograms (33,000 pounds) of dangerous waste per month;

(ii) Storage of a maximum of 15,000 kilograms (33,000 pounds) of dangerous waste at any time for experimental purposes; and

(iii) Treatment of a maximum of 400 kilograms (880 pounds) of dangerous waste per hour in any experiment.

(4) Preapplication. A preapplication must be submitted if preconstruction costs (estimated) are expected to exceed five hundred thousand dollars. The preapplication must include the following information:

(a) A general description of the purpose of the research;

(b) A discussion of the purpose of the research;

(c) Explanation of why the proposed activity is experimental or innovative;

(d) Type and quantity of dangerous waste intended for treatment;

(e) Estimated time of operation for the experimental activity;

(f) Characterization of any residues expected from treatment;

(g) Characterization of any anticipated emissions during treatment;

(h) Brief description of performance data from similar facilities;

(i) A list of parameters to be monitored during operation;

(j) A cost estimate of the RDD activity; and

(k) Additional information as deemed necessary by the department to evaluate the risks, the need to generate new information, and the probability of success.

In addition, all other applicants for a RDD permit are encouraged to submit a preapplication proposal which briefly describes the proposed experimental activity.

(5) Permit application. All applicants for a RDD permit must submit a permit application as described in this section. The permit application must include the information required in the preapplication ((a) through (k) of subsection (4) of this section) combined with the information and requirements specified in (a) through (i) of this subsection. A Part A permit application is not required for a RDD permit. Additional information may be required on a case-by-case basis.

(a) Determining dangerous waste constituents. Applicants must describe the dangerous wastes, characteristics, properties, and dangerous

constituents of the wastes intended for the RDD activity and indicate the procedures that were used for determining this information.

(b) Handling incompatible wastes. Applicants who treat or store ignitable or reactive wastes, or who intend to mix incompatible wastes as part of experimental activity must describe procedures to prevent reactions which may:

(i) Generate extreme heat or pressure, fire or explosion, or violent reactions; and

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment, or pose a risk of fire or explosion.

(c) Monitoring, inspection, and emergency procedures. Applicants must have a set of monitoring and inspection procedures, as well as emergency procedures, for the RDD activity in order to minimize the potential for uncontrolled releases of dangerous wastes or dangerous waste constituents during operation. The RDD permit application must provide a list of emergency response equipment, and inspection procedures plan.

(d) Personnel qualifications. Applicants must provide the department with copies of resumes, certificates from specialized dangerous waste emergency response training courses, documentation of on-the-job training, or other background information about the principal staff that demonstrates their technical qualifications to manage the RDD facility.

(e) Closure. Applicants must submit cost estimates for closure and a closure plan for the RDD activity. Allowable time frames for notification of closure activities should be addressed on a case-by-case basis. The owner or operator must notify the department at least thirty days prior to the date he expects to begin closure. Closure plans must be approved by the department prior to beginning RDD activity. Approved closure plans will become a condition of the permit and must include, at a minimum:

(i) A description of how the facility or unit will be partially closed, if applicable, and finally closed;

(ii) An estimate of the expected date of closure and a schedule for closure;

(iii) The planned ultimate disposition of all dangerous wastes and contaminated materials and equipment;

(iv) An estimate of the maximum quantity of wastes in storage and in treatment at any time during the life of the facility; and

(v) The procedures and methods for decontaminating all dangerous waste equipment and storage areas during closure (including soil decontamination if applicable).

(f) Financial responsibility. Applicants must address two different financial responsibility requirements: Financial assurance for closure WAC 173-303-620 (2), (3), (4), and (10); and liability coverage for sudden accidental occurrences WAC 173-303-620 (8) and (10).

(g) Financial assurance for closure. Applicants must have a written estimate of the maximum cost of closing the facility (WAC 173-303-620(3)) and establish financial assurance based on the estimate (WAC 173-303-620(4)). Financial assurance for closure must be demonstrated at least sixty days before the date on which dangerous waste is first expected to be received at a new RDD facility for treatment or storage.

(h) Liability coverage for sudden accidental occurrences. Applicants must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from RDD activity (WAC 173-303-620(8)) at least sixty days before the date on which dangerous waste is first expected to be received at a new RDD facility for treatment or storage.

(i) Confidential business information. The applicant may identify proprietary information included in his application as confidential provided that he indicates to ecology the degree of harm he would suffer if the information were made public. Claims of confidentiality must be substantiated at the time the application is submitted. Confidential information will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160. Ecology will determine if the applicant's claim of confidentiality meets the confidential information criteria.

(6) Permit terms and conditions. Although the department may modify or waive the permit issuance requirements in WAC 173-303-600 through 173-303-670 (final status requirements), RDD permits will be issued only after the department has reviewed the proposed treatment technology or process and established minimum requirements to assure protection of human health and the environment. All RDD permits shall be subject to the conditions specified in this subsection.

(a) Term of the permit. The term of the permit is limited to one year of operation which is defined as three hundred sixty-five days of actual operation storing or treating dangerous waste. The three hundred sixty-five days of actual operation cannot extend beyond two calendar years beginning on the day the permit is issued by the department. The department may also issue a permit for less than one operating year, where appropriate. Permits may be renewed up to three times, in accordance with subsection (7)(c) of this section.

(b) The draft permit. Prior to issuing a final permit (or denial), the department will issue a draft permit (or tentative decision to deny the permit) for public review and comment for forty-five days. A fact sheet will be prepared with the draft permit for review during the public comment period and will provide justification for issuing (or denying) the RDD permit. The department will send this information to the permit applicant and to interested persons upon request. A final decision on the permit will be made only after the public comments have been addressed.

(c) Effective date of the permit. The department will issue a final permit decision after the close of the public comment period, and will notify the permit applicant and each person who submitted written comments or requested a notice of the final permit decision. The effective date of the permit will generally be thirty days after the final decision, unless:

(i) A later effective date is specified in the permit; or

(ii) No comments requested a change in the draft permit, in which case, the permit shall become effective immediately upon issuance.

The department may waive the thirty-day period in appropriate circumstances to expedite permit issuance.

(d) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper identification, to:

(i) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(iii) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the permit; and

(iv) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(e) Signatory requirements. All RDD permit applications and required reports must be signed and certified in accordance with the requirements of WAC 173-303-810 (12) and (13).

(f) Reporting requirements. Facilities with RDD permits are required to submit reports summarizing the progress and results of the innovative or experimental activity every six months beginning with the date of issuance of the RDD permit. The department may specify a reporting period of less than six months on a case-by-case basis. Facilities with RDD permits must submit a final report, sixty days after the RDD permit expires, summarizing the findings, conclusions, and recommendations of the innovative or experimental activity. The following information must be obtained during the demonstration and reported as required in this subsection:

(i) Data on the concentrations and quantities of dangerous and non-dangerous wastes and constituents before and after treatment;

(ii) Recommended changes in operating conditions that could provide for more effective treatment;

(iii) Identification of situations and operating conditions which resulted in releases of dangerous wastes or constituents to the environment;

(iv) Data from any required monitoring equipment and process control instruments, such as temperature, pressure gauges, level indicators, waste feed rate, flow meters, etc.;

(v) The effectiveness of any emergency control equipment or measure, when tested or implemented, such as shutoff valves, spill containment systems, cleanup actions, etc.; and

(vi) Other information or data as required by the department.

(g) Mitigation requirements. Facilities with RDD permits are required to take all steps required by the department to minimize or correct any adverse impact on the environment resulting from escape or release of materials containing dangerous waste constituents.

(7) Permit Changes.

(a) Permit transfers. A permit may be transferred by the permittee to a new owner or operator only if the permit is modified or revoked and reissued under WAC 173-303-830(3), or a minor modification is

made in accordance with WAC 173-303-830(4), to identify the new permittee and incorporate other appropriate requirements.

(b) Permit modifications. Modification of an existing RDD permit shall be in accordance with WAC 173-303-830 (3) and (4), and may be required under any one of the following conditions:

(i) There are material and substantial alterations or additions to the permitted facility or activity which occurred after the permit was issued;

(ii) After permit issuance, the department receives information which justifies the application of different permit conditions;

(iii) The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations, or by judicial decisions;

(iv) The department determines that good cause exists for modification of a compliance schedule (e.g., an act of God, flood, strike, material shortage, etc.); or

(v) At the discretion of the department whenever it determines that a modification is necessary to protect human health or the environment.

(c) Permit renewal. RDD permits may be renewed three times, each time for a maximum period of three hundred sixty-five operating days (not to exceed two calendar years). The department will evaluate each permit application individually to determine the most appropriate amount of time for permit renewal notification, and will specify this time period as a permit condition. The minimum notice for renewal of a RDD permit is ninety days.

This notification must explain the reasons for a renewal, summarize the analytical results of the experimental activity to date, and identify any problems encountered in meeting the research objectives.

(d) Permit termination. The department may terminate a RDD permit if it determines that:

(i) Operation of the RDD facility presents a threat to human health or the environment; or

(ii) The permittee does not comply with the conditions of the permit, or misrepresents any relevant information at any time; or

(iii) The permittee did not disclose fully all relevant facts during the permit issuance process.

(8) Public participation. The department may not waive or modify public participation procedures. The procedures of WAC 173-303-840 for public involvement and participation in permit decision-making (including issuance, denial, modification, and revocation and reissuance), shall be followed.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-810 GENERAL PERMIT CONDITIONS. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee shall take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee shall also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee shall allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records. (a) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(c) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee shall maintain all records of ground water quality and ground water surface elevations for the active life of the facility, and for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department shall be signed in accordance with ~~((WAC 173-303-810(12)))~~ this subsection and shall be certified according to ~~((WAC 173-303-810(13)))~~ subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, ~~((it is the duty of the operator and owner to obtain and cosign the permit application. The))~~ then the operator shall be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications shall be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or

having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department shall be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification. (a) Except as provided in (b) of this subsection, any person ((identified in subsection (12) of this section as appropriate for)) signing the documents required ((for a permit application)) under (a) or (b) of subsection (12) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports shall be provided:

(a) Planned changes. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to

inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) shall be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or non-compliance or any progress reports on interim and final permit requirements contained in any compliance schedule shall be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment. Information shall be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately shall include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he shall promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if the owner/operator indicates to the department the degree of harm if the information is made to the public.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten

days after the submitter receives the notice, the department shall place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-830 PERMIT CHANGES. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under subsection (3) of this section, or a minor modification has been made to identify the new permittee and incorporate such other requirements as stipulated under subsection (4) of this section.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under subsection (3) or (4) of this section, the department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in subsection (4) of this section for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance and which would have justified the application of different permit conditions at the time of issuance;

(iii) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only when:

(A) The permit condition requested to be modified was based on an effective regulation; and

(B) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and either

(I) The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

(II) A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or postclosure. When modification of a closure or postclosure plan is required under WAC 173-303-610 (3) or (8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year postclosure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the postclosure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; or

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-806(11) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Minor modifications of permits. Unless the permittee indicates otherwise, the department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section without following the procedures of WAC 173-303-840. Any permit modification not processed as a minor modification under this section must be made for cause and with a draft permit and public notice as required in WAC 173-303-840. Minor modifications may only be made to:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility (~~(coverage, and liability)~~) between the current and new permittees has been submitted to the department. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of WAC 173-303-620 (Financial requirements), until the new owner or operator has demonstrated to the department that he is complying with the requirements of that section. The new owner or operator must demonstrate compliance with financial requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with WAC 173-303-620, the department shall notify the old owner or operator in writing that he no longer needs to comply with the financial requirements as of the date of demonstration;

(e) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(f) Change the following:

- (i) Estimates of maximum inventory under WAC 173-303-610 (3)(a)((iii)) (iii);
- (ii) Estimates of expected year of closure or schedules for final closure under WAC 173-303-610 (3)(a)((iv)) (vii); or
- (iii) Approve periods longer than ninety days or one hundred eighty days under WAC 173-303-610 (4)(a) or (b);
- (g) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor;
- (h) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor;

(i) Grant one extension of the time period for determining operational readiness following completion of construction, for up to seven hundred twenty hours operating time for treatment of dangerous waste in an incinerator;

(j) Change the treatment program requirements for land treatment units under WAC 173-303-655(2) to improve treatment of dangerous constituents, provided that the change is minor;

(k) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with WAC 173-303-808, provided that the change is minor; and

(l) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by WAC 173-303-655, provided that the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

(5) Permit termination. The department shall follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

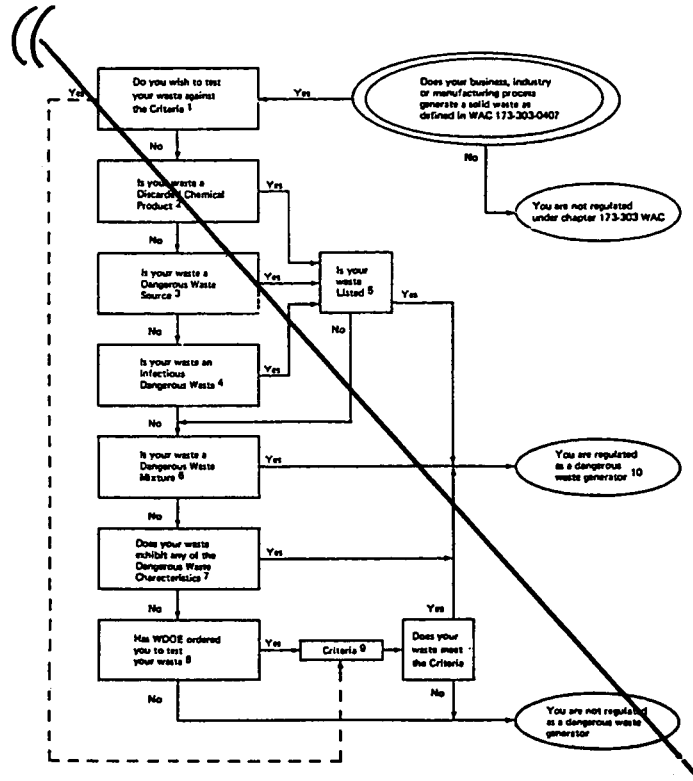
(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement as follows;

- (i) The time between interim dates shall not exceed one year; or
- (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-9901 FLOW CHART FOR DESIGNATING DANGEROUS WASTES. (Reserved.)



- ~~1. Voluntary testing, allowed under WAC 173-303-070 (2)(b).~~
- ~~2. See WAC 173-303-081.~~
- ~~3. See WAC 173-303-082.~~
- ~~4. This section, WAC 173-303-083, is reserved, and is not applicable at the publication date of this chapter.~~
- ~~5. The discarded chemical products list appears in WAC 173-303-9903, and the dangerous waste sources list appears in WAC 173-303-9904.~~
- ~~6. See WAC 173-303-084.~~
- ~~7. See WAC 173-303-090. The dangerous waste characteristics include the properties of ignitability, corrosivity, reactivity, and EP toxicity.~~
- ~~8. Washington department of ecology may order testing pursuant to WAC 173-303-070(4).~~
- ~~9. See WAC 173-303-100.~~
- ~~10. As a dangerous waste generator you must comply with the requirements set forth under WAC 173-303-170.)~~

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-9904 DANGEROUS WASTE SOURCES LIST.

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
Nonspecific Sources	
Generic:	
F001	The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated ((fluorocarbons)) fluorocarbons; and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)
F002	The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents. (See footnote 1, below.)
F003	The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.
F004	The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; and the still bottoms from the recovery of these solvents.
F005	The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine; and the still bottoms from the recovery of these solvents.
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.
F007	Spent cyanide plating bath solutions from electroplating operations.
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process.
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process.
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process.
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations.
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process.
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 2, below.)
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 2, below.)

Dangerous Waste No.	Sources
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 2, below.)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 2, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.)
F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 2, below.)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 2, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027.
F024	Wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one to five, utilizing free radical catalyzed processes. (See footnote 1, below.) (This listing does not include light ends, spent filters and filter aids, spent dessicants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed under specific sources, below.)
Specific Sources	
Wood Preservation:	
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (See footnote 1, below.)
Inorganic Pigments:	
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.
K003	Wastewater treatment sludge from the production of molybdate orange pigments.
K004	Wastewater treatment sludge from the production of zinc yellow pigments
K005	Wastewater treatment sludge from the production of chrome green pigments.
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).
K007	Wastewater treatment sludge from the production of iron blue pigments.
K008	Oven residue from the production of chrome oxide green pigments.
Organic Chemicals:	
K009	Distillation bottoms from the production of acetaldehyde from ethylene.
K010	Distillation side cuts from the production of acetaldehyde from ethylene.

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	K111	Product washwaters from the production of dinitrotoluene via nitration of toluene.
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K015	Still bottoms from the distillation of benzyl chloride. (See footnote 1, below.)	K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K016	Heavy ends or distillation residues from the production of carbon tetrachloride. (See footnote 1, below.)	K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (See footnote 1, below.)	K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (See footnote 1, below.)
K018	Heavy ends from the fractionation column in ethyl chloride production. (See footnote 1, below.)		Explosives:
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (See footnote 1, below.)	K044	Wastewater treatment sludges from the manufacturing and processing of explosives.
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (See footnote 1, below.)	K045	Spent carbon from the treatment of wastewater containing explosives.
K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (See footnote 1, below.)	K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	K047	Pink/red water from TNT operations.
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.		Inorganic Chemicals:
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (See footnote 1, below.)
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	K106	Wastewater treatment sludge from the mercury cell process in chlorine production.
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.		Petroleum Refining:
K026	Stripping still tails from the production of methyl ethyl pyridines.	K048	Dissolved air flotation (DAF) float from the petroleum refining industry.
K027	Centrifuge and distillation residues from toluene diisocyanate production.	K049	Slop oil emulsion solids from the petroleum refining industry.
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (See footnote 1, below.)	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (See footnote 1, below.)	K051	API separator sludge from the petroleum refining industry.
K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (See footnote 1, below.)	K052	Tank bottoms (leaded) from the petroleum refining industry.
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (See footnote 1, below.)		Iron and Steel:
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (See footnote 1, below.)	K061	Emission control dust/sludge from the primary production of steel in electric furnaces.
K083	Distillation bottoms from aniline production.	K062	Spent pickle liquor ((from)) generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).
K103	Process residues from aniline extraction from the production of aniline.		Pesticides:
K104	Combined wastewater streams generated from nitrobenzene/aniline production.	K031	Byproduct salts generated in the production of MSMA and cacodylic acid.
K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. (See footnote 1, below.)	K032	Wastewater treatment sludge from the production of chlordane. (See footnote 3, below.)
K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (See footnote 1, below.)	K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (See footnote 3, below.)

Dangerous Waste No.	Sources
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (See footnote 3, below.)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (See footnote 3, below.)
K035	Wastewater treatment sludges generated in the production of creosote.
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.
K037	Wastewater treatment sludges from the production of disulfoton.
K038	Wastewater from the washing and stripping of phorate production. (See footnote 3, below.)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (See footnote 3, below.)
K040	Wastewater treatment sludge from the production of phorate. (See footnote 3, below.)
K041	Wastewater treatment sludge from the production of toxaphene. (See footnote 3, below.)
K098	Untreated process wastewater from the production of toxaphene. (See footnote 3, below.)
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (See footnote 1, below.)
K043	2,6-Dichlorophenol waste from the production of 2,4-D. (See footnote 1, below.)
K099	Untreated wastewater from the production of 2,4-D. (See footnote 1, below.)
<u>K123</u>	<u>Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts.</u>
<u>K124</u>	<u>Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.</u>
<u>K125</u>	<u>Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.</u>
<u>K126</u>	<u>Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.</u>

Secondary Lead:

- K069 Emission control dust/sludge from secondary lead smelting.
 K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting.

Veterinary Pharmaceuticals:

- K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
 K101 Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.
 K102 Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds.

Ink Formulation:

- K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead.

Dangerous Waste No.	Sources
Coking:	
K060	Ammonia still-lime sludge from coking operations.
K087	Decanter tank tar sludge from coking operations.
1	These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.
2	For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.
3	These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste EHW.

State Sources

- W001 The following wastes generated from the salvaging, rebuilding, or discarding of transformers or capacitors which contain polychlorinated biphenyls (PCB): Cooling and insulating fluids; cores, including core papers, from unrinsed transformers and capacitors; transformers and capacitors which will no longer be used for their intended use, except for those transformers or capacitors which have been rinsed; and, rinsate from the rinsing of transformers and capacitors. For the purposes of this listing, the rinsing of PCB containing items shall be conducted as follows: First, the item is drained of all free flowing liquid; second, the item is filled with solvent and allowed to stand for at least eighteen hours; last, the item is drained thoroughly and the solvent is collected. Solvents may include kerosene, xylene, toluene and other solvents in which PCB are readily soluble. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if his PCB waste is excluded from the requirements of chapter 173-303 WAC.)

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-9905 DANGEROUS WASTE CONSTITUENTS LIST.

Acetonitrile [Ethanitrile]
 Acetophenone (Ethanone, 1-phenyl)
 3-(alpha-Acetylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
 2-Acetylaminofluorene (Acetamide,N-9H-fluoren-2-yl)-
 Acetyl chloride (Ethanoyl chloride)
 1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
 Acrolein (2-Propenal)
 Acrylamide (2-Propenamamide)
 Acrylonitrile (2-Propenenitrile)
 Aflatoxins
 Aldrin (1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a,8b-hexahydro-endo,exo-1,4,5,8-Dimethanonaphthalene)
 Allyl alcohol (2-Propen-1-ol)
 Aluminum phosphide
 4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
 6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl-carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C)
 (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7-

- dione, 6-amino-8[[(amino-carbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl]-5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxazolone, 5-(aminomethyl)-)-4 Aminopyridine (4-Pyridinamine)¹
- Amitrole (1H-1,2,4-Triazol-3-amine)
- Aniline (Benzenamine)
- Antimony and compounds, N.O.S.*
- Aramite (Sulfurous acid, 2-chloroethyl- 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester)
- Arsenic and compounds, N.O.S.*
- Arsenic acid (Orthoarsenic acid)
- Arsenic pentoxide (Arsenic (V) oxide)
- Arsenic trioxide (Arsenic (III) oxide)
- Auramine (Benzenamine, 4,4-carbonimidoylbis[N,N-Dimethyl-monohydrochloride])
- Azaserine (L-Serine, diazoacetate (ester))
- Barium and compounds, N.O.S.*
- Barium cyanide
- Benz[c]acridine (3,4-Benzacridine)
- Benz[a]anthracene (1,2-Benzanthracene)
- Benzene (Cyclohexatriene)
- Benzeneearsonic acid (Arsenic acid, phenyl-)
- Benzene, 2-amino-1-methyl (o-Toluidine)
- Benzene, 4-amino-1-methyl (p-Toluidine)
- Benzene, dichloromethyl- (Benzal chloride)
- Benzenethiol (Thiophenol)
- Benzidine ([1,1'-Biphenyl]-4,4'diamine)
- Benzo[b]fluoranthene (2,3-Benzofluoranthene)
- Benzo[j]fluoranthene (7,8-Benzofluoranthene)
- Benzo[a]pyrene (3,4-Benzopyrene)
- p Benzoquinone (1,4-Cyclohexadienedione)
- Benzotrichloride (Benzene, trichloromethyl-)
- Benzyl chloride (Benzene, (chloromethyl)-)
- Beryllium and compounds, N.O.S.*
- Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
- Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
- N,N-Bis(2-chloroethyl)-2-naphthylamine (Chloronaphazine)
- Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
- Bis(chloromethyl) ether (Methane, oxybis[chloro-])
- Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
- Bromoacetone (2-Propanone, 1-bromo-)
- Bromomethane (Methyl bromide)
- 4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
- Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
- 2-Butanone peroxide (Methyl ethyl ketone, peroxide)
- Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
- 2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
- Cadmium and compounds, N.O.S.*
- Calcium chromate (Chromic acid, calcium salt)
- Calcium cyanide
- Carbon disulfide (Carbon bisulfide)
- Carbon oxyfluoride (Carbonyl fluoride)
- Chloral (Acetaldehyde, trichloro-)
- Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
- Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
- Chlorinated benzenes, N.O.S.*
- Chlorinated ethane, N.O.S.*
- Chlorinated fluorocarbons, N.O.S.*
- Chlorinated naphthalene, N.O.S.*
- Chlorinated phenol, N.O.S.*
- Chloroacetaldehyde (Acetaldehyde, chloro-)
- Chloroalkyl ethers, N.O.S.*
- p-Chloroaniline (Benzenamine, 4-chloro-)
- Chlorobenzene (Benzene, chloro-)
- Chlorobenzilate (Benzenecetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester)
- 2-Chloro-1,3-butadiene
- p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
- 1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
- 2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
- Chloroform (Methane, trichloro-)
- Chloromethane (Methyl chloride)
- Chloromethyl methyl ether (Methane, chloromethoxy-)
- 2-Chloronaphthalene (Naphthalene, beta-chloro-)
- 2-Chlorophenol (Phenol, o-chloro-)
- 1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
- 3-Chloropropene
- 3-Chloropropionitrile (Propanenitrile, 3-chloro-)
- Chromium and compounds, N.O.S.*
- Chrysene (1,2-Benzphenanthrene)
- Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
- Coal tars
- Copper cyanide
- Creosote (Creosote, wood)
- Cresols (Cresylic acid) (Phenol, methyl-)
- Crotonaldehyde (2-Butenal)
- Cyanides (soluble salts and complexes), N.O.S.*
- Cyanogen (Ethanedinitrile)
- Cyanogen bromide (Bromine cyanide)
- Cyanogen chloride (Chlorine cyanide)
- Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
- 2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
- Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)
- Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
- DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p-chlorophenyl)-)
- DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
- DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
- Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
- Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
- Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
- Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
- 7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
- Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
- Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
- Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
- 1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
- 1,2-Dibromoethane (Ethylene dibromide)

- Dibromomethane (Methylene bromide)
 Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
 o-Dichlorobenzene (Benzene, 1,2-dichloro-)
 m-Dichlorobenzene (Benzene, 1,3-dichloro-)
 p-Dichlorobenzene (Benzene, 1,4-dichloro-)
 Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
 3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
 1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
 Dichlorodifluoromethane (Methane, dichlorodifluoro-)
 1,1-Dichloroethane (Ethylidene dichloride)
 1,2-Dichloroethane (Ethylene dichloride)
 trans-1,2-Dichloroethene (1,2-Dichloroethylene)
 Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
 1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
 Dichloromethane (Methylene chloride)
 2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
 2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
 2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
 Dichlorophenylarsine (Phenyl dichloroarsine)
 Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
 1,2-Dichloropropane (Propylene dichloride)
 Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
 Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
 1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)
 Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
 1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
 Diethylarsine (Arsine, diethyl-)
 N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
 O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
 O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
 Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
 O,O-Diethyl O-2-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
 Diethylstilbestrol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
 Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
 3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
 Diisopropylfluorophosphate (DFP) (Phosphorofluoridic acid, bis(1-methylethyl) ester)
 Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester)
 3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
 p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
 7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
 3,3'Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
 Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
 1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
 1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
 3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
 alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
 2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
 Dimethyl phthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
 Dimethyl sulfate (Sulfuric acid, dimethyl ester)
 Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*)
 4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
 2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
 2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
 2,6-Dinitrotoluene (Benzene, 1-methyl-2,6-dinitro-)
 Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
 1,4-Dioxane (1,4-Diethylene oxide)
 Diphenylamine (Benzenamine, N-Phenyl-)
 1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
 Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
 Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
 2,4-Dithiobiuret (Thioimidodicarbonic diamide)
 Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
 Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)
 Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
 Ethyl cyanide (propanenitrile)
 Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanedithiolbis(dithiocarbamic acid, salts and esters)
 Ethyleneimine (Aziridine)
 Ethylene oxide (Oxirane)
 Ethylenethiourea (2-Imidazolidinethione)
 Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
 Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
 Fluoranthene (Benzo[j,k]fluorene)
 Fluorine
 2-Fluoroacetamide (Acetamide, 2-fluoro-)
 Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
 Formaldehyde (Methylene, oxide)
 Formic acid (Methanoic acid)
 Glycidylaldehyde (1-Propanol-2-3-epoxy)
 Halomethane, N.O.S.*
 Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
 Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
 Hexachlorobenzene (Benzene, hexachloro-)
 Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)
 Hexachlorocyclohexane (all isomers) (Lindane and isomers)
 Hexachlorocyclopentadiene (1,3-

- Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans
Hexachloroethane (Ethane, 1,1,1,2,2,2-hexachloro-)
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene
(Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
Hydrazine (Diamine)
Hydrocyanic acid (Hydrogen cyanide)
Hydrofluoric acid (Hydrogen fluoride)
Hydrogen sulfide (Sulfur hydride)
Hydroxydimethylarsine oxide (Cacodylic acid)
Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
Iodomethane (Methyl iodide)
Iron Dextran (Ferric dextran)
Isocyanic acid, methyl ester (Methyl isocyanate)
Isobutyl alcohol (1-Propanol, 2-methyl-)
Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalen-2-one)
Lasiocarpine (2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
Lead and compounds, N.O.S.*
Lead acetate (Acetic acid, lead salt)
Lead phosphate (Phosphoric acid, lead salt)
Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
Maleic anhydride (2,5-Furandione)
Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
Malononitrile (Propanedinitrile)
Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
Mercury Fulminate (Fulminic acid, mercury salt)
Mercury and compounds, N.O.S.*
Methacrylonitrile (2-Propenenitrile, 2-methyl-)
Methanethiol (Thiomethanol)
Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
Metholonyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester)
Methoxychlor (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
2-Methylaziridine (1,2-Propylenimine)
3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
4,4'-Methylenebis(2-chloroaniline)
(Benzenamine, 4,4'-methylenebis-(2-chloro-)
Methyl ethyl ketone (MEK) (2-Butanone)
Methyl hydrazine (Hydrazine, methyl-)
2-Methylacetonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
2-Methyl-2-(methylthio)propionaldehyde-(methylcarbonyl) oxime (Propanal,2-methyl-2-(methylthio)-, O-
[(methylamino)carbonyl]oxime)
N-Methyl-N'-nitro-N-nitrosoguanidine
(Guanidine, N-nitros-N-methyl-N'nitro-)
Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
Mustard gas (Sulfide, bis(2-chloroethyl)-)
Naphthalene
1,4-Naphthoquinone (1,4-Naphthalenedione)
1-Naphthylamine (alpha-Naphthylamine)
2-Naphthylamine (beta-Naphthylamine)
1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
Nickel and compounds, N.O.S.*
Nickel carbonyl (Nickel tetracarbonyl)
Nickel cyanide (nickel (II) cyanide)
Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidiny)-, and salts)
Nitric oxide (Nitrogen (II) oxide)
p-Nitroaniline (Benzenamine, 4-nitro-)
Nitrobenzine (Benzene, nitro-)
Nitrogen dioxide (Nitrogen (IV) oxide)
Nitrogen mustard and hydrochloride salt
(Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
Nitrogen mustard N-Oxide and hydrochloride salt
(Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt)
Nitroglycerine (1,2,3-Propanetriol, trinitrate)
4-Nitrophenol (Phenol, 4-nitro-)
4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
Nitrosamine, N.O.S.*
N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)
N-Nitrosodimethylamine
(Dimethylnitrosamine)
N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, N-nitroso-)
N-Nitrososornicotine (Nornicotine, N-nitroso-)
N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)
N-Nitrososarcosine (Sarcosine, N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramidate
(Diphosphoramidate, octamethyl-)
Osmium tetroxide (Osmium (VIII) oxide)
7-Ocabcyclo[2.2.1]heptane-2,3-dicarbonxylic acid (Endothal)
Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester)
Pentachlorobenzene (Benzene, pentachloro-)
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Pentachloroethane (Ethane, pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)

- Pentachlorophenol (Phenol, pentachloro-)
 Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
 Phenol (Benzene, hydroxy-)
 Phenylenediamine (Benzenediamine)
 Phenylmercury acetate (Mercury, acetatophenyl-)
 N-Phenylthiourea (Thiourea, phenyl-)
 Phosgene (Carbonyl chloride)
 Phosphine (Hydrogen phosphide)
 Phosphorodithioic acid, O,O-diethyl S-
 [(ethylthio)methyl] ester (Phorate)
 Phosphorothioic acid, O,O-dimethyl O-[p-
 ((dimethylamino)sulfonyl)phenyl] ester
 (Famphur)
 Phthalic acid esters, N.O.S.* (Benzene, 1,2-
 dicarboxylic acid, esters, N.O.S.*
 Phthalic anhydride (1,2-Benzenedicarboxylic
 acid anhydride)
 2-Picoline (Pyridine, 2-methyl-)
 Polychlorinated biphenyl, N.O.S.*
 Potassium cyanide
 Potassium silver cyanide (Argentate(1-),
 dicyano-, potassium)
 Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-
 propynyl)benzamide)
 1,3-Propanesultone (1,2-Oxathiolane, 2,2-
 dioxide)
 n-Propylamine (1-Propane)
 Propylthiouracil (Undecamethylenediamine,
 N,N'-bis(2-chlorobenzyl)-, dihydrochloride)
 2-Propyn-1-ol (Propargyl alcohol)
 Pyridine
 Reserpine (Yohimban-16-carboxylic acid,
 11,17-dimethoxy-18-[(3,4,5-
 trimethoxybenzoyl)oxy]-, methyl ester)
 Resorcinol (1,3-Benzenediol)
 Saccharin and salts (1,2-Benzisothiazolin-3-
 one, 1,1-dioxide, and salts)
 Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
 Selenious acid (Selenium dioxide)
 Selenium and compounds, N.O.S.*
 Selenium sulfide (Sulfur selenide)
 Selenourea (Carbamimidoseleonic acid)
 Silver and compounds, N.O.S.*
 Silver cyanide
 Sodium cyanide
 Streptozotocin (D-Glucopyranose, 2-deoxy-2-
 (3-methyl-3-nitrosoureido)-)
 Strontium sulfide
 Strychnine and salts (Strychnidin-10-one, and
 salts)
 1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-
 tetrachloro-)
 Tetrachlorodibenzo-p-dioxins
 Tetrachlorodibenzofurans
 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD)
 Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
 Tetrachloroethane, N.O.S.* (Ethane,
 tetrachloro-, N.O.S.*)
 1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-
 tetrachloro-)
 1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-
 tetrachloro-)
 Tetrachlorethylene (Ethane, 1,1,2,2-tetrachloro-)¹
 Tetrachloromethane (Carbon tetrachloride)
 2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-
 tetrachloro-)
 Tetraethylthiopyrophosphate
 (Dithiopyrophosphoric acid, tetraethyl-
 ester)
 Tetraethyl lead (Plumbane, tetraethyl-)
 Tetraethylpyrophosphate (Pyrophosphoric
 acid, tetraethyl ester)
 Tetranitromethane (Methane, tetranitro-)
 Thallium and compounds, N.O.S.*
 Thallous oxide (Thallium (III) oxide)
 Thallium (I) acetate (Acetic acid, thallium (I)
 salt)
 Thallium (I) carbonate (Carbonic acid,
 dithallium (I) salt)
 Thallium (I) chloride
 Thallium (I) nitrate (Nitric acid, thallium (I)
 salt)
 Thallium selenite
 Thallium (I) sulfate (Sulfuric acid, thallium (I)
 salt)
 Thioacetamide (Ethanethioamide)
 Thiosemicarbazide
 (Hydrazinecarbothioamide)
 Thiourea (Carbamide thio-)
 Thiuram (Bis(dimethylthioucarbomyl)
 disulfide)
 Toluene (Benzene, methyl-)
 Toluenediamine, N.O.S. (Diaminotoluene)
 2,4-Toluenediamine
 2,6-Toluenediamine
 3,4-Toluenediamine
 o-Toluidine hydrochloride (Benzenamine, 2-
 methyl-, hydrochloride)
 Tolylene diisocyanate (Benzene, 1,3-
 diisocyanatomethyl-)
 Toxaphene (Camphene, octachloro-)
 Tribromomethane (Bromoform)
 1,2,4-Trichlorobenzene (Benzene, 1,2,4-
 trichloro-)
 1,1,1-Trichloroethane (Methyl chloroform)
 1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
 Trichloroethene (Trichloroethylene)
 Trichloromethanethiol (Methanethiol,
 trichloro-)
 Trichloromonofluoromethane (Methane,
 trichlorofluoro-)
 2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
 2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)
 (Acetic acid, 2,4,5-trichlorophenoxy-)
 2,4,5-Trichlorophenoxypropionic acid (2,4,5-
 TP) (Silvex) (Propionic acid, 2-(2,4,5-
 trichlorophenoxy)-)
 Trichloropropane, N.O.S.* (Propane,
 trichloro-, N.O.S.*)
 1,2,3-Trichloropropane (Propane, 1,2,3-
 trichloro-)
 O,O,O-Triethyl phosphorothioate
 (Phosphorothioic acid, O,O,O-triethyl ester)
 sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
 Tris(1-aziridinyl) phosphine sulfide
 (Phosphine sulfide, tris(1-aziridinyl)-)
 Tris(2,3-dibromopropyl) phosphate (1-
 Propanol, 2,3-dibromo-, phosphate)
 Trypan blue (2,7-Naphthalenedisulfonic acid,
 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-
 diyl)bis(azo)]bis(5-amino-4-hydroxy-,
 tetrasodium salt)
 Uracil mustard (Uracil 5-[bis(2-
 chlorethyl)amino]-)
 Vanadic acid, ammonium salt (ammonium
 vanadate)
 Vanadium pentoxide (Vanadium (V) oxide)
 Vinyl chloride (Ethane, chloro-)
 Zinc cyanide
 Zinc phosphide

*The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

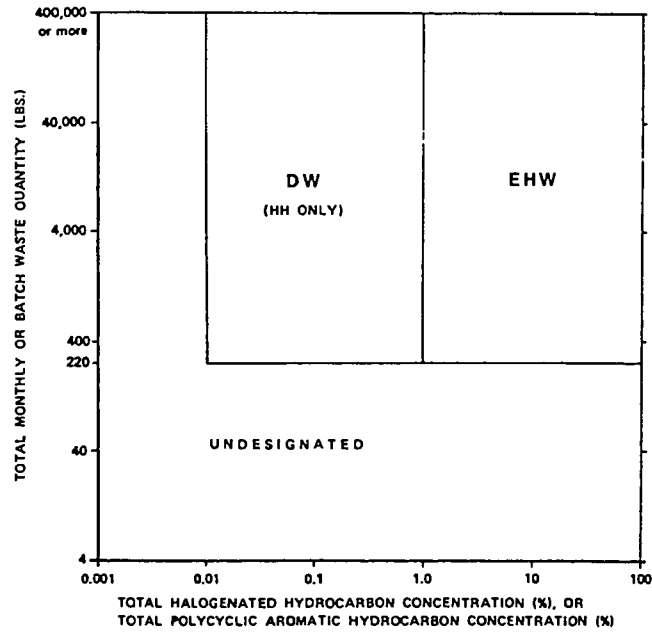
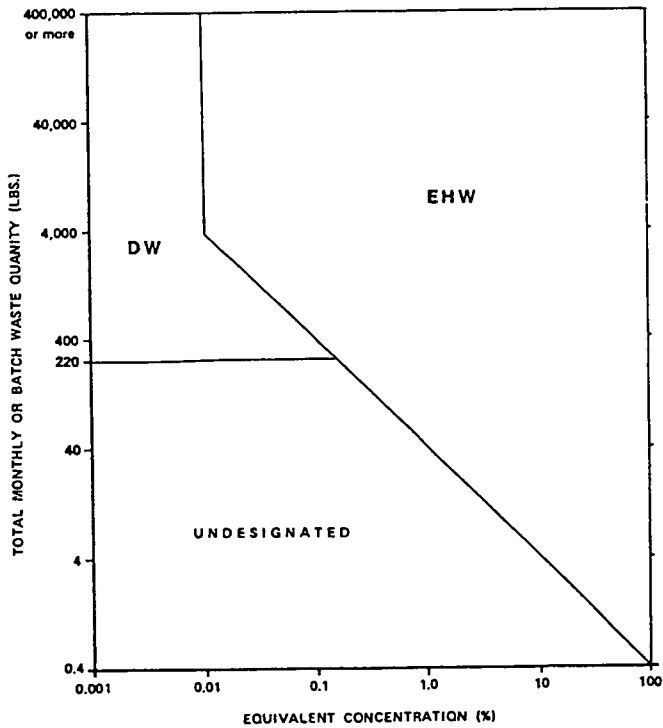
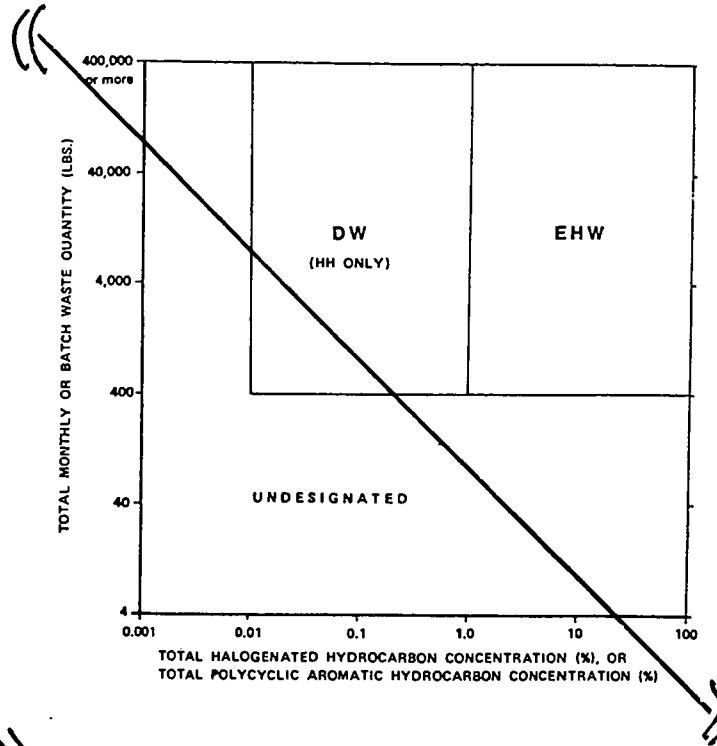
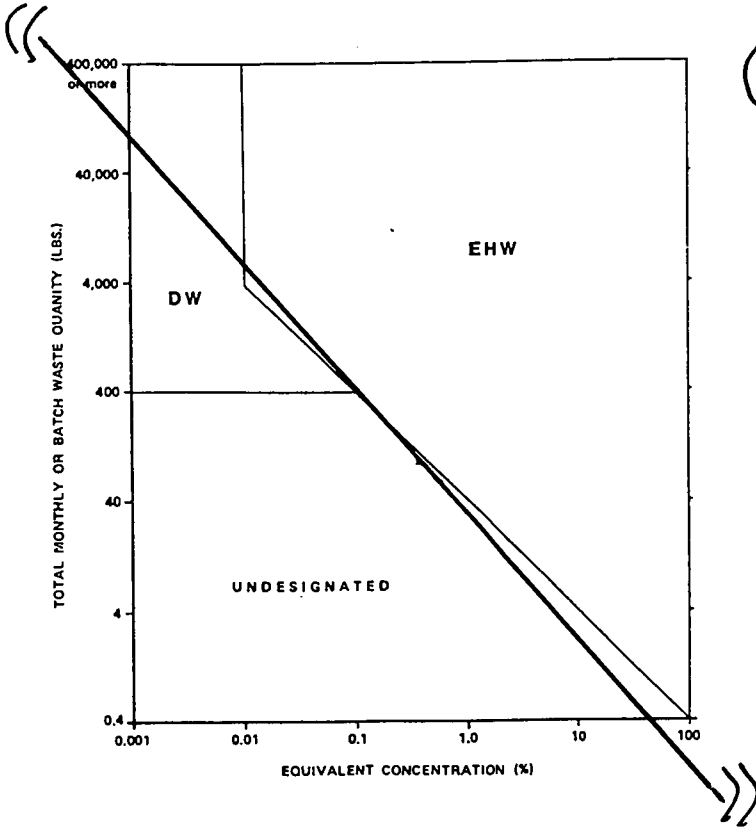
Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9906 TOXIC DANGEROUS WASTE MIXTURES GRAPH.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-9907 PERSISTENT DANGEROUS WASTE MIXTURES GRAPH.



WSR 87-09-079

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 86-46—Filed April 22, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules relating to safety standards for agricultural code, chapter 296-306 WAC, modified to explain WAC formatting; to recognize equipment approved by nonstate agencies; to establish responsibility for work site equipment; to prohibit the use of short-handled hand tools for cultivation; to define approved authorized persons; to implement field sanitation standards to provide health protection for agricultural field workers; and to delete the chapter 296-306 WAC exemption from WAC 296-62-073 through 296-62-07345 and 296-62-075. The previous field sanitation requirements are deleted in the amendment to WAC 296-306-025, management's responsibility, to allow establishment of new more comprehensive field sanitation standards. WAC 296-306-005, foreword, is being repealed.

- 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.

This action is taken pursuant to Notice No. WSR 87-05-023 filed with the code reviser on February 13, 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 49.17.040 and 49.17.050 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 22, 1987.

By Richard A. Davis
Director

NEW SECTION

WAC 296-306-003 SUBSECTIONS, SUBDIVISIONS, ITEMS, SUBITEMS, AND SEGMENTS. (1) That portion of section numeration appearing after the chapter designation appears in either a three digit or a five digit format (e.g., WAC 296-306-330 and 296-306-33002). The final two digits of the section number are implied decimal extensions of the first three digits

and represent a further division of the three digit enumeration.

(2) Sections of this chapter may be divided into subsections (1), (2), (3), etc., which may in turn be divided into subdivisions (a), (b), (c), etc., which may be further divided into items (i), (ii), (iii), etc., which may be further divided into subitems (A), (B), (C), etc., which may be further divided into segments (I), (II), (III), etc., all according to the following hierarchy, e.g.,

- Sections 296-306-330 and 296-306-33002
- Subsections (1)
(2)
- Subdivisions (a)
(b)
- Items (i)
(ii)
- Subitems (A)
(B)
- Segments (I)
(II)

Note: "Part" as used in this standard means a major division of this chapter relating to a specific topic or topics and containing various related sections.

NEW SECTION

WAC 296-306-006 EQUIPMENT APPROVAL BY NONSTATE AGENCY OR ORGANIZATION. Whenever a provision of this chapter states that only that equipment or those processes approved by an agency or organization other than the department of labor and industries, such as the Underwriters Laboratories or the Bureau of Mines, shall be utilized, that provision shall be construed to mean that approval of such equipment or process by the designated agency or group shall be prima facie evidence of compliance with the provisions of this chapter.

NEW SECTION

WAC 296-306-009 EQUIPMENT WHETHER OR NOT OWNED BY, OR UNDER CONTROL OF THE EMPLOYER. (1) It is the employer's responsibility to ensure that any defective equipment or tools are not used.

(2) When any tool or piece of equipment fails to meet the requirements of any safety standard or recognized safe practice, the tool or equipment shall not be used.

NEW SECTION

WAC 296-306-012 DEFINITIONS APPLICABLE TO ALL SECTIONS OF THIS CHAPTER.

Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

(1) "Approved" means approved by the director of the department of labor and industries or his authorized representative: PROVIDED, HOWEVER, That should a provision of this chapter state that approval by an

agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of WAC 296-24-006 shall apply.

(2) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(3) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries, or designated representative.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts 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: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

(7) "Hazard" means that condition, potential or inherent, which can cause injury, death, or occupational disease.

(8) "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or equipment to the actual working stress or safe load when in use.

(9) "Shall" or "must" means mandatory.

(10) "Should" or "may" means recommended.

(11) "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries through the division of safety.

(12) "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(13) "Working day," for the purpose of appeals and accident reporting, means a calendar day, except Saturdays, Sundays, and legal holidays, as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

(14) "Workmen," "personnel," "man," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of his 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 his personal labor for an employer whether by manual labor or otherwise.

AMENDATORY SECTION (Amending Order 79-9, filed 7/31/79)

WAC 296-306-025 MANAGEMENT'S RESPONSIBILITY. ~~((+))~~ It shall be the responsibility of management to maintain and supervise:

~~((a))~~ (1) A safe and healthful working environment.

~~((b))~~ (2) An accident prevention program as required by these standards.

~~((c))~~ (3) A system for reporting and recording accidents that will fulfill statistical requirements of the department of labor and industries. (See chapter 296-27 WAC.)

~~((d))~~ (4) Safety education and training programs.

~~((e))~~ (5) Temporary labor camps, as prescribed in WAC 296-24-125 through 296-24-12523, and shall comply with these rules and regulations.

~~((2))~~ ~~It shall be the responsibility of management to furnish potable water to employees as follows:~~

~~(a) Portable drinking water dispensers shall be designed, constructed, and serviced so that sanitary conditions are maintained, capable of being closed, and equipped with a tap.~~

~~(b) Ice in contact with drinking water shall be made of potable water and maintained in a sanitary condition.~~

~~(c) Open containers such as barrels, pails, or tanks for drinking water where the water must be dipped or poured are prohibited, whether or not they are fitted with a cover.~~

~~(d) A common drinking cup and other common utensils are prohibited.~~

~~(e) Where single service cups (used but once) are supplied, a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.~~

~~(f) Outlets for nonpotable water, such as water for industrial, firefighting or irrigation purposes, shall be posted or otherwise marked in a manner that will indicate clearly the water is unsafe and not to be used for drinking, cooking, washing of the person, washing of food, cooking and eating utensils, or food preparation and processing premises, personal service rooms, or for washing clothes.~~

~~(g) Construction of nonpotable water systems or systems carrying any other nonpotable substances shall be such to prevent backflow or backsiphonage into a potable water system. Nonpotable water may be used for cleaning work premises other than food processing and preparation premises and personal service rooms. PROVIDED, That the nonpotable water does not contain concentrations of chemicals, fecal coliform, or other~~

~~substances which could create unsanitary conditions or be harmful to employees.~~

~~(h) Employees shall not be permitted to drink from irrigation ditches, creeks or rivers. Potable water shall meet the requirements of the United States Public Health Service Drinking Water Standards, published in 42 CFR part 72, or water which is approved for drinking purposes by the state or local authority having jurisdiction.~~

~~Note: Drinking water should be made available within 200 feet of any location where employees are regularly engaged in work.))~~

NEW SECTION

WAC 296-306-057 HAND TOOLS. (1) Hoes with handles less than four feet in length or any hand tool used for weeding or thinning crops, when used in a stooped position, are prohibited.

(2) Hand tools shall be kept in good condition.

(3) Hand tools shall be safely stored when not in use.

(4) Hand tools which are unsafe or defective shall not be used.

Note: When there is no other practical or adequate alternative, the director of the department of labor and industries, or his authorized representative may permit a variance pursuant to procedures prescribed by chapter 80, Laws of 1973, RCW 49.17-.080 and 49.17.090 and chapter 296-350 WAC.

NEW SECTION

WAC 296-306-300 FIELD SANITATION—SCOPE. WAC 296-306-300 through 296-306-320 shall apply to any agricultural establishment where one or more employees are engaged on any given hand-labor operations in the field. Except that WAC 296-306-320(3) (Handwashing facilities) and 296-306-320(4) (Toilet facilities) do not apply to employers of workers who:

(1) Are engaged in field activities for the production of grains, seeds, livestock, or livestock feed; or

(2) Use vehicles, machinery, or animals as part of their field activities and, when needed, can transport themselves to and from toilet and handwashing facilities.

NEW SECTION

WAC 296-306-310 FIELD SANITATION—DEFINITIONS. (1) "Agricultural employer" means any person, corporation, association, or other legal entity that owns or operates an agricultural establishment or on whose premises or in whose interest an agricultural establishment is operated and any person, corporation, association, or other legal entity who is responsible for the management and condition of an agricultural establishment or who acts directly or indirectly in the interest of an employer in relation to any employee.

(2) "Agricultural establishment" is a business operation that uses paid employees in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

(3) "Accessible" means no more than one-fourth mile or five minutes travel time from the work location served.

(4) "Hand-labor operations" means agricultural activities or operations performed by hand or with hand tools. Some examples of "hand-labor operations" are the hand harvest of vegetables, nuts, fruit, hand weeding of crops, and hand planting of seedlings. "Hand-labor" does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

(5) "Handwashing facility" means a facility providing a tap with an adequate supply of water, approved by the local health authority. Soap, single-use hand towels and either a basin or other suitable container for washing shall be provided.

(6) "Potable water" means water that meets the standards for drinking purposes by the state or local authority having jurisdiction or water that meets the quality standards prescribed by the local health authority in accordance with the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141.

(7) "Toilet" means a facility designed for the purpose of both defecation and urination, including biological or chemical toilets, combustion toilets, or sanitary privies. Toilets may be either fixed or portable.

NEW SECTION

WAC 296-306-320 FIELD SANITATION—REQUIREMENTS. Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

(1) Orientation: Orientation shall be given verbally to all employees in a manner readily understandable by each employee and shall include:

(a) Potable water: The location(s) of potable water supplies;

(b) Nonpotable water: Identification of all nonpotable water at the worksite and prohibition of the use of nonpotable water with an explanation of the possible consequences of using nonpotable water;

(c) Handwashing facilities: The location(s) of handwashing facilities with an explanation of when they should be used and the consequences of nonuse; and

(d) Toilet facilities: The location(s) of toilet facilities with an explanation of the necessity to use them and to keep them sanitary as well as the possible consequences of nonuse.

(2) Potable drinking water.

(a) The water shall be provided and shall be placed in locations readily accessible to all employees.

(b) Potable water dispensers shall be designed, constructed, and serviced so that sanitary conditions are maintained. They shall be capable of being closed and shall be equipped with a tap.

(c) Open containers such as barrels, pails, or tanks for drinking water from which water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

(d) Marking: Any container used to distribute drinking water shall be clearly marked, in English and with appropriate international symbol as to the nature of its contents.

(e) Use: Any container used to distribute drinking water shall not be used for any other purpose.

(f) The water shall be suitably cool and in sufficient amounts, taking into account the air temperature, humidity, and the nature of the work performed, to meet employees' needs.

(g) The use of common drinking cups or dippers is prohibited. Water shall be dispensed in single-use drinking cups, personal containers, or by water fountains. Single-use drinking cups mean a container of any type or size whether disposable or not, and may include personal containers so long as the option to use a personal container is exercised by the employee, not the employer. NOTE: Suitably cool water should be sixty degrees Fahrenheit or less. During hot weather, workers may require up to three gallons of water per day.

(h) Employees shall not be permitted to drink from irrigation ditches, creeks or rivers. Potable water shall meet the standards for drinking purposes by the state or local authority having jurisdiction or water that meets the quality standards prescribed by the local health department in accordance with the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141.

(3) Handwashing facilities.

(a) One handwashing facility, providing a tap with an adequate supply of water, soap, single-use hand towels and either a basin or other suitable container for washing shall be provided for each thirty employees or fraction thereof, except as stated in (h)(ii) of this subsection.

Note: Nonpotable water shall not be used for washing any portion of the person, except as specifically permitted by the health authorities having jurisdiction.

(b) Running water: Each facility shall be provided with running water.

(c) Soap: Each facility shall be provided with a dispenser containing handsoap or a similar cleansing agent.

(d) Towels: Each facility shall be provided with individual single-use hand towels.

(e) Cleanliness: Facilities shall be maintained in a clean and sanitary condition in accordance with appropriate public health sanitation practices.

(f) Waste: Waste receptacles shall be provided. Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to toilet facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities within one-quarter mile, or where facilities are otherwise inaccessible, suitable immediate transportation shall be provided within five minutes transportation time, to facilities meeting the requirements of this subsection. Under exceptional and compelling circumstances, such as adverse weather, temperatures below freezing, or isolated terrain, longer transportation times may be used.

(4) Toilet facilities.

(a) One toilet facility shall be provided for each thirty employees or fraction thereof, except as stated in (h)(ii) of this subsection.

(b) Each employer shall ensure, at the beginning of each day, that the toilets are inspected. If any toilet facility fails to meet the requirements of this section, immediate corrective action shall be taken. Inspections shall be documented and the record shall be maintained at the work site for at least seventy-two hours.

(c) Toilet facilities shall have doors that can be closed and latched from the inside and shall be constructed to ensure privacy.

(d) Cleanliness: Facilities shall be maintained in a clean, sanitary, and functional condition and in accordance with the appropriate public health sanitation practices.

(e) Toilets shall be supplied with toilet paper.

(f) Waste: Disposal of wastes from the facilities shall not create a hazard or cause an unsanitary condition.

(g) Reasonable use: Employees shall be allowed reasonable opportunities during the work period to use the facilities.

(h) Location:

(i) Facilities shall be accessibly located in close proximity to hand washing facilities and within one-quarter mile of each employee's place of work in the field.

(ii) Where it is not feasible to locate facilities within one-quarter mile, or where facilities are otherwise inaccessible, suitable immediate transportation shall be provided within five minutes transportation time, to facilities meeting the requirements of this subsection. Under exceptional and compelling circumstances, such as adverse weather, temperature below freezing, or isolated terrain, longer transportation times may be used.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-306-005 FOREWORD.

WSR 87-09-080

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed April 22, 1987]

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

Amd	ch. 173-14 WAC	Permits for development on shorelines of the state.
Amd	ch. 173-19 WAC	Shoreline Management Act of 1971—State master program.
New	ch. 173-17 WAC	Shoreline Management Act enforcement regulations.
Rep	WAC 173-15-040	Penalties;

that the agency will at 7:00 p.m., Monday, June 1, 1987, in the Central Regional Office Conference Room, Department of Ecology, 3601 West Washington, Yakima, WA, and at 7:00 p.m., Wednesday, June 3, 1987, in the Southwest Regional Office Conference

Room, Department of Ecology, 7272 Cleanwater Lane, Tumwater, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 14, 1987.

The authority under which these rules are proposed is RCW 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 10, 1987.

Dated: April 21, 1987

By: Phillip C. Johnson
Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amending chapter 173-14 WAC, Permits for development on shorelines of the state; chapter 173-19 WAC, Shoreline Management Act of 1971—State master program; adopting chapter 173-17 WAC, Shoreline Management Act enforcement regulations; and repealing WAC 173-15-040.

Description of Purpose: Revise the existing regulations to reflect statutory amendments and streamline administrative procedures.

Statutory Authority: RCW 90.58.200.

Summary of Rule: The amendments create alternative procedures for establishing termination periods for operational permits; establish a new chapter for permit enforcement procedures; and reflect amendments to the Shoreline Management Act dealing with civil penalties and master program appeal processes.

Reasons Supporting Proposed Action: The existing regulations need to be updated to reflect legislative amendments to the Shoreline Management Act. The process for establishing permit termination periods needs streamlining to ensure consistent interpretation and avoid duplicative processes.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Mauermann, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6787.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendation Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: [No information supplied by agency.]

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not required for the proposed amendments.

AMENDATORY SECTION (Amending Order 86-06, filed 5/23/86)

WAC 173-14-055 NONCONFORMING DEVELOPMENT STANDARDS. Where nonconforming development standards do not exist in the applicable master program, the following definitions and standards shall apply:

(1) "Nonconforming development" means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the act;

(2) Nonconforming development may be continued provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity;

(3) A nonconforming development which is moved any distance must be brought into conformance with the applicable master program and the act;

(4) If a nonconforming development is damaged to an extent not exceeding seventy-five percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage;

(5) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

(6) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed; and

(7) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the act (~~and~~) or the applicable master program but which does not conform to the present lot size or density standards may be developed so long as such development conforms to other requirements of the applicable master program and the act.

AMENDATORY SECTION (Amending Order DE 80-9, filed 3/18/80)

WAC 173-14-060 (~~TIME REQUIREMENTS OF~~) PERMIT TERMINATION LIMITS. (~~The following time requirements shall apply to all substantial development, conditional use and variance permits:~~

(1) ~~Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to the act must be undertaken within two years after the approval of the permit. Substantial progress towards construction shall include, but not be limited to the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the criteria set forth in WAC 173-14-100. In determining the running of the two-year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue. PROVIDED, That local government may, at its discretion extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.~~

(2) ~~If a project for which a permit has been granted pursuant to the act has not been completed within five years after the approval of the permit by local government, the local government that granted the permit shall, at the expiration of the five-year period, review the permit, and upon a showing of good cause, do either of the following:~~

- (a) ~~Extend the permit for one year; or~~
(b) ~~Terminate the permit:~~

PROVIDED, That the running of the five-year period)) Permits shall have fixed termination limits for authorized activities, including construction and operations. "Construction activities" include the construction or exterior alteration of structures; bulkheading; driving of piling; placing of obstructions; any structural project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters or shorelines of the state; and operations incidental to these activities. "Operation activities" include dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; and any nonstructural project of a permanent or temporary nature which interferes with the normal public use of the waters or shorelines of the state: PROVIDED, That where these activities are incidental to construction activities, they shall be considered as construction activities.

(1) Construction activities.

(a) Construction or substantial progress toward construction of a development for which a permit has been granted under the act shall be undertaken within two years after the approval of the permit by local government. Substantial progress towards construction shall include, but not be limited to, the making of contracts, signing of notice to proceed, completion of grading and excavation, and the laying of major utilities: PROVIDED, That local government may, with prior notice to parties of record, extend the two-year time period for up to one year based on reasonable factors.

(b) Construction authorization shall terminate within five years after approval of the permit by local government: PROVIDED, That local government may authorize a single one-year extension with prior notice to parties of record and the department. Revisions to permits under WAC 173-14-064 may be authorized beyond this time limit.

(2) Operation activities.

(a) An operation shall commence within two years after approval of the permit by local government: PROVIDED, That local government may, with prior notice to parties of record, extend the two-year period for up to one year based on reasonable factors.

(b) Operation authorization, other than dredge spoil disposal operations which require water quality certification, shall terminate within five years after approval of the permit by local government: PROVIDED, That the permit may establish an alternative termination limit as follows:

(i) The alternative termination limit shall be reasonable and appropriate considering the cost and magnitude of the project, the engineering and physical features to be encountered, and the public interest enunciated in RCW 90.58.020;

(ii) The alternative termination limit shall be set by a termination date or operational parameters including quantity; dimensions (height, width and/or depth); seasons; and/or, land, air and/or water quality standards;

(iii) The alternative termination limit shall include a specific monitoring and review schedule which sets forth the following information when applicable:

(A) Monitoring parameters;

(B) Monitoring schedule;

(C) Party responsible for performing the monitoring;

(D) A review schedule of no less than once in five years which includes a minimum of one public hearing and notice to parties of record;

(E) Reviewing body; and

(F) Conditions or parameters to be reviewed; and

(iv) Operation authorization shall terminate when the permit termination limits established under (ii) of this subsection are exceeded: PROVIDED, That a revision may be authorized under WAC 173-14-064 for quantity, dimensional or seasonal limits.

(c) Dredge spoil disposal operations which require water quality certification under chapter 173-201 WAC, as amended, shall terminate when the water quality certification terminates.

(3) The limits specified in subsections (1) and (2) of this section constitute maximum limits. Permits may be authorized for lesser limits.

(4) The running of a permit termination limit shall not include the time during which a development was not actually pursued by construction ((and)) or operation due to the pendency of reasonably related administrative appeals or litigation ((reasonably related thereto made it reasonable not to so pursue, and: PROVIDED FURTHER, That nothing herein shall preclude local government from issuing permits with a fixed termination date of less than five years)).

(5) When approval of a permit is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure and prior to commencement of an operational activity: PROVIDED, That an alternative compliance limit may be specified in the permit.

AMENDATORY SECTION (Amending Order DE 78-7, filed 6/14/78)

WAC 173-14-080 PUBLIC HEARINGS. Local governments may establish a mandatory or optional public hearing procedure to precede the issuance or denial of ((substantial development, conditional use, or variance)) permits in order to allow interested persons to present their views. Local governments shall establish a mandatory public hearing procedure for permit review required under WAC 173-14-060 (2)(b)(iii)(D) for operation activities with alternative termination limits.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-14-180 REGULATORY ORDERS BY LOCAL GOVERNMENT OR THE DEPARTMENT.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-15-040 PENALTIES.

Chapter 173-17 WAC SHORELINE MANAGEMENT ACT ENFORCEMENT REGULATIONS

WAC

173-17-010	Authority and purpose.
173-17-020	Definitions.
173-17-030	Policy.
173-17-040	Order to cease and desist.
173-17-050	Civil penalty.
173-17-060	Appeal of civil penalty.
173-17-070	Criminal penalty.
173-17-080	Oil or natural gas exploration—Penalty.

NEW SECTION

WAC 173-17-010 AUTHORITY AND PURPOSE. This regulation is adopted under RCW 90.58.200 and 90.58.210 to implement the enforcement responsibilities of the department and local government under the Shoreline Management Act. The act calls for a cooperative program between local government and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms already in place at the local level and does not preclude other means of enforcement.

NEW SECTION

WAC 173-17-020 DEFINITIONS. The following definitions shall apply:

(1) "Act" means the Shoreline Management Act, chapter 90.58 RCW, as amended;

(2) "Department" means the department of ecology;

(3) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level;

(4) "Exemption" means authorization from local government which establishes that an activity is exempt from substantial development permit requirements under WAC 173-14-040, but subject to regulations of the act and the local master program;

(5) "Local government" means any county, incorporated city or town which contains within its boundaries any lands or waters subject to the act;

(6) "Permit" means any form of permission required under the act prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, permission which may be required for selective commercial timber harvesting, and shoreline exemptions; and

(7) "Person" means any individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

NEW SECTION

WAC 173-17-030 POLICY. These regulations shall be used by local government in carrying out enforcement responsibilities under the act, unless local government adopts separate rules to implement the act's enforcement provision.

Enforcement action may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and the degree of bad faith of the persons charged.

NEW SECTION

WAC 173-17-040 ORDER TO CEASE AND DESIST. Local government and the department shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the local master program.

- (1) Content of order. The order shall set forth and contain:
 - (a) A description of the specific nature, extent, and time of violation and the damage or potential damage; and
 - (b) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time.
- (2) A civil penalty under WAC 173-17-050 may be issued with the order.
- (3) Effective date. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.
- (4) Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

NEW SECTION

WAC 173-17-050 CIVIL PENALTY. A person who fails to conform to the terms of a permit issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty.

- (1) Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.
- (2) Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
- (3) Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.
- (4) Application for remission or mitigation. Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the department or local government for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

When a penalty is imposed jointly by the department and local government, it may be remitted or mitigated only upon such terms as both the department and the local government agree.

NEW SECTION

WAC 173-17-060 APPEAL OF CIVIL PENALTY. (1) Right of appeal. Persons incurring a penalty imposed by the department or imposed jointly by the department and local government may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are contested cases subject to the provisions of chapter 34.04 RCW.

(2) Timing of appeal. Appeals shall be filed within thirty days of receipt of notice of penalty unless an application for remission or mitigation is made to the department or local government. If such application is made, appeals shall be filed within thirty days of receipt of local government's or the department's decision regarding the remission or mitigation.

(3) Penalties due.

(a) Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of local government's or the department's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

(b) If the amount of a penalty owed the department is not paid within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. The action shall be brought in Thurston County or in any county in which such violator may do business.

(4) Penalty recovered. Penalties recovered by the department shall be paid to the state treasurer. Penalties recovered by local government shall be paid to the local government treasury. Penalties recovered jointly by the department and local government shall be divided equally between the department and the local government unless otherwise stipulated in the order.

NEW SECTION

WAC 173-17-070 CRIMINAL PENALTY. The procedures for criminal penalties shall be governed by RCW 90.58.220.

NEW SECTION

WAC 173-17-080 OIL OR NATURAL GAS EXPLORATION—PENALTY. Persons violating the provisions of RCW 90.58.550 or chapter 173-15 WAC shall be subject to a civil penalty issued by the department in an amount of up to five thousand dollars a day. The procedures for oil or natural gas exploration penalties shall be governed by RCW 90.58.560.

AMENDATORY SECTION (Amending Order 86-06, filed 5/23/86)

WAC 173-19-064 REVIEW AND ADOPTION OF MASTER PROGRAMS AND AMENDMENTS BY THE DEPARTMENT. Review and adoption of master programs and amendments shall be in accordance with the provisions of RCW 34.04.025, insofar as such provisions are not inconsistent with the provisions of chapter 90.58 RCW, and shall follow the procedures set forth below:

(1) REVIEW:

(a) The department shall review the submitted master program or amendment for consistency with the provisions of WAC 173-19-062. If the submittal is determined to be incomplete, the department will identify the deficiencies and so notify local government in writing.

(b) For complete submittals a notice of intent to adopt the new or amended master program shall be filed with the state code reviser's office under the procedures and closing dates established by the code reviser. The department shall file notice in a manner that will allow for the most expeditious adoption of the new or amended program. If more than one local government submits new or amended programs to the department for action, the department may elect to consolidate the proceedings for adoption.

(c) The department shall hold a public hearing to consider the proposal.

(d) Prior to the public hearing, the department shall publish notice of the hearing and adoption proceeding in at least one newspaper of general circulation in the area affected by the master program. The public notice shall include:

(i) Reference to the authority under which the action is proposed; and

(ii) The dates, times, and locations of the public hearing and adoption proceeding, and the manner in which persons may present their views.

(e) The department shall also notify local governments, affected tribes, and interested state and federal agencies and persons who have expressed a desire to be advised of the proposed action.

(f) For new master programs and substantive amendments, a request for advice and guidance to members of the ecological commission shall be submitted at least thirty days prior to the adoption proceeding in accordance with chapter 43.21A RCW.

(g) An evaluation of economic impact shall be completed prior to the adoption proceeding in accordance with chapter 43.21H RCW.

(h) An evaluation of the proposal's consistency with chapter 90.58 RCW and the implementing regulations shall be completed prior to the adoption proceeding. Where minor modifications which are not substantial may render a program or amendment consistent, the department may propose such modifications for incorporation into the proposal without filing a new notice with the state code reviser. Prior to final adoption, any minor modifications shall receive written concurrence from local government.

(2) ADOPTION:

(a) Following the department's review of the master program or amendment, an adoption proceeding shall be conducted by the department within a reasonable time following the public hearing.

For administrative amendments, the adoption proceeding shall occur within forty-five days from the date of filing the notice of intent to adopt the proposal with the state code reviser's office: PROVIDED, That an adoption proceeding may be continued if deemed necessary by the department.

(b) During the adoption proceeding, department staff shall present the evaluation completed under subsection (1)(h) of this section and recommend that the department:

- (i) Adopt the new or amended program, or portions thereof;
- (ii) Deny adoption of the new or amended program, or portions thereof. If it is recommended that any part of the master program or amendment be denied, the department staff shall state the reasons upon which that recommendation is based, including inconsistency with:

- (A) The policies and procedures of the act;
- (B) The guidelines, rules and regulations of the department; and
- (C) The State Environmental Policy Act.

(c) If the department determines to adopt a new or amended master program, it shall file the amended rule(s) and a copy of the new or amended master program with the state code reviser following the adoption proceeding. The department shall also notify the appropriate city clerk or county auditor of the final action taken. ~~((The new or amended master program shall not become effective until at least thirty days from the date of filing the order adopting the revisions with the code reviser in accordance with the provisions of chapter 34.04 RCW.))~~

(d) If the department determines to deny a new or amended master program, it shall advise local government in writing of the reasons for the denial and the department's suggested modifications to the proposal which would make it consistent with chapter 90.58 RCW and the implementing regulations. The local government may make the specific modifications designed to eliminate the inconsistencies and resubmit the proposal to the department. Any resubmitted program or amendment shall be subject to the full adoption procedure. With regard to those segments of the program which relate to shorelines of state-wide significance, the department may develop and adopt an alternative to the local government's proposal if the program submitted does not provide for the optimum implementation of the policies of chapter 90.58 RCW to satisfy the state-wide interest. The department shall notify local government of its intent to do so in writing at the adoption proceeding date and shall follow the procedure established under RCW 90.58.090(2).

(e) If the department determines to partially deny a master program or amendment, it shall receive written concurrence from the authorized local government official. If concurrence is not received, the department may deny the entire proposal.

(f) The procedure for adopting emergency rules described in RCW 34.04.030 shall be used in lieu of the procedure described above only if the criteria in RCW 34.04.030 are met and the department determines that the proposal is not controversial.

AMENDATORY SECTION (Amending Order DE 74-23, filed 12/30/74)

WAC 173-19-070 APPEAL PROCEDURES FOR MASTER PROGRAMS. The procedures for appeals by local government of the department's decision to approve, reject, or modify a proposed master program ~~((s and revisions thereto))~~ or master program adjustment shall be governed by RCW ~~((90.58.180 (4) and (5)))~~ 90.58.190.

WSR 87-09-081
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning San Juan County, amending WAC 173-19-360;

that the agency will at 1:30 p.m., Monday, June 1, 1987, in the Commissioner's Hearing Room, San Juan County Courthouse Annex, Friday Harbor, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 14, 1987.

The authority under which these rules are proposed is RCW 90.58.120 and [90.58].200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 8, 1987.

Dated: April 22, 1987
By: Phillip C. Johnson
Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-360, San Juan County.

Description of Purpose: Adoption of a revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendment adopts revisions to the shoreline master program for San Juan County.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barry A. Wenger, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6767.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendation Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: [No information supplied by agency.]

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 84-36, filed 10/31/84)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved July 1, 1987.

WSR 87-09-082
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed April 22, 1987]

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

that the agency will at 2:00 p.m., Wednesday, May 27, 1987, in Room RC 1231, North Seattle Community College, 9600 College Way North, Seattle, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 3, 1987.

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 27, 1987.

Dated: April 22, 1987

By: Joseph R. Blum

Director

STATEMENT OF PURPOSE

Title: WAC 220-16-075 Definitions—Purse seine; 220-22-030 Puget Sound salmon management and catch reporting areas; and chapter 220-47 WAC.

Description of Purpose: Modify rules for Puget Sound commercial salmon harvest.

Statutory Authority: RCW 75.08.080.

Summary of Rule and Reasons Supporting Proposed Action: The definition of "purse seine" is changed to add a definition of "bunt," as bunt is used in the regulations but not defined; the boundary of Area 8D is changed because the boundary marker formerly referred to is no longer there, the definition of when a purse seine is fishing is established to assist fishermen who, while pulling the seine, drift into closed waters; adjustments to the 1987 Puget Sound salmon fishery schedule are based on 1987 preseason salmon forecast and harvest criteria; troll fishing in Puget Sound will be scheduled by emergency regulation when harvestable numbers of salmon are available; and no harvestable surplus is anticipated in 1987.

Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, Washington, 753-5012; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

Comments: None.

These proposals are not the result of federal law or court order.

Small Business Economic Impact Statement: No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

AMENDATORY SECTION (Amending Order 810, filed 4/17/69)

WAC 220-16-075 DEFINITIONS—PURSE SEINE. (1) "Purse seine" (~~shall be~~) is defined as including all types of fishing gear consisting of a lead line, cork line, auxiliary lines, purse line and purse rings and ~~(of)~~ mesh net webbing fashioned in such a manner that it is used to encircle fish, and in addition prevents their escape under the bottom or lead line of the net by drawing in the bottom of the net by means of the purse line so that it forms a closed bag.

(2) "Bunt" is defined as the portion of the purse seine net located at the end of the net designed to form the bag that holds the net's catch after the net is pursed and is the last portion of the net to be pulled aboard the catching vessel.

AMENDATORY SECTION (Amending Order 85-60, filed 6/12/85)

WAC 220-22-030 PUGET SOUND SALMON MANAGEMENT AND CATCH REPORTING AREAS. (1) Area 4B shall include those waters of Puget Sound easterly of a line projected from the Bonilla Point light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River.

(2) Area 5 shall include those waters of Puget Sound easterly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River and westerly of a line projected true north from Low Point.

(3) Area 6 shall include those waters of Puget Sound easterly of a line projected from the Angeles Point Monument to the William Head light on Vancouver Island, northerly of a line projected from the Dungeness Spit light to the Partridge Point light, westerly of a line projected from the Partridge Point light to the Smith Island light, and southerly of a line projected from the Smith Island light to vessel traffic lane buoy R to the Trial Island light.

(4) Area 6A shall include those waters of Puget Sound easterly of a line projected from the Partridge Point light to the Smith Island light to the most northeasterly of the Lawson Reef lighted buoys (RB 1 Qk Fl Bell) to Northwest Island to the Initiative 77 marker on Fidalgo Island and westerly of a line projected from Reservation Head on Fidalgo Island to West Point on Whidbey Island.

(5) Area 6B shall include those waters of Puget Sound southerly of a line projected from the Dungeness Spit light to the Partridge Point light, westerly of a line projected from the Partridge Point light to the Point Wilson light and easterly of a line projected 155° true from Dungeness Spit light to Kulo Kala Point.

(6) Area 6C shall include those waters of Puget Sound easterly of a line projected true north from Low Point and westerly of a line projected from the Angeles Point Monument to the William Head light on Vancouver Island.

(7) Area 6D shall include those waters of Puget Sound westerly of a line projected 155° true from Dungeness Spit light to Kulo Kala Point.

(8) Area 7 shall include those waters of Puget Sound southerly of a line projected true west from the Sandy Point light, northerly of a line projected from the Trial Island light to vessel traffic lane buoy R to the Smith Island light to the most northeasterly of the Lawson Reef lighted buoys (RB 1 Qk Fl Bell) to Northwest Island to the Initiative 77 marker on Fidalgo Island, and westerly of a line projected from Sandy Point to Point Migley, thence along the eastern shore—line of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island, thence to March Point on Fidalgo Island, excluding those waters of East Sound northerly of a line projected due west from Rosario Point on Orcas Island.

(9) Area 7A shall include those waters of Puget Sound northerly of a line projected true west from the Sandy Point light.

(10) Area 7B shall include those waters of Puget Sound southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line projected from Sandy Point to Point Migley, thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island, thence to March Point on Fidalgo Island, northerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel and westerly of a line projected from William Point light on Samish Island 28° true to the range light near Whiskey Rock on the north shore of Samish Bay.

(11) Area 7C shall include those waters of Puget Sound easterly of a line projected from William Point light on Samish Island 28° true to the range light near Whiskey Rock on the north shore of Samish Bay.

(12) Area 7D shall include those waters of Puget Sound easterly of a line projected southeasterly from the Sandy Point light to the most westerly point of Gooseberry Point.

(13) Area 7E shall include those waters of Puget Sound within East Sound northerly of a line projected due west from Rosario Point on Orcas Island.

(14) Area 8 shall include those waters of Puget Sound easterly of a line projected from West Point on Whidbey Island to Reservation

Head on Fidalgo Island, westerly of a line projected from the light on East Point 340° true to the light on Camano Island (Saratoga Pass light #2, Fl Red 4 Sec) southerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel and northerly of the state highway 532 bridges between Camano Island and the mainland.

(15) Area 8A shall include those waters of Puget Sound easterly of a line projected from the East Point light on Whidbey Island 340° true to the light on Camano Island (Saratoga Pass light #2, Fl Red 4 Sec), northerly of a line projected from the southern tip of Possession Point 110° true to the shipwreck on the opposite shore, southerly of the State Highway 532 bridges between Camano Island and the mainland excluding those waters of Area 8D.

(16) Area 8D shall include those waters of Puget Sound inside and easterly of a line projected 225 degrees from the pilings at old Bower's Resort to a ~~((a fishing boundary marker approximately))~~ point 2,000 feet offshore, thence northwesterly to a point 2,000 feet off Mission Point, thence across the mouth of Tulalip Bay to a point 2,000 feet off Hermosa Point, thence northwesterly following a line 2,000 feet offshore to ~~((a fishing boundary marker off))~~ the intersection with a line projected 233 degrees from the fishing boundary marker on the shore at the slide north of Tulalip Bay ~~((, thence due east to a fishing boundary marker at the slide))~~.

(17) Area 9 shall include those waters of Puget Sound southerly and easterly of a line projected from the Partridge Point light to the Point Wilson light, northerly of the site of the Hood Canal Floating Bridge, northerly of a line projected true west from the shoreward end of the Port Gamble tribal dock on Point Julia to the mainland in the community of Port Gamble, southerly of a line projected from the southern tip of Possession Point 110° true to the shipwreck on the opposite shore and northerly of a line projected from the Apple Cove Point light to the light at the south end of the Edmond's breakwater at Edwards Point.

(18) Area 9A shall include those waters of Puget Sound known as Port Gamble Bay southerly of a line projected true west from the shoreward end of the Port Gamble tribal dock on Point Julia to the mainland in the community of Port Gamble.

(19) Area 10 shall include those waters of Puget Sound southerly of a line projected from the Apple Cove Point light to the light at the south end of the Edmond's breakwater at Edwards Point, westerly of a line projected 233° true from the Acapulco Restaurant near Shilshole Marina through entrance piling No. 8 to the southern shore of the entrance to the Lake Washington Ship Canal, westerly of a line projected 7° true from a point on Duwamish Head through the Duwamish Head light to Pier 91, northerly of a true east-west line passing through the Point Vashon light, easterly of a line projected from Orchard Point to Beans Point on Bainbridge Island, and northerly and easterly of a line projected true west from Agate Point on Bainbridge Island to the mainland.

(20) Area 10A shall include those waters of Puget Sound easterly of a line projected 7° true from a point on Duwamish Head through the Duwamish Head light to Pier 91.

(21) Area 10C shall include those waters of Lake Washington southerly of the Evergreen Point Floating Bridge.

(22) Area 10D shall include those waters of the Sammamish River south of the State Highway 908 Bridge and Lake Sammamish.

(23) Area 10E shall include those waters of Puget Sound westerly of a line projected from Orchard Point to Beans Point on Bainbridge Island and southerly and westerly of a line projected true west from Agate Point on Bainbridge Island to the mainland.

(24) Area 10F shall include those waters of Puget Sound easterly of a line projected 233° true from the Acapulco Restaurant near Shilshole Marina through entrance piling Number 8 to the southern shore of the entrance to the Lake Washington Ship Canal and those waters of the Lake Washington Ship Canal westerly of a line projected from Webster Point true south to the Evergreen Point Floating Bridge including the waters of Salmon Bay, the Lake Washington Ship Canal, Lake Union and Portage Bay.

(25) Area 10G shall include those waters of Lake Washington northerly of the Evergreen Point Floating Bridge, easterly of a line projected from Webster Point true south to the Evergreen Point Floating Bridge and those waters of the Sammamish River north of the State Highway 908 Bridge.

(26) Area 11 shall include those waters of Puget Sound southerly of a true east-west line passing through the Point Vashon light, northerly

of a line from Browns Point to the Asarco smelter stack on the opposite shore of Commencement Bay, and northerly of the Tacoma Narrows Bridge.

(27) Area 11A shall include those waters of Puget Sound southerly of a line from Browns Point to the Asarco smelter stack on the opposite shore of Commencement Bay.

(28) Area 12 shall include those waters of Puget Sound southerly of the site of the Hood Canal Floating Bridge and northerly and easterly of a line projected from the Tskutsko Point light to Misery Point.

(29) Area 12A shall include those waters of Puget Sound northerly of a line projected from Pulali Point true east to the mainland.

(30) Area 12B shall include those waters of Puget Sound southerly of a line projected from Pulali Point true east to the mainland, northerly of a line projected from Ayock Point true east to the mainland, and westerly of a line projected from the Tskutsko Point light to Misery Point.

(31) Area 12C shall include those waters of Puget Sound southerly of a line projected from Ayock Point true east to the mainland and northerly and westerly of a line projected from Ayres Point to the public boat ramp at Union.

(32) Area 12D shall include those waters of Puget Sound easterly of a line projected from Ayres Point to the public boat ramp at Union.

(33) Area 13 shall include those waters of Puget Sound southerly of the Tacoma Narrows Bridge and a line projected from Green Point to Penrose Point and northerly and easterly of a line projected from the Devil's Head light to Treble Point, thence through lighted buoy No. 3 to the mainland and westerly of the railroad trestle at the mouth of Chambers Bay.

(34) Area 13A shall include those waters of Puget Sound northerly of a line projected from Green Point to Penrose Point.

(35) Area 13C shall include those waters of Puget Sound easterly of the railroad trestle at the mouth of Chambers Bay.

(36) Area 13D shall include those waters of Puget Sound westerly of a line projected from the Devil's Head light to Treble Point, thence through lighted buoy Number 3 to the mainland, northerly of a line projected from Johnson Point to Dickenson Point, northerly of a line projected from the light at Dofflemeyer Point to Cooper Point, easterly of a line projected from Cooper Point to the southeastern shore of Sanderson Harbor, easterly of a line projected from the northern tip of Steamboat Island to the light at Arcadia to Hungerford Point and southerly of a line projected true east-west through the southern tip of Stretch Island.

(37) Area 13E shall include those waters of Puget Sound southerly of a line projected from Johnson Point to Dickenson Point.

(38) Area 13F shall include those waters of Puget Sound southerly of a line projected from the light at Dofflemeyer Point to Cooper Point.

(39) Area 13G shall include those waters of Puget Sound southerly of a line projected from Cooper Point to the southeastern shore of Sanderson Harbor.

(40) Area 13H shall include those waters of Puget Sound southwesterly of a line projected from the northern tip of Steamboat Island to the light at Arcadia and those waters easterly of a line projected 64° true from Kamilche Point to the opposite shore.

(41) Area 13I shall include those waters of Puget Sound southwest-erly of a line projected 64° true from Kamilche Point to the opposite shore.

(42) Area 13J shall include those waters of Puget Sound northwest-erly of a line projected from the light at Arcadia to Hungerford Point.

(43) Area 13K shall include those waters of Puget Sound northerly of a line projected true east-west through the southern tip of Stretch Island.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-301 PUGET SOUND—LAWFUL GEAR—PURSE SEINE. (1) Lawful purse seine salmon nets in Puget Sound shall not exceed 1,800 feet in length along the cork line while wet and purse seine and lead combined shall not exceed 2,200 feet. Neither shall contain meshes of a size less than 4 inches, nor shall the meshes of the seine and lead be lashed together to form one continuous piece of webbed gear. It shall be lawful as part of the purse seine to have a bunt 10 fathoms long and 200 meshes deep which may contain mesh of a size not less than 3-1/2 inches.

(2) It shall be unlawful to take or fish for salmon with purse seine gear in Puget Sound which contains mesh webbing constructed of a twine size smaller than 210/30d nylon, 12 thread cotton or the equivalent diameter in any other material.

(3) It shall be unlawful for any purse seine vessel to carry an extra lead or portion thereof unless stowed below decks during the fishing operation, nor may an extra lead or portion thereof be carried aboard its skiff.

(4) Purse seine mesh size shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh. Minimum mesh size is met if a wedge of legal size can be passed without undue force through the mesh while wet.

(5) A purse seine will not be considered to be fishing once both ends of the seine are attached to the primary vessel.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-311 PURSE SEINE—SEASONS. It is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective Management and Catch Reporting Area:

Areas 4B, 5, 6, 6A, 6B, 6C, 7 and 7A - closed.

Area 6D - September ((2+)) 20 through October ((25)) 31.

Area 7B - September ((7)) 6 through November ((29)) 28.

Areas 7C((;)) and 7D((;and 7E)) - closed.

Area 7E - August 16 through September 5.

Area 8 - ((October 26 through November 22)) closed.

Area 8A - ((September 7)) August 23 through November ((+5)) 28.

Areas 8D, 9, and 9A - closed.

Areas 10 and 11 - September ((7)) 13 through November ((+5)) 28.

Areas 10A, 10C, ((and)) 10D, 10E, 10F, 10G, and 11A - closed.

~~((Area 10E - October 19 through November 15;~~

~~Areas 10F, 10G and 11A - closed;))~~

Area 12 - September ((7)) 6 through November ((+5)) 20.

Area 12A - September ((7)) 6 through October ((+1)) 10.

Area 12B - July ((27)) 26 through November ((+5)) 20.

Area 12C - July ((27)) 26 through ((August 30)) November 27.

Areas 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K and all freshwater areas - closed.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-312 PURSE SEINE—WEEKLY PERIODS. It is unlawful during any open season to take, fish for or possess salmon taken with purse seine gear except during the weekly open periods hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas:

Area 6D - Weeks beginning September ((2+)) 20 and ((28)) 27, October ((5)) 4, and October ((+2)) 11: Sunday through Saturday. Week beginning October ((+9)) 18: Sunday through Friday.

Area 7B - Week beginning September ((7)) 6: Monday through Saturday. Weeks beginning September ((+4)) 13, ((2+)) 20 and ((28)) 27, and October ((5)) 4 and ((+2)) 11: Sunday through Saturday. Week beginning October ((+9)) 18: Sunday through Friday. Weeks beginning October ((26)) 25 and November ((2)) 1: Monday((;)) and Tuesday((;and Wednesday)).

~~((Area 8 - Weeks beginning October 26 and November 2: Monday;))~~

Area 8A - Weeks beginning September ((7)) 13 and ((2+)) October 25: Monday. Weeks beginning September ((+4)) 20 and ((October 19)) November 1: Tuesday. ~~((Week beginning October 26: Monday;))~~

Areas 10 and 11 - Week beginning September ((7)) 13: Monday. Weeks beginning September ((+4)) 20 and October ((+9)) 18: Tuesday.

~~((Area 10E - Week beginning October 19: Tuesday;))~~

Area 12 - Weeks beginning September ((7)) 6 and ((2+)) 20: ~~((Monday and))~~ Tuesday and Wednesday. Week beginning September ((+4)) 13: Monday and Tuesday ~~((and Wednesday))~~. Week beginning October ((+9)) 18: Tuesday. Week beginning October ((26)) 25: Monday.

Area 12A - Weeks beginning September ((7)) 6 and ((2+)) 20: ~~((Monday and))~~ Tuesday and Wednesday. Week beginning September ((+4)) 13: Monday and Tuesday ~~((and Wednesday))~~.

Area 12B - ~~((Weeks beginning July 27 and August 10: Monday, Tuesday, Wednesday, and Thursday. Week beginning August 3: Tuesday, Wednesday, Thursday, and Friday;))~~ Weeks beginning September ((7)) 6 and ((2+)) 20: ~~((Monday and))~~ Tuesday and Wednesday. Week beginning September ((+4)) 13: Monday and Tuesday ~~((and~~

Wednesday)). Week beginning October ((+9)) 18: Tuesday. Week beginning October ((26)) 25: Monday.

~~((Area 12C - Weeks beginning July 27 and August 10: Monday, Tuesday, Wednesday, and Thursday. Week beginning August 3: Tuesday, Wednesday, Thursday, and Friday;))~~

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-313 PURSE SEINE—DAILY HOURS. It is unlawful during any open day to take, fish for or possess salmon taken with purse seine gear in the following Puget Sound Salmon Management and Catch Reporting Areas except during the daily open hours hereinafter designated:

Area 6D from September ((2+)) 20 to October ((23)) 22 and Area 7B from September ((8)) 7 to October ((23)) 22 - 24 hours per day.

Areas 6D and 7B on October ((24)) 23 - 12:01 a.m. to 4:00 p.m. Pacific daylight time.

~~((Areas 12B and 12C on August 8 - 5:00 a.m. to 4:00 p.m. Pacific daylight time;))~~

All other open areas - July ((27)) 26 through October ((25)) 24: 5:00 a.m. to 9:00 p.m. Pacific daylight time. October ((26)) 25 through November ((29)) 28: 5:00 a.m. to 8:00 p.m. Pacific standard time.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-401 REEF NET—SEASONS. It is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the seasons provided for hereinafter in each respective area:

Areas 7 and 7A - September ((28)) 27 through November ((29)) 28.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-402 REEF NET—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with reef net gear except during the weekly open periods hereinafter designated:

~~((Areas 7 and 7A - Weeks beginning September 28, October 5 and 12 - Sunday, Monday, Tuesday, Wednesday, and Thursday))~~ No restrictions.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-403 REEF NET—DAILY HOURS. It is unlawful during any open day to take, fish for or possess salmon taken with reef net gear except during the daily open hours hereinafter designated:

~~((Areas 7 and 7A - September 28 through October 25: 5:00 a.m. to 9:00 p.m. Pacific daylight time; October 26 through November 29: 5:00 a.m. to 8:00 p.m. Pacific standard time))~~ No restrictions.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-411 GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

Areas 4B, 5, 6, 6A, 6B, 6C, 7 and 7A - closed.

Area 6D - September ((2+)) 20 through October ((25)) 31.

Area 7B - July ((27)) 26 through November ((29)) 28.

Area 7C - July ((27)) 26 through August ((+6)) 22.

Area 7D and ((7E)) 8 - closed.

Area ~~((8 - July 27 through November 22))~~ 7E - August 16 through September 5.

Area 8A - ((September 7)) August 23 through November ((+5)) 28.

Areas 8D, 9, and 9A - closed.

Area 10 - September ((7)) 13 through November ((+5)) 28.

Areas 10A, 10C, 10D, 10E, 10F, and 10G - closed.

~~((Area 10E - October 19 through November 15;~~

~~Areas 10F and 10G - closed;))~~

Area 11 - September ((7)) 13 through November ((+5)) 28.

Area 11A - closed.

Area 12 - September ((7)) 6 through November ((+5)) 20.

Area 12A - September ((7)) 6 through October ((+1)) 10.

Area 12B - July ((27)) 26 through November ((+5)) 20.

Area 12C - July ((27)) 26 through ~~((August 30))~~ November 27.

Areas 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K and all freshwater areas - closed.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-412 GILL NET—WEEKLY PERIODS. It is unlawful during any open season to take, fish for or possess salmon taken with gill net gear except during the weekly open periods hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas:

Area 6D - Weeks beginning September ((2+)) 20, ((28)) 27, and October ((5)) 4 and ((+2)) 11: Sunday through Saturday. Week beginning October ((+9)) 18: Sunday through Friday.

Area 7B - Week beginning July ((27)) 26: Monday and Tuesday nights. Weeks beginning August ((3)) 2 and ~~((+10 and October 26)) 9~~: Monday, Tuesday, and Wednesday nights. Weeks beginning September ((7)) 6, ((+4)) 13, ((2+)) 20, and ((28)) 27, and October ((5)) 4 and ((+2)) 11: Sunday through Saturday. Week beginning October ((+9)) 18: Sunday through Friday. Week beginning October 25: Monday and Tuesday nights. Week beginning November ((2)) 1: Sunday((;)) and Monday ~~((and Tuesday))~~ nights.

Area 7C - Week beginning July ((27)) 26: Monday and Tuesday nights. Weeks beginning August ((3)) 2 and ((+10)) 9: Monday, Tuesday and Wednesday nights.

~~((Area 8 - Week beginning July 27: Monday and Tuesday nights: Week beginning August 3: Monday, Tuesday, and Wednesday nights: Week beginning October 26: Monday night: Week beginning November 2: Sunday night:))~~

Area 8A - Weeks beginning September ((7, +4,)) 13 and ((2+ and)) 20, October ((+9)) 5 and ((26)) November 1: Monday night.

Areas 10 and 11 - Weeks beginning September ((7)) 13 and ((+4)) 20 and October ((+9)) 18: Monday night.

~~((Area 10E - Week beginning October 19: Monday night:))~~

Area 12 - Weeks beginning September ((7)) 6, ((+4)) 13, and ((2+)) 20: Monday and Tuesday nights. Weeks beginning October ((+9)) 18 and ((26)) 25: Monday night.

Area 12A - Weeks beginning September ((7)) 6, ((+4)) 13, and ((2+)) 20: Monday and Tuesday nights.

Area 12B - ~~((Weeks beginning July 27 and August 3 and 10: Monday, Tuesday, Wednesday, and Thursday nights:))~~ Weeks beginning September ((7)) 6, ((+4)) 13, and ((2+)) 20: Monday and Tuesday nights. Weeks beginning October ((+9)) 18 and ((26)) 25: Monday night.

Area 12C - ~~((Weeks beginning July 27 and August 3 and 10: Monday, Tuesday, Wednesday, and Thursday nights))~~ No restrictions.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-413 GILL NET—DAILY HOURS. It is unlawful during any open day to take, fish for or possess salmon taken with gill net gear in the following Puget Sound Salmon Management and Catch Reporting Areas except during the daily open hours hereinafter designated:

July ((27)) 26 through August ((9)) 8 - 7:00 p.m. to 9:30 a.m. Pacific daylight time in all open areas.

August ((+10)) 9 through September ((+3)) 12 - 6:00 p.m. to 9:00 a.m. Pacific daylight time in all open areas unless otherwise provided.

September ((7)) 6 through October ((23)) 22 - open 24 hours per day in Area 7B.

September ((2+)) 20 through October ((23)) 22 - open 24 hours per day in Area 6D.

October ((24)) 23 - 12:01 a.m. to 4:00 p.m. Pacific daylight time in Areas 6D and 7B.

September ((+4)) 13 through October ((25)) 24 - 5:00 p.m. to 9:00 a.m. Pacific daylight time in all open areas unless otherwise provided.

October ((26)) 25 through November ((+5)) 14 - 4:00 p.m. to 8:00 a.m. Pacific standard time in all open areas.

November ((+6)) 15 through November ((29)) 28 - 3:00 p.m. to 9:00 a.m. Pacific standard time in all open areas.

AMENDATORY SECTION (Amending Order 86-46, filed 6/12/86)

WAC 220-47-414 GILL NET—MESH SIZES. It is unlawful to take or possess salmon taken with gill net gear containing mesh smaller than the minimum size stretch measure or larger than the maximum size stretch measure as hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas during the periods specified:

Area 6D - September ((2+)) 20 through October ((25)) 31: 5 inch minimum mesh.

Area 7B - July ((27)) 26 through September ((6)) 5: 7 inch minimum mesh; September ((7)) 6 through October ((25)) 24: 5 inch minimum mesh; October ((26)) 25 through November ((30)) 29: 6 inch minimum mesh.

Area 7C - July ((27)) 26 through August ((+6)) 22: 7 inch minimum mesh.

~~((Area 8 - July 27 through August 16: 7 inch minimum mesh; October 26 through November 22: 6 inch minimum mesh:))~~ Area 7E - August 16 through September 5: 7 inch minimum mesh.

Area 8A - August 23 through September 12: 5 inch minimum mesh; September ((7)) 13 through October ((+8)) 17: 5 inch minimum mesh; October ((+9)) 18 through November ((+5)) 14: 6 inch minimum mesh.

Areas 10 and 11 - September ((7)) 13 through October ((+4)) 10: 5 inch minimum mesh; October ((+2)) 18 through November ((+5)) 14: 6 inch minimum mesh.

~~((Area 10E - October 19 through November 15: 6 inch minimum mesh:))~~

Area 12 - September ((7)) 6 through October ((+8)) 17: 5 inch minimum mesh; October ((+9)) 18 through November ((+5)) 14: 6 inch minimum mesh.

Area 12A - September ((7)) 6 through October ((+4)) 10: 5 inch minimum mesh.

Area 12B - July ((27)) 26 through ~~((September 6))~~ August 15: 7 inch minimum mesh; September ((7)) 6 through October ((+8)) 17: 5 inch minimum mesh; October ((+9)) 18 through November ((+5)) 28: 6 inch minimum mesh.

Area 12C - July ((27)) 26 through August ((30)) 15: 7 inch minimum mesh. October 11 through October 24: 5 inch minimum mesh; November 8 through November 28: 6 inch minimum mesh.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-47-50101 PUGET SOUND TROLL LINE SEASONS—SALMON.

WAC 220-47-50201 PUGET SOUND TROLL LINE WEEKLY PERIODS.

WAC 220-47-503 PUGET SOUND TROLL LINE CLOSED AREAS.

WSR 87-09-083

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 87-33—Filed April 22, 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 regulations.

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 this regulation is adopted at the recommendation of the Pacific Fisheries Management Council and is necessary to conserve bottomfish stocks.

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

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

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

APPROVED AND ADOPTED April 22, 1987.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-44-05000F COASTAL BOTTOMFISH CATCH LIMITS Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken for commercial purposes from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) **Widow Rockfish (*Sebastes entomelas*)** – One vessel trip per week in excess of 3,000 not to exceed 30,000 pounds. no limit on the number of landings of less than 3,000 pounds.

(2) **Shortbelly rockfish (*Sebastes jordani*) and Idiot Rockfish (*Sebastes* spp.)** – no maximum poundage per vessel trip, no minimum size.

(3) **Pacific ocean perch (*Sebastes alutus*)** – No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific Ocean perch represent 20 per cent or less of total weight of fish on board. Under no circumstances may a vessel land more than 5,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) **All other species of rockfish (*Sebastes* spp.)** – 25,000 pounds of all other species combined per vessel trip per calendar week, defined as Sunday through the following Saturday, of which no more than 10,000 pounds may be yellowtail rockfish (*Sebastes flavidus*) except that a fisherman having made a 1987 declaration of intent, may make either one landing of no more than 50,000 pounds of all other species combined per vessel trip biweekly, defined as Sunday through the second Saturday following of which no more than 25,000 pounds may be yellowtail rockfish or two landings of not more than 12,500 pounds of all other species in any one calendar week of which no more than 5,000 pounds in any one landing may be yellowtail rockfish. All previous declaration forms have expired and it is unlawful for any vessel to make other than one vessel trip per week unless a new declaration form has been completed as provided for in this subsection. The 1987 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building Olympia, Wa., 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fishermen, the name and registration number of the vessel, the date on which such fishing for other species of rockfish will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by

filing a declaration of intent to stop fishing other than once weekly on other species of rockfish with the department in the above manner. The declaration to stop such fishing for other species of rockfish and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made. The date of first landing will determine the beginning of biweekly periodicity. Biweekly periodicity will restart after any landing that occurs more than four calendar weeks after the immediate prior landing. Effective May 3, 1987, a calendar week is defined as Wednesday through the following Tuesday. The ten day period May 3 to May 12, 1987 will be considered one week for purposes of this section.

(5) **Sablefish** – Minimum size 22 inches in length, unless dressed in which case minimum size 15 1/2 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail except that an incidental catch less than the minimum size of 5,000 pounds for trawl gear or 100 pounds for fixed gear is allowed. Effective April 23, 1987, the incidental catch allowance for fixed gear is increased to 1,500 pounds.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000E COASTAL BOTTOMFISH CATCH LIMITS (87-28)

WSR 87-09-084

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 87-34—Filed April 22, 1987]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to subsistence 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 foodfish are available for a subsistence fishery.

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

This rule is promulgated pursuant to RCW 75.08.070 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 April 22, 1987.

By Joseph R. Blum
Director

NEW SECTION

WAC 220-32-05900L COLUMBIA RIVER TRIBUTARY SUBSISTENCE FISHING. *Notwithstanding the provisions of WAC 220-32-059, effective immediately until further notice it is lawful for treaty Indian fishermen possessing treaty rights under the Yakima Treaty to fish for foodfish for subsistence purposes in the following waters of the Wind River: Open noon Monday to 6:00 p.m. Thursday of each week through May 28, 1987; open only where the Wind River borders the tribal in-lieu site to a line 400 feet below Shippard Falls. Lawful gear restricted to dip net, set bag net, and rod and reel using bait or lures. Snagging is unlawful.*

**WSR 87-09-085
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed April 22, 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 certification of caneberry and strawberry plants, chapters 16-333, 16-328 and 16-329 WAC;

that the agency will at 1:15 p.m., Tuesday, May 26, 1987, in the Department of Agriculture, 1313 West Meeker, St. 111, Kent, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 8, 1987.

The authority under which these rules are proposed is chapter 15.14 RCW.

Dated: April 22, 1987
By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

Title: Chapters 16-333, 16-328 and 16-329 WAC.

Description of Purpose: To set requirements and standards for the caneberry and strawberry certification programs.

Statutory Authority: Chapter 15.14 RCW.

Summary of Rules: These rules establish requirements, standards and fees for services performed by the department to certify caneberry and strawberry plants.

Reasons for Supporting Proposed Actions: To amend certification requirements and include fees for inspection services. Included are housekeeping changes in the strawberry certification rules which have not been amended since 1971.

Agency Personnel Responsible for Drafting: Max G. Long, Supervisor, Seed Branch, 2015 South 1st Street, Yakima, WA 98903, phone (509) 575-2750.

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.

AMENDATORY SECTION (Amending Order 1876, filed 11/5/85)

WAC 16-333-020 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a certified state of Washington plant tag or stamp under this chapter affirms solely that the tagged or stamped caneberry stock has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(3) Participation in the caneberry rootstock certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 1876, filed 11/5/85)

WAC 16-333-040 CANEBERRY CERTIFICATION FEES. (1) Caneberry certification application fee. ((The certification application fee shall be one hundred dollars for one acre or less; ten dollars for each additional acre or fraction thereof.

(2) Final certification fee. The final certification fee shall be an additional ten dollars for each acre or fraction thereof, due and payable when accepted by the department at the time of completion of last field inspection. Fees shall not be refunded unless notice of withdrawal is received in writing before the first inspection is made. Each separate screenhouse or greenhouse lot and each field plot of one acre or less shall be considered one acre. A separate application shall be made for each cultivar and/or unit entered for certification. Each lot of each cultivar shall be listed separately on the application. Lots under observation by the department shall pay the usual certification fees.)) The applicant shall furnish all information requested on the application for inspection and shall allow the department to take plants or plant parts from any planting for inspection and testing purposes. A separate application shall be made for each cultivar and/or unit entered for certification. Each lot of each cultivar shall be listed separately on the application. Lots under observation by the department shall pay the inspection fees. Applications for inspection shall be filed with the seed branch, 2015 South First Street, Yakima, Washington 98903 by May 15 each year accompanied by a one hundred dollar application fee.

(2) Inspection fees. The inspection fee shall be eighteen dollars per hour and mileage shall be charged at a rate established by the state office of financial management. Inspection fees shall be payable upon completion of work done and shall be for the sole purpose of defraying expenses incurred in the inspection and certification of caneberry nursery stock. Billing to the applicant shall be made by the seed branch.

(3) Applications for certification shall reach the department's seed branch, 2015 South First Street, Yakima, WA 98903, by May 15 each year.

(4) A grower desiring to produce certified caneberry plants as herein provided shall establish with the department facts evidencing sufficient experience to produce healthy, high quality stock.

(5) Failure to pay fees when due shall result in removing the applicant from the certification program.

(6) No application from any grower owing the department for previous fees shall be considered.

AMENDATORY SECTION (Amending Order 1876, filed 11/5/85)

WAC 16-333-050 REQUIREMENTS FOR PRODUCTION OF CANEBERRY FOUNDATION AND REGISTERED STOCK.

(1) Land requirements:

(a) A field to be eligible for the production of foundation or registered planting stock shall not have grown or have been planted to caneberry plants or solanaceous crops during the previous five years, unless planted with plants of same cultivar and classification(:). This requirement may be modified upon approval of the certification agency when a cultural practice has proven to be successful. Cultural practices may include crop rotation, mechanical and/or chemical means for land preparation. Proposed materials and methods shall be a matter of record and shall be approved by the certification agency prior to preparation and treatment. An inspection and approval of the land by the certification agency after treatment is required prior to planting in order to ensure adequate varietal purity of the caneberry planting;

(b) Acceptable records shall be presented to the department of nematode sampling of the land in question which show that plant parasitic nematodes are not present in harmful quantities; and

(c) Fumigate the land in accordance with approved commercial practices compatible with current recommendations of the Washington State University extension service; and

(d) An insect-proof screenhouse or greenhouse may be used for production of foundation or registered planting stock: PROVIDED, That all other land requirements are met.

(2) Isolation requirements:

(a) Plantings entered for certification shall be grown in areas sufficiently isolated from sources of caneberry viruses by distance or natural barriers to minimize current infection.

(b) Cultivars within the plantings entered for certification shall be separated by not less than fourteen feet. The space between cultivars shall be kept deeply cultivated to prevent intermingling roots.

(3) Plant requirements:

(a) Only nuclear planting stock which has been indexed and regularly reindexed for virus diseases by qualified Washington State University or United States Department of Agriculture personnel or personnel acceptable to the director may be entered for the production of foundation stock.

(b) Only foundation or nuclear planting stock may be entered for the production of registered stock.

(i) One percent, not to exceed twelve plants, of each foundation lot shall be maintained by the grower to allow some fruiting in order to permit evaluation for trueness to name and fruit character; or

(ii) Ten percent, not to exceed three plants, of each nuclear lot shall be maintained by Washington State University, or the United States Department of Agriculture, or department personnel to allow some fruiting to permit evaluation for trueness to name and fruit character; and

(iii) Plant harvest from a foundation or registered lot shall be limited to two growing seasons.

(c) Foundation stock shall not be maintained longer than three years.

(4) Miscellaneous requirements:

(a) At the time of the first field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(b) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector within one week from the date of the first field inspection.

(c) At the time of the second field inspection, department inspectors shall clearly mark all plants that are off-type, crown and cane-gall infected, virus-infected or exhibiting virus-like symptoms.

(d) Growers shall dig or otherwise destroy all off-type plants and their roots which are marked by a department inspector, as well as all plants and their roots in a rectangular area that is not less than ten feet in each direction in the row from the off-type plant and not less than forty inches in each direction across the row from the off-type plant within two weeks from the date of the second field inspection.

(e) Growers shall dig or otherwise destroy all plants and their roots which are marked by a department inspector as being crown and cane-gall infected, virus-infected or showing virus-like symptoms.

(f) Insect pests, diseases and vectors of diseases shall be effectively controlled by dusting, spraying, or any other approved method.

(g) All plant beds shall be relatively free from weeds.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-008 DEFINITIONS. (1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture or his duly appointed representative. (Inspector)

(3) "Virus infected (affected)" means presence of a virus(es) or mycoplasma like organism(s) in a plant or plant part.

(4) "Virus-like" means a disorder of genetic or nontransmissible origin.

(5) "Off-type" means not true-to-name.

(6) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.

(7) "Index or indexing" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant; or by any other method.

(8) "Similar varietal characteristics" means that the plants have the same general character of growth.

(9) "Fairly fresh" means that the roots and petioles are not excessively wilted or otherwise damaged.

(10) "Firm" means that the crowns are not soft or spongy, although they may yield to slight pressure.

(11) "Moist" means that the plants are reasonably turgid and not dried to a degree than would affect normal growth.

(12) "Fairly clean" means that the roots are not matted or caked with dirt.

(13) "Fairly well trimmed runners and petioles" means that the runners and petioles shall be fairly well trimmed when the length of each does not exceed three inches.

(14) Free from damage by:

(a) "Sunburn" means that the roots shall not be damaged by sunburn or scald, but slight discoloration may be permitted.

(b) "Mold" means that the plants must be free from excessive mold or decay. Plants slightly affected by mold may be allowed.

(c) "Freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant. Black roots caused by disease shall not be permitted.

(d) "Broken or split crowns, mechanical injury" means the breaking or severance of the crown from the root section or splitting of the crown or other mechanical injury that would affect the normal growth of the plant.

(15) "Free from detectable dangerous pests or diseases" means that administratively determined tolerance levels shall be established and administered for destructive pests such as cyclamen mite, crown borer, aphids, the red stele fungus, and nematodes. The evaluations for the pests shall be conducted by methods approved by the director.

NEW SECTION

WAC 16-328-009 STRAWBERRY PLANT CERTIFICATION STANDARDS. The following specific rules constitute the requirements and standards for strawberry plant certification.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-010 STRAWBERRY PLANT CERTIFICATION FEES. ((+) Application fee. Forty dollars for one acre or less; five dollars for each additional acre or fraction thereof.

(2) Final fee. The final fee shall be an additional five dollars for each acre or fraction thereof, due and payable when accepted by the department at the time of completion of last field inspection. Fees will not be refunded unless notice of withdrawal is received in writing before the first inspection is made. Each separate screenhouse or greenhouse lot and each field plot of one acre or less will be considered one acre. A separate application must be made for each lot of each variety and/or unit entered for certification. Lots under observation by the department of agriculture shall pay the usual certification fees.

(3) Applications must reach the department of agriculture, Olympia, by June 30.)) Strawberry plant certification fees are as follows:

(1) Certification application fee. The applicant shall furnish all information requested on the application for inspection and shall allow

the department to take plants or plant parts from any planting for inspection or testing purposes. A separate application shall be made for each cultivar and/or unit entered for certification. Each lot of each cultivar shall be listed separately on the application. Lots under observation by the department shall pay the inspection fees. Applications for inspection shall be filed with the Seed Branch, 2015 South First Street, Yakima, Washington 98903 by June 30 each year accompanied by a one hundred dollar application fee.

(2) Inspection fees. The inspection fee shall be eighteen dollars per hour and mileage shall be charged at a rate established by the state office of financial management. Inspection fees shall be payable upon completion of work done and shall be for the sole purpose of defraying expenses incurred in the inspection and certification of strawberry nursery stock. Billing to the applicant shall be made by the seed branch.

~~((+))~~ (3) A grower desiring to produce certified strawberry plants as herein provided shall establish with the department facts evidencing sufficient experience to produce healthy, high quality stock.

~~((+))~~ (4) Failure to pay fees when due shall result in removing the applicant from this program.

~~((+))~~ (5) No application for any grower owing the Washington state department of agriculture for previous fees ~~((with))~~ shall be considered.

NEW SECTION

WAC 16-328-015 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a state of Washington certified plant tag or stamp under this chapter affirms solely that the tagged or stamped strawberry rootstock has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(3) Participation in the strawberry plant certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-025 STRAWBERRY PLANT CERTIFICATION—ISOLATION REQUIREMENTS. (1) Foundation stock. ~~((These must))~~ Foundation stock shall be produced in specially constructed houses to insure protection from virus vectors.

(2) Registered stock. ~~((These must))~~ Registered stock shall be produced in specially constructed houses or grown in areas sufficiently isolated from sources of strawberry viruses by distance or natural barriers, to minimize current infection.

(3) Certified stock. Certified stock is the same as registered stock.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-030 STRAWBERRY PLANT CERTIFICATION—REQUIREMENTS FOR PRODUCTION OF FOUNDATION AND REGISTERED STOCK. (1) Land requirements. Plants shall be grown on land acceptable to the department. A field to be eligible for the production of registered stock ~~((must))~~ shall not have grown or been planted to strawberries during the previous year, unless planted with plants of the same variety and classification. The field shall have been found free of red stele when examined by the department the previous year or have been fumigated to control red stele according to methods approved by the department.

(2) Plant requirements.

(a) Only nuclear or foundation planting stock which has been indexed and regularly reindexed at least once every other year by qualified Washington State University or USDA personnel or personnel acceptable to the director of agriculture may be entered for the production of foundation stock. A grower may maintain and increase foundation stock indefinitely in a screenhouse that is approved by the department: PROVIDED, That no mother plant may remain at the foundation stock plant level more than two propagation seasons after it

has been indexed free from viruses by methods approved by the department.

(b) Only strawberry plants which have been certified as foundation planting stock may be entered for the production of registered stock.

(3) Miscellaneous requirements.

(a) Each varietal selection ~~((must))~~ shall be separated by a strip of land at least twelve feet wide.

(b) In roguing, growers ~~((must))~~ shall dig and destroy all low yielding, unhealthy appearing, off-type, diseased or otherwise abnormal plants.

(c) Insect pests and diseases are to be effectively controlled by dusting, spraying, fumigation, or any other approved method by the department.

(d) All plant beds ~~((must))~~ shall be kept relatively free from weeds.

(4) Field inspection. Field inspections ~~((with))~~ shall be made by the department during the growing season and again in the fall at a time when red stele is readily seen or as many times as deemed necessary.

(5) Evidence of use of a chemical in this certification program that reduces or eliminates red stele symptoms without eradication of the causal fungus, Phytophthora fragariae Hickman, shall constitute grounds for elimination of plants thus treated from the Washington certified strawberry plant program.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-035 STRAWBERRY PLANT CERTIFICATION—REQUIREMENTS FOR THE PRODUCTION OF CERTIFIED STOCK. (1) Land requirements. Plants shall be grown on land acceptable to the department (see requirements for isolation and fumigation).

(2) Plant requirements.

(a) Only first year plantings from foundation planting stock or registered planting stock may be entered for the production of certified stock.

(b) ((Exceptions may be made for desirable planting stock produced the previous year and having met the requirements enacted by the department for the production of certified planting stock)) Under exceptional cases of need, certified stock may be recycled and used to produce more certified stock for one additional year, as specifically approved by the director.

(3) Miscellaneous requirements.

(a) Each varietal selection ~~((must))~~ shall be separated by a strip of land at least twelve feet wide.

(b) In roguing, growers ~~((must))~~ shall dig and immediately destroy all low yielding, unhealthy appearing, off-type, diseased or otherwise abnormal plants. The spots where those plants were growing shall be flagged to facilitate future close inspections.

(c) ((Insect)) Pests and diseases are to be effectively controlled by dusting, spraying, fumigation, or any other approved method by the department. Aphids and cyclamen mites shall be controlled. Populations of those pests are to be determined by sampling methods approved by the director.

(d) Growers shall provide evidence that the plants do not exceed the tolerances shown in the table in WAC 16-328-060. This shall be determined by sampling methods approved by the director.

(e) All plant beds ~~((must))~~ shall be kept relatively free from weeds.

(4) Field inspection. Field inspections ~~((with))~~ shall be made by the department during the growing season and again in the fall at a time when red stele is readily seen or as many times as deemed necessary.

(5) Evidence of use of a chemical in this certification program that reduces or eliminates red stele symptoms without eradication of the causal fungus, Phytophthora fragariae Hickman, shall constitute grounds for elimination of plants thus treated from the Washington certified strawberry plant program.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-060 STRAWBERRY PLANT CERTIFICATION—FIELD STANDARDS. (1) The entire field or unit shall meet certification requirements except when soilborne pests are found in excess of tolerance in a portion of the field or unit, and the infestation can be safely delimited in the opinion of the department; or when plants in the infested portion are treated to eradicate or to control the pest to comply with the tolerance under the supervision of the department.

(2) Specific requirements:

((TOLERANCE

Factors	Foundation Registered (all inspections)		Certified (Field) 1st and 2nd	3rd
	Percent	Percent	Percent	Percent
Virus Diseases*	0	0	1	0.5
Red Stele*	0	0	0	0
Nematode*	0	0	0	0
Variety Mixture	0	0	0.1	0
All other	0	0.5	2	1
— Diseases (including Lethal decline)				
— *Visible))				

TOLERANCES (%)

Factors	Foundation field (all inspections)	Registered field	Certified Field 1st & 2nd inspections	3rd inspection
	Virus Diseases	0 ^a	0	1 ^b
Red Stele ^c	0	0	0	0
Nematode ^c	0	0	0	0
Variety Mixture	0	0	0.1	0
All other Diseases (including lethal decline)	0	0.5	2	1

^a All foundation stock mother plants must be indexed for virus content no more than two years previously in order to qualify at this level.

^b Visible.

^c It is strongly recommended that preplant application of an approved nematocide be made to fields to be used in this program. The department reserves the right to require soil tests for plant parasitic nematodes to be made by methods and at times approved by the department and the data furnished to the department for any field in this certification program.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-065 **STRAWBERRY PLANT CERTIFICATION—DESIGNATION OF PLANTS.** (1) Foundation planting stock ((with)) shall be identified by the state of Washington official certified strawberry plant tag or stamp, and in addition ((with)) shall be marked "foundation planting stock."

(2) Registered planting stock ((with)) shall be identified by the state of Washington official certified strawberry plant tag or stamp, and in addition ((with)) shall be marked "registered planting stock."

(3) No. 1 certified planting stock ((with)) shall be identified by the state of Washington official certified strawberry plant tag or stamp.

(4) No. 2 certified planting stock ((with)) shall be identified by the state of Washington official certified strawberry plant tag or stamp.

AMENDATORY SECTION (Amending Order 1216, filed 10/18/71, effective 11/18/71)

WAC 16-328-080 **STRAWBERRY PLANT CERTIFICATION—TAGGING OR STAMPING AND PLANT INSPECTION.** (1) "Certified" stock ((with)) shall be identified with the state of Washington official certified strawberry plant tag or stamp under the supervision of the department after plants have passed inspection.

(2) Crown division plants, if sold, shall be segregated and packed separately and identified with the state of Washington official certified strawberry plant tag or stamp, and also stamped "crown divisions."

(3) Only plants meeting Washington standards for strawberry plants shall be tagged or stamped, except those marked foundation, registered or crown division planting stock.

(4) All containers shall be marked with the name and address of the grower, grade or class of stock, and variety.

(5) The grower is referred to chapter 15.14 RCW, planting stock, for additional information.

NEW SECTION

WAC 16-328-083 **STRAWBERRY PLANT GRADES AND STANDARDS—WASHINGTON NO. 1.** Washington No. 1 shall consist of strawberry plants of one variety or plants of similar varietal characteristics which are:

- (1) Fairly fresh.
- (2) Firm.
- (3) Moist.
- (4) Fairly clean.
- (5) Fairly well trimmed runners and petioles.
- (6) Free from damage caused by:
 - (a) Sunburn.
 - (b) Mold.
 - (c) Freezing injury, black roots.
 - (d) Broken or split crown, mechanical injury.
- (7) Free from detectable dangerous pests or diseases, including plant parasitic nematodes.

Strawberry plants in this grade shall have not less than twelve main roots, the length of which shall be not less than three inches, with a minimum crown diameter of one-fourth inch measured at the base of the crown.

NEW SECTION

WAC 16-328-085 **STRAWBERRY PLANT GRADES AND STANDARDS—WASHINGTON NO. 2.** Washington No. 2 shall consist of strawberry plants of one variety or plants of similar varietal characteristics which meet all of the requirements of Washington No. 1 except strawberry plants in this grade shall have not less than six main roots, the length of which shall be not less than two and one-half inches.

NEW SECTION

WAC 16-328-088 **STRAWBERRY PLANT GRADES AND STANDARDS—TOLERANCES.** (1) Application of tolerances. The tolerances for the standards are on a container basis. However, individual packages in any lot may vary from the specified tolerances as stated below, provided the averages for the entire lot, based on sample inspection, are within the tolerance specified.

(2) Tolerances. In order to allow for variations incident to proper grading and packing, not more than a combined total of ten percent, by count, of the plants in any lot may fail to meet the requirements of the above grade.

(3) Packing. Strawberry plants are to be packed in such manner that they shall retain a fresh condition.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-328-001 PROMULGATION.
- WAC 16-328-003 PROMULGATION.
- WAC 16-328-090 EFFECTIVE DATE.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-329-001 PROMULGATION.
- WAC 16-329-010 WASHINGTON NO. 1.
- WAC 16-329-015 WASHINGTON NO. 2.
- WAC 16-329-020 TOLERANCES.
- WAC 16-329-025 DEFINITIONS.
- WAC 16-329-030 EFFECTIVE DATE.

WSR 87-09-086
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 22, 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 work incentive program, amending WAC 388-24-107;

that the agency will at 10:00 a.m., Friday, May 29, 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 June 1, 1987.

The authority under which these rules are proposed is RCW 74.04.400.

The specific statute these rules are intended to implement is RCW 74.04.400.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 29, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 21, 1987

By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-24-107.

Purpose of this Rule Change: To exercise state option to define criteria by which a child caretaker on aid to families with dependent children (AFDC) is exempt from the work incentive (WIN) program/Washington employment opportunities program; and to add new federal criteria regarding the nonexemption of full-time students.

Rule Revision is Needed Because: (a) The federal quality control (QC) manual calls for applying a very restrictive standard effective October 1, 1986 (i.e., a caretaker is not exempt if away from the child a total of 15 hours a week) if state procedures contain no criteria for allowable absences; (b) the federal rule denying the exemption if the caretaker is a full-time college student is expanded effective October 1, 1986, to include vocational and other postsecondary schools; (c) both (a) and (b) can result in federal QC findings that current AFDC recipients are ineligible because they have not been required to register for WIN/opportunities (registration cannot be retroactive); and (d) federal funds could be lost due to the increased QC error rate.

Statutory Authority: RCW 74.04.050.

Summary of the Rule Change: CFR language is added specifying full-time care with only very brief and infrequent absences, previously left out of the WAC; acceptable absence is defined in average number of hours per week or month; and denial of the exemption to full-

time college students is extended to vocational and other postsecondary school students.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Wayne Balcom, Program Manager, Division of Income Assistance, mailstop OB-31J, phone 3-4371.

This rule is necessary as a result of federal law and regulations, section 402 (a)(19)(A)(v) of the Social Security Act, 45 CFR 224.20 (b)(8), SSA-AT-82-11 and SSA-AT-85-8.

AMENDATORY SECTION (Amending Order 2313, filed 12/5/85)

WAC 388-24-107 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC-R AND AFDC-E-REGISTRATION (~~FOR WIN/~~) AND PARTICIPATION IN EMPLOYMENT (~~AND TRAINING~~) PROGRAMS. (1) Except as exempted in (2), all AFDC applicants/recipients shall, as a condition of eligibility (for AFDC, every individual shall):

(a) Register for the Washington employment opportunities program (OPPORTUNITIES); and

(b) Participate as required in the ((WIN or employment and training (E&T) program):

(i) Work incentive program (WIN); and/or ((the)

(ii) Employment search program ((unless such individual is:)) (ESP); and/or

(iii) Community work experience program (CWEP).

(2) The following AFDC applicants/recipients are exempt from requirements in subsection (1) of this section:

(a) A dependent child under age sixteen or age sixteen but not yet nineteen and is attending full time, or has been accepted for enrollment as a full-time student for the next school term, in an elementary or secondary school, or the equivalent level of vocational or technical training, and reasonably expected to complete such course prior to the end of the month he or she reaches nineteen;

(b) A person who is ill, incapacitated, or sixty-five years of age or older;

(i) Temporary illness or incapacity provides WIN/E&T exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons determined to be exempt from registration on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside a WIN/E&T area or at a location so remote from a WIN/E&T project that his or her effective participation is precluded;

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household;

(e) A parent or other needy caretaker relative of a child under the age of six who is:

(i) Personally providing full-time care for the child ((is exempt, unless the caretaker is));

(ii) Absent from the child only very briefly and infrequently, i.e., averaging less than thirty hours per week; and

(iii) Not a full-time day ((college) student ((as defined by the)) in a college, vocational school, or other post-secondary school;

(f) A person employed at least thirty hours per week;

(g) A woman in the third trimester of pregnancy;

(h) The parent of a child when the other parent or stepparent is in the home and is not exempted by subsection (1)(a), (b), (c), (d), (e), (f), or (g) of this section; or

(i) A full-time VISTA (volunteers in service to America) participant who was determined eligible for AFDC prior to becoming a VISTA volunteer.

(2) Any applicant or recipient has a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his or her status is finally determined. (See WAC 388-57-090.)

(3) The requirements of any individual, other than the parent qualifying the assistance unit for AFDC-E, failing to register as required under subsection (1) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance, and assistance will be granted to the eligible members of the assistance unit.

(4) An exempt parent caretaker of a child shall be advised of his or her option to register if he or she so desires, and of the fact child care

will be provided if needed. Other exempted individuals may volunteer to register, subject to acceptance of such registration by DES.

(5) When an AFDC recipient classified as exempt from WIN/E&T registration reports any change affecting the exempt status, he or she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review unless the department becomes aware an AFDC recipient's exempt status has changed. Then the recipient shall be notified he or she shall be registered within thirty days.

(6) The department's financial service unit shall determine which AFDC applicants or recipients are exempt from registration and which are required to register as a condition of eligibility.

WSR 87-09-087
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 22, 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 definition of emergency medical condition, amending WAC 388-100-005;

that the agency will at 10:00 a.m., Friday, May 29, 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 June 1, 1987.

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

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 29, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 21, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-100-005.

Purpose: To create a consistent definition of "emergency" medical condition for all programs.

Reason: To use the same definition for the state funded medically indigent program as used in Title XIX programs.

Statutory Authority: RCW 74.08.090.

Summary: New definition of an emergency medical condition. The result is a consistent policy used in both state and federal medical assistance programs.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules are not necessary as a result of a federal law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2364, filed 4/4/86)

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

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

(a) Has an (~~acute and emergent~~) emergency medical condition. (~~((i) An acute and emergent medical condition is defined as having a short and relatively severe course, not chronic, occurring unexpectedly and demanding immediate action, (ii) pregnancy is considered an acute and emergent medical condition for the medically indigent program; treatment under the Involuntary Treatment Act (ITA) is considered an acute and emergent need;))~~)

(i) The term emergency medical condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(A) Placing the patient's health in serious jeopardy;

(B) Serious impairment to bodily functions; or

(C) Serious dysfunction of any bodily organ or part.

(ii) For the purposes of this section pregnancy and treatment under the Involuntary Treatment Act (ITA) are considered as emergent medical conditions;

(b) Meets the financial eligibility requirements as defined in chapter 388-100 WAC; and

(c) Is not an inmate of a city or county jail, federal or state prison or of a juvenile detention facility.

WSR 87-09-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 22, 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 SSI recipients, amending WAC 388-54-775;

that the agency will at 10:00 a.m., Friday, May 29, 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 June 1, 1987.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 29, 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 May 15, 1987. The meeting site is in a location which is barrier free.

Dated: April 21, 1987
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Amending WAC 388-54-775.

Purpose of the Rule or Rule Change: To include households consisting solely of SSI recipients without earned income in the prospective budgeting process throughout the certification period.

Reason(s) These Rules are Necessary: To comply with federal regulations and to reduce agency computation errors.

Statutory Authority: RCW 74.04.510.

Summary of the Rule or Rule Change: Income and circumstances of households consisting solely of SSI recipients without earned income shall be budgeted prospectively throughout the certification period.

Person or Persons Responsible for Drafting, Implementation and Enforcement of the Rule: Mick Determan, Community Services Program Manager 2, Division of Income Assistance, phone 234-4005 scan.

These rules are necessary as a result of a federal law, 7 CFR 273.21 (b)(2) and the Food Security Act of 1985.

AMENDATORY SECTION (Amending Order 2286, filed 9/24/85)

WAC 388-54-775 CERTIFICATION PERIODS—EFFECTING CHANGES UNDER PROSPECTIVE BUDGETING. Changes occurring in the initial beginning month or changes for households consisting solely of migrants or solely of SSI recipients without earned income shall be effective as follows:

(1) An increase in benefits shall be effective not later than the first allotment issued ten days after the change was reported to the department, provided that the household has furnished the required verification. If verification is not provided within ten days from the date the change was reported, the increase in benefits shall be effective not later than the first allotment issued ten days after the verification is provided.

(2) An increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of fifty dollars or more in the household's gross monthly income shall be effective the month following the month in which the change is reported and required verification is provided.

(3) Decreases in the benefit level shall be made effective with the first allotment after the ten-day notice of adverse action has expired,

provided a fair hearing and continuation of benefits have not been requested.

WSR 87-09-089
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 22, 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 organ transplants, amending WAC 388-86-005 and [new] WAC 388-87-115;

that the agency will at 10:00 a.m., Tuesday, May 26, 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 May 27, 1987.

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

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 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 May 12, 1987. The meeting site is in a location which is barrier free.

Dated: April 21, 1987
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
Re: Amending WAC 388-86-005; and new WAC 388-87-115.

Purpose: To adopt regulations governing organ transplants.

Reason: To implement a new Division of Medical Assistance policy.

Statutory Authority: RCW 74.08.090.

Summary: WAC 388-86-005(3) provides for organ transplants limited to the heart, liver, kidney, liver and bone marrow. The rest of the section has been rewritten for clarity without any other policy changes; and WAC 388-87-115 provides for payment for organ transplants to medical facilities that have a special agreement with the department.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

Rules are proposed by DSHS.

These rules are not necessary as a result of a federal law.

No economic impact statement is required under the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 2060, filed 1/4/84)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF CATEGORICAL NEEDY MEDICAL ASSISTANCE. (1) ~~((For recipients of medical assistance (MA) categorically needy only;))~~ The department shall ~~((authorize))~~ provide the following Title XIX mandatory services:

- ~~((including dental, vision, and hearing services;))~~ (a) Early and periodic screening diagnosis and treatment services under twenty-one years of age~~((:));~~
- (b) Family planning services~~((:));~~
- ~~((:));~~ (c) Home health agency services~~((:));~~
- (d) Inpatient and outpatient hospital care~~((:));~~
- ~~((:));~~ (e) Other laboratory and x-ray services~~((:));~~
- ~~((:));~~ (f) Skilled nursing home care~~((:));~~
- ~~((and));~~ (g) Certified registered nurse practitioner services~~((and));~~
- ~~((The department may authorize medically justified ambulance service and other approved transportation));~~ and (h) Physicians' services in the office or away from the office as needed for necessary and essential medical care~~((The department may authorize medically justified ambulance service and other approved transportation));~~ and

(i) Patient transportation services.

(2) ~~The department shall provide the following ((additional)) Title XIX optional services ((shall also be authorized when medically necessary)):~~

- (a) Anesthetization services;
 - (b) Blood;
 - (c) Chiropractic services~~((dental services to EPSDT recipients));~~
 - (d) Drugs and pharmaceutical supplies;
 - (e) Eyeglasses and examination;
 - (f) Hearing aids and examinations;
 - (g) Nurse midwife services;
 - (h) Oxygen;
 - (i) Physical therapy services;
 - (j) Private duty nursing services;
 - (k) Rural health clinic services;
 - (l) Surgical appliances~~((:));~~
 - (m) Prosthetic devices~~((:))~~ and certain other aids to mobility.
- (3) Organ transplants shall be limited to the heart, kidney, liver, and bone marrow.

(4) Treatment, ~~((transplants;))~~ dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys ~~((are))~~ shall be provided in the home, hospital and kidney center. See WAC 388-86-050(5).

~~((4))~~ (5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis ~~((is))~~ shall not be provided as a part of the medical ~~((care))~~ assistance program. The department ~~((with))~~ shall provide treatment for concurrent diseases and complications.

~~((5))~~ (6) Detoxification of an acute alcoholic condition ~~((with))~~ shall be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

~~((6))~~ (7) Adult dental services ~~((are))~~ shall not be provided as a part of the medical assistance program.

(8) The department shall approve requested services:

(a) That are listed in this section; and

~~((7))~~ (b) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, ~~((the department shall approve the request))~~ if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

~~((8))~~ (9) A request for medical services ~~((may))~~ shall be denied by the department if the requested service:

(a) Is not medically necessary as defined ~~((by))~~ in WAC 388-80-005~~((:));~~ or

(b) Is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of

particular circumstances which render the requested service medically necessary; or

~~((c))~~ Is not listed in or is prohibited by this section.

~~((9))~~ (10) The department shall:

(a) Approve or deny all requests for medical services within fifteen days of the receipt of the request~~((, except that));~~ or

(b) If additional justifying information is necessary before a decision can be made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information:

(i) Is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. ~~((However, if such information))~~

(ii) Is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

~~((10))~~ (11) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. ~~((In order to fully inform the recipient;))~~ The notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) ~~((If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment:))~~

~~((c))~~ The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing.

~~((d))~~ (c) The recipient may be represented at the hearing by legal counsel or other representative.

~~((e))~~ (d) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.

~~((e))~~ If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department.

~~((11))~~ (12) For services available under:

(a) The limited casualty program—medically needy ~~((is defined in))~~ (see chapter 388-99 WAC~~((:));~~) and

(b) The limited casualty program—medically indigent ~~((is defined in))~~ (see chapter 388-100 WAC.)

~~((12))~~ (13) The department ~~((has the authority to))~~ may require a second opinion and/or consultation prior to the approval of any elective surgical procedure.

~~((13))~~ (14) The department ~~((may))~~ shall designate those surgical procedures which:

(a) Can be performed in other than a hospital in-patient setting~~((Where the patient has a medical condition which necessitates a hospital admission;))~~; and

(b) Require prior approval by the ~~((local))~~ area medical ~~((constant must be obtained))~~ unit for a hospital admission.

NEW SECTION

WAC 388-87-115 PAYMENT—ORGAN TRANSPLANTATION. The department shall pay for organ transplantation procedures:

(1) Only to medical centers that:

(a) Meet the standards established by the department; and

(b) Enter into a special agreement with the department.

(2) Limited to the heart, kidney, liver, and bone marrow.

WSR 87-09-090

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed April 22, 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 standard utility allowance update, amending WAC 388-54-740;

that the agency will at 10:00 a.m., Tuesday, May 26, 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 May 27, 1987.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 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 May 12, 1987. The meeting site is in a location which is barrier free.

Dated: April 21, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

Re: WAC 388-54-740.

Purpose of the Rule Change: To update the standard utility allowance (SUA) to conform to new methodology for the food stamp SUA as required by 7 CFR 273.9(d)(6).

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: This change clarifies the amount of SUA food stamp households are entitled to receive.

Person Responsible for Drafting, Implementation and Enforcement of this Rule Change: Dave Monfort, Division of Income Assistance, OB-31J, scan 234-0426.

This rule change is necessary as a result of federal law, 7 CFR 273.9 and 273.10.

AMENDATORY SECTION (Amending Order 2467, filed 1/21/87)

WAC 388-54-740 INCOME—DEDUCTIONS. In computing net income, only the following deductions shall be allowed:

- (1) A standard deduction of ninety-nine dollars per household per month.
- (2) An earned income deduction of twenty percent of gross earned income. Earnings excluded in WAC 388-54-735 shall not be included in gross earned income for purposes of computing earned income deductions.
- (3) A dependent care deduction for households (~~not containing an elderly or disabled member~~) shall be the amount actually paid not to exceed one hundred sixty dollars. Payments for the care of a child or other dependent will be allowed when necessary for a household member to accept or continue employment, seek employment, or attend training or education preparatory to employment.
- (4) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, and dependent care deductions. The shelter deduction shall not exceed one hundred forty-nine dollars.

(a) "Shelter costs" mean rent or mortgage payment plus taxes on a dwelling and property, insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated, assessments, and utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, sewage disposal, and a standard basic telephone allowance, and initial installation fees for utility services. One-time deposits shall not be included as shelter costs.

Shelter costs shall also include continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(b) Shelter costs for a home not occupied because of employment, training away from home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if:

- (i) The household intends to return to the house;
- (ii) The current occupants, if any, are not claiming shelter costs for food stamp purposes; or
- (iii) The home is not being leased or rented during the household's absence.

(c) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood.

(d) Standardized utility amounts include utilities such as heating and cooling costs, cooking fuel, electricity not used to heat or cool the residence, water, garbage, sewage disposal, and telephone. Cooling costs are defined as central air conditioners or operation of a room air conditioner.

Persons in Household	Annualized Utility Standards
1	\$ ((131)) 113
2	((140)) 121
3	((150)) 127
4	((158)) 136
5	((169)) 143
6	((178)) 148
7	((184)) 154
8	((191)) 160
9	((199)) 168
10 or more	((209)) 176

(e) Households billed by their landlords for actual usage as determined through individual metering may qualify for the standard utility allowance.

(f) Households not incurring any separate utility charges for heating or cooling costs shall not be entitled to claim the standard utility allowance.

(g) If a household is not entitled to the standard utility allowance, the household may claim actual utility expenses for any utility which the household does pay separately.

(i) The telephone standard for families incurring telephone costs, but not entitled to claim the standard utility allowance, is ten dollars.

(ii) The telephone allowance applies to households not entitled to claim the standard utility allowance, but which have telephone expenses.

(h) If a household requests and can verify the household's utility bills, the actual utility costs shall be used rather than the standard utility allowance.

(i) A household shall be allowed to switch between actual utility costs and the utility standard at each recertification action and one additional time during each twelve-month period following the initial certification action.

(j) Where the household shares a residence and utility costs with other individuals, the standard allowance shall be divided equally among the individuals contributing to meeting the utility costs. The household shall only be permitted to use the household's prorated share of the standard allowance.

(k) Households living in a public housing unit or other rental housing unit having central utility meters and charging the household only for excess utility costs shall not be permitted to use the standard utility allowance including a heating or cooling cost component. Payment of excess heating or cooling costs shall not qualify the household for the standard utility allowance including a heating or cooling component.

(l) If in any month of the certification period actual out-of-pocket heating or cooling expenses exceed the prorated energy assistance vendor payment, the household is entitled to receive the standard utility allowance.

(m) If the prorated energy assistance vendor payment exceeds the heating or cooling expense for every month of the certification period,

the household can count the entire expense billed by the provider toward actual utility costs regardless of the energy assistance vendor payment.

(n) Energy assistance vendor payments are prorated on a monthly basis over the entire heating or cooling season for which it is provided.

(5) Households containing an elderly or disabled member, as defined in WAC 388-54-665 (2)(b), shall be authorized((:

(a) ~~A dependent care deduction up to one hundred sixty dollars as specified in WAC 388-54-740(3), and~~

(b)) ~~an excess shelter deduction as specified in WAC 388-54-740(4) for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions have been made.~~

(6) An individual who is elderly or disabled, as defined in WAC 388-54-665 (2)(b), shall be authorized a deduction for unreimbursable monthly medical expenses over thirty-five dollars.

(a) Allowable medical expenses are:

(i) The cost of maintaining an attendant, homemaker, home health aide, housekeeper, and/or child care service. These expenses, which could be claimed either as a medical or child care expense, must be considered as medical expenses;

(ii) The cost of medical insurance;

(iii) Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(iv) Any cost-sharing or spend-down expenses incurred by Medicaid (medical only) recipients;

(v) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or licensed nursing home;

(vi) Prescription drugs and other over-the-counter medication (including insulin) when prescribed or approved by a licensed practitioner or other qualified health professional;

(vii) The cost of medical supplies, sick-room equipment (including rental), or other prescribed equipment;

(viii) Dentures, hearing aids, prosthetics, and eyeglasses prescribed by an optometrist or physician skilled in eye disease;

(ix) Securing and maintaining a seeing eye dog including the cost of dog food and veterinarian bills;

(x) Reasonable cost of transportation and lodging to obtain medical treatment or services.

(b) Nonallowable expenses are:

(i) The cost of health and hospital insurance which pays in lump-sum settlements or which continue mortgage or loan payments while the beneficiary is disabled; and

(ii) The cost of special diets.

WSR 87-09-091

NOTICE OF PUBLIC MEETINGS

HEALTH CARE FACILITIES AUTHORITY

[Memorandum—April 22, 1987]

NOTICE OF PUBLIC HEARING FOR ISSUANCE OF WASHINGTON HEALTH CARE FACILITIES AUTHORITY REVENUE BONDS

The Washington Health Care Facilities Authority (the "authority") will hold a public hearing on Thursday, May 7, 1987, at 10:00 a.m. in the Insurance Building, 4th Floor Conference Room, Olympia, Washington, for the purpose of considering and possibly approving a resolution of the authority authorizing the issuance of approximately \$63,000,000 WASHINGTON HEALTH CARE FACILITIES AUTHORITY REVENUE BONDS, REFUNDING SERIES 1987 (the "bonds"), the proceeds of which will be loaned to Multicare Medical Center (the "hospital"), 409 South "J" Street, Tacoma, Washington, for the purpose of advance refunding and defeasing all outstanding debt of the authority issued for the benefit of the hospital, funding initial deposit to the reserve account for the bonds, and paying certain costs of issuance of the bonds.

WSR 87-09-092

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 22, 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 assignment of classroom teachers within districts, WAC 180-16-221;

that the agency will at 9:00 a.m., Thursday, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 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, May 28, 1987.

Dated: April 21, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-16 WAC.

Rule Section(s): WAC 180-16-221.

Statutory Authority: RCW 28A.70.005 and chapter 28A.70 RCW.

Purpose of the Rule(s): To establish state policies regarding certification of professional educators.

Summary of the New Rule(s) and/or Amendments: To establish class of certificate holders and conditions affecting such class.

Reasons Which Support the Proposed Action(s): To make transition between old and new certification requirements in an equitable manner.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Donald Hair, SPI, 3-2751; and Enforcement: Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

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 5-86, filed 6/10/86)

WAC 180-16-221 ASSIGNMENT OF CLASSROOM TEACHERS WITHIN DISTRICTS. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education, effective August 31, 1987, shall comply with the following:

(1) Classroom teachers specified below may be assigned to any grade or subject areas for which certification is required.

(a) Classroom teachers with continuing certificates issued pursuant to WAC 180-79-060 if such teachers were eligible for such certificates prior to August 31, 1987, and such certificates were applied for prior to July 1, 1988 or if such teachers would have been eligible for such

certificate prior to August 31, 1987, but for one of the three-year experience requirement and such experience is completed and the certificate is applied for prior to August 31, 1988;

(b) Classroom teachers with standard certificates issued or reinstated pursuant to WAC 180-80-215;

(c) Classroom teachers with provisional certificates issued, reissued, or reinstated pursuant to WAC 180-80-210 and who have completed a ninety school day assignment as a classroom teacher;

(d) Classroom teachers whose standard certificate has been converted pursuant to WAC 180-79-045 to a continuing certificate;

(e) Classroom teachers with initial certificates issued, reissued, or reinstated pursuant to WAC 180-80-705 and who have completed a ninety school day assignment as a classroom teacher;

(f) Classroom teachers with continuing certificates issued or reinstated pursuant to WAC 180-80-705.

(2) Classroom teachers specified below may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(a) Classroom teachers with continuing certificates issued pursuant to WAC 180-79-060 after August 31, 1987, unless such teachers were eligible for such certificates prior to August 31, 1987, and applied for such certificates prior to July 1, 1988 or unless such teachers would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and such experience is completed and the certificates are applied for prior to August 31, 1988;

(b) Classroom teachers with initial certificates issued pursuant to WAC 180-79-060 and immigrant alien and temporary permits;

(c) Classroom teachers with provisional certificates issued pursuant to WAC 180-80-210 and who have not completed a ninety school day assignment as a classroom teacher;

(d) Classroom teachers with initial certificates issued pursuant to WAC 180-80-705 and who have not completed a ninety school day assignment as a classroom teacher.

(3) For the purpose of this section, the term "specified grades" shall mean any grade preschool through twelve specified by the classroom teacher's endorsement. In the event the teacher is assigned to an ungraded classroom, the chronological age of such students shall be converted for the purpose of compliance with this section to the grade level such students would have been assigned but for the ungraded classroom assignment.

(4) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teachers endorsement and courses or classes which the board of directors of the district determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(5) Exceptions to the assignment requirements of subsection (2) of this section must comply with WAC 180-16-222.

(6) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

WSR 87-09-093

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 22, 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, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 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, May 28, 1987.

Dated: April 17, 1987

By: Monica Schmidt
Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-79 WAC.

Rule Section(s): WAC 180-79-065 and 180-79-075.

Statutory Authority: RCW 28A.70.005 and chapter 28A.70 RCW.

Purpose of the Rule(s): To establish state policies regarding certification of professional educators.

Summary of the New Rule(s) and/or Amendments: To establish class of certificate holders and conditions affecting such class.

Reasons Which Support the Proposed Action(s): To make transition between old and new certification requirements in an equitable manner.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Donald Hair, SPI, 3-2751; and Enforcement: Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 4-87, filed 4/3/87)

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 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 on application and verification that the individual 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 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 or who would have been eligible for such certificates prior to August 31, 1987 but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988 will 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 applicable to certification at the time of reissuance including 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. If an applicant for an initial certificate and has not previously held a Washington or other state professional certificate and has not completed fifteen quarter (ten semester) hours of course work within the seven years immediately preceding application for such initial certificate, he/she will be required to complete fifteen quarter (ten semester) hours of course work prior to receipt of an initial certificate.

AMENDATORY SECTION (Amending Order 4-87, filed 4/3/87)

WAC 180-79-075 CERTIFICATE ENDORSEMENT. Professional education certificates shall be endorsed as follows:

(1) Teacher certificates shall specify 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 have completed all requirements except one of the three-year experience requirement for continuing teaching certificates pursuant to WAC 180-79-060 and who complete such requirement and apply for such certificates prior to August 31, 1988 and applicants who complete the requirements for standard certificates or continuing certificates pursuant to WAC 180-80-705 shall receive no endorsements.

(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' 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.

WSR 87-09-094
PROPOSED RULES
STATE BOARD OF EDUCATION
 [Filed April 22, 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 effective date and applicable certificates, WAC 180-85-020;

that the agency will at 9:00 a.m., Thursday, May 28, 1987, in the Kelso High School Auditorium, 1904 Allen Street, Kelso, WA 98626, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 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, May 28, 1987.

Dated: April 21, 1987
 By: Monica Schmidt
 Secretary

STATEMENT OF PURPOSE

Rule: Chapter 180-85 WAC.

Rule Section(s): WAC 180-85-020.

Statutory Authority: RCW 28A.70.005 and chapter 28A.70 RCW.

Purpose of the Rule(s): To establish state policies regarding certification of professional educators.

Summary of the New Rule(s) and/or Amendments: To establish class of certificate holders and conditions affecting such class.

Reasons Which Support the Proposed Action(s): To make transition between old and new certification requirements in an equitable manner.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Donald Hair, SPI, 3-2751; and Enforcement: Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

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 180-85-020 EFFECTIVE DATE AND APPLICABLE CERTIFICATES. The provisions of this chapter shall apply to the following certificates issued on or after August 31, 1987:

(1) Continuing certificates as provided in chapter 180-79 WAC.

(2) Standard certificates as provided in chapters 180-80 and 180-84 WAC.

(3) PROVIDED, That applicants who have completed all requirements for a continuing or standard certificates prior to August 31, 1987, and who apply for such certificate prior to July 1, 1988, and applicants who have completed all requirements for a continuing or standard certificate except one of the three-years experience requirement prior to August 31, 1987, and who completes such requirement and applies prior to August 31, 1988, shall be exempt from the continuing education requirements of this chapter.

WSR 87-09-095
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
(Dental Disciplinary Board)
 [Filed April 22, 1987]

Notice is hereby given that WSR 87-07-045, amending WAC 308-37-190, specialty representation, is being withdrawn by the Washington State Dental Disciplinary Board.

Joyce R. Dolliver
 Assistant Attorney General

WSR 87-09-096
PROPOSED RULES
DEPARTMENT OF LICENSING
(Dental Disciplinary Board)
 [Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Disciplinary Board intends to adopt, amend, or repeal rules concerning specialty representation, amending WAC 308-37-190;

that the agency will at 1:00 p.m., Saturday, June 6, 1987, in the Olympia Room, Nendel Motor Inn, 15901 West Valley Road, Tukwila, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.32.640, 18.130.050(1) and 18.130.180 (3) and (13).

The specific statute these rules are intended to implement is RCW 18.32.640, 18.130.050 (1) and (12) and 18.130.180 (3) and (13).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 5, 1987.

Dated: April 22, 1987

By: Joyce R. Dolliver
Assistant Attorney General

STATEMENT OF PURPOSE

Name of Agency: Washington State Dental Disciplinary Board.

Purpose of Proposed Amendment: To change the reference from "pedodontist" to "pediatric dentistry," to clarify that American Dental Association guidelines or requirements will be observed for the purpose of using specialty representatives, and to state the scope of the rule.

Statutory Authority: RCW 18.32.640 and 18.130.050.

Summary of the Rule: WAC 308-37-190 Specialty representation.

Reason for Proposed Amendment: To update and clarify references and to state the intent of the rule.

Responsible Personnel: The Washington State Dental Disciplinary Board and the program manager for the board have the responsibility for drafting, implementing and enforcing these rules. The program manager is Judy Mayo, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2461 or scan 234-2461.

Proponents of the Proposed Amendment: Dental Disciplinary Board.

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

Small Business Economic Impact Statement: Not required and has not been filed since this rule does not impact small businesses as that term is defined in RCW 19.85.020.

AMENDATORY SECTION (Amending Order PL 520, filed 2/19/85)

WAC 308-37-190 SPECIALTY REPRESENTATION. (1) It shall be misleading, deceptive or improper conduct for a dentist to represent or imply that he or she is a specialist or use any of the terms to designate a dental specialty such as:

- (a) Endodontist
- (b) Oral or maxillofacial surgeon
- (c) Oral pathologist
- (d) Orthodontist
- (e) ~~((Pedodontist))~~ Pediatric dentistry
- (f) Periodontist
- (g) Prosthodontist
- (h) Public health

or any derivation of these specialties unless he or she is entitled to such specialty designation under the guidelines ~~((for specialties of))~~ or requirements approved by the ~~((Commission on Accreditation of Dental Education of the))~~ American Dental Association ~~((in effect))~~ as of January 1, ~~((1985))~~ 1987, or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board.

(2) A dentist not currently entitled to such specialty designation shall not represent that his or her practice is limited to providing services in a specialty area without clearly disclosing in the representation that he or she is a general dentist. A specialist who represents services in areas other than his or her specialty is considered a general dentist.

(3) The definition of a specialist as specified by this rule pertains to this and only this rule for the purpose of defining representations and must not be applied to any other provision in chapter 18.32 RCW or rule of the board. By this rule, the board does not in any way modify the definition of the practice of dentistry provided by chapter 18.32 RCW.

WSR 87-09-097

ADOPTED RULES

DEPARTMENT OF LICENSING

(Board of Dental Examiners)

[Order PM 649—Filed April 22, 1987]

Be it resolved by the Washington State Board of Dental Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd WAC 308-40-102 Examination content.

Amd WAC 308-40-105 Examination review procedures.

This action is taken pursuant to Notice No. WSR 87-06-051 filed with the code reviser on March 4, 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 Washington State Board of Dental Examiners as authorized in RCW 18.32.040.

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

APPROVED AND ADOPTED April 17, 1987.

By Charles V. Farrell, DMD
President

AMENDATORY SECTION (Amending Order PL 583, filed 3/27/86)

WAC 308-40-102 EXAMINATION CONTENT.

(1) The examination will consist of:

(a) Theory: National board only accepted, except as provided in (1)(c).

(b) Practical/practice:

(i) Restorative examination: The restorative examination shall consist of an amalgam restoration, a cast gold restoration and a gold foil restoration. Proper radiographs are required for each cavity selection.

Amalgam Class II

Cast gold restoration – Three or more surfaces.

Gold foil – Class II, III or V

(c) The board may, at its discretion, give an examination in any other (~~[[Candidate will receive information concerning such examination.]]~~) subject under ~~(((+))~~(a) or ~~(((+))~~(b) of this subsection, whether in written and/or practical form. The applicant will receive information concerning such examination.

(2) Each applicant must furnish his or her own patient for all phases, as may be required, of the practical/practice examination. Patients must be at least eighteen years of age, and shall not be a dentist, dental student, dental hygienist or dental hygiene student. The state board of dental examiners and the school of dentistry assume no responsibility regarding work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) An assistant will be permitted to assist the applicant at the chair. Dentists or undergraduate dental students, hygienists, undergraduate hygienists are not acceptable as assistants. Assistants must complete a form of eligibility.

AMENDATORY SECTION (Amending Order PL 391, filed 1/26/82)

WAC 308-40-105 EXAMINATION REVIEW PROCEDURES. (1) Each individual who takes the practical examination for licensure as a dentist and does not pass the examination will be provided, upon written request, information indicating the areas of the practical examination in which his or her performance was deficient.

(2) Any unsuccessful applicant, after being advised by the board of the areas of deficiency in the examination, may request review by the board of his or her examination results. This request must be in writing and must be received by the board within ~~((45))~~ thirty days of notification of the examination results. The request must state the reason or reasons why the applicant feels the results of the examination should be changed. The board will consider the following to be adequate reasons for consideration for review and possible modification of examination results:

- (a) A showing of a significant procedural error in the examination process;
- (b) Evidence of bias, prejudice or discrimination in the examination process;
- (c) Other significant errors which result in substantial disadvantage to the applicant.

(3) Any applicant who is not satisfied with the result of the examination review may appeal the board's decision and may request a formal hearing to be held before the board pursuant to the Administrative Procedure Act. Such hearing must be requested within ~~((20))~~ twenty days of receipt of the result of the board's review of the examination results.

WSR 87-09-098
PROPOSED RULES
INSURANCE COMMISSIONER
[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner intends to adopt, amend, or repeal rules concerning the procedure and forms to be used by insurers, agents and brokers with respect to the sale of life insurance and annuities where existing life insurance or annuities are, or are proposed to be, replaced, lapsed, surrendered or otherwise terminated or converted or altered in some way, by adding new sections to chapter 284-23 WAC; amending WAC 284-23-400 through 284-23-460 and 284-23-480; and repealing WAC 284-23-470 and 284-23-490 through 284-23-530;

that the agency will at 10:00 a.m., Wednesday, June 10, 1987, in the John A. Cherberg Building, Hearing Room #1, Capitol Campus, 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 June 17, 1987, in the Insurance Commissioner's Office, Olympia, Washington, at 2:00 p.m.

The authority under which these rules are proposed is RCW 48.02.060.

The specific statute these rules are intended to implement is RCW 48.30.040, 48.30.090, 48.30.100, 48.30.180 and 48.30.210.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 10, 1987. Mailing address: Insurance Building, AQ-21, Olympia, WA 98506.

Dated: April 22, 1987
By: Robert E. Johnson
Deputy Commissioner

STATEMENT OF PURPOSE

Title: Amending the life insurance replacement regulation, WAC 284-23-400 through 284-23-530, and repealing sections therein which will be superseded. The current replacement regulation has been in force since October 1, 1980. Our purpose is to amend and repeal sections and add new ones so that the public will have better protection in "replacement" situations.

For purposes of these rules, "replacement" means a transaction in which new life insurance or a new annuity is to be purchased and it is known or should be known to the proposing agent, broker or insurer that existing life insurance or an existing annuity will be terminated, converted, or amended in some way so its value is reduced. A replacement regulation establishes the minimum disclosure standards insurers, agents and brokers must meet in replacement situations so that a purchaser receives appropriate information to make a wise decision, and to reduce the opportunity for misrepresentation or incomplete disclosure.

The statutory authority for the action is RCW 48.02.060 (3)(a) to effectuate the provisions of RCW 48.30.040, 48.30.090, 48.30.100, 48.30.180 and 48.30.210.

WAC 284-23-400 through 284-23-450 are amended primarily to include brokers and annuities within their scope.

WAC 284-23-455 is a new section which is added to spell out the responsibilities of insurers who issue life insurance annuities in response to the solicitations of agents or brokers; and WAC 284-23-460 spells out the similar obligations of insurers who do business on a direct-response basis without the use of agents.

WAC 284-23-480 is amended to include brokers, recognizing that they may be penalized for a failure to comply with the replacement regulation.

In general, the proposed rules are based upon and essentially follow a model replacement regulation which was adopted by the National Association of Insurance Commissioners, in 1984. We have, however, made a major departure for the NAIC, which is evident in proposed WAC 284-23-485. That section sets forth the form of notice which is to be given to an applicant for insurance. Our form is considerably more detailed than the NAIC version and requires an agent or broker to furnish a substantial amount of information about the life insurance or annuity which is being sold and the various effects of the transaction upon an applicant. We have determined that a consumer needs, and is entitled to, such information in order to make a valid decision on the advisability of the transaction. In too many instances, the information the rule will require to be disclosed has not been given and insureds have found out too late that they have made a mistake in dropping old insurance to purchase new.

As in the past, agents and, hereafter, brokers, when it is determined that a replacement is involved, will obtain a list of policies or annuities which are to be replaced, leave with an applicant a copy of any written material used in the solicitation and a completed notice as specified in WAC 284-23-485, and furnish a copy to the replacing insurer.

In general, a replacing insurer must require compliance with the rules by producers submitting business to it, and within three working days of its receipt of the required information in its home office, notify an existing insurer of the proposed replacement, and furnish a policy or contract summary or a ledger statement giving specified information about the replacement.

Existing insurers or agents who seek to conserve the business have standards to meet, as set forth in WAC 284-23-455.

The heart of the proposed regulation will be the notice regarding replacement of insurance, as set forth in proposed WAC 284-23-485, and particularly the "replacement questions" which must be completed by the agent or broker making the proposed sale. Existing forms as set forth in WAC 284-23-500 and 284-23-530 will no longer be used and those sections of the existing regulation will be repealed.

Insurance companies will require some lead time to prepare forms and to educate their agents as to the new procedures. Accordingly, it is anticipated that the repeal and amendment of existing rules will not be made effective before September 1, 1987. The exact time will be determined by comments received by the commissioner

from affected persons in the rule adoption proceeding hearing.

David Rodgers, Chief Deputy Insurance Commissioner, (206) 753-7302, was primarily responsible for having the replacement regulation revised and the actual drafting was done by Robert E. Johnson, (206) 753-2406. The implementation and enforcement of the rules will be under the supervision of those deputies, both of whom have their offices in the Insurance Building, AQ-21, Olympia, Washington 98504.

The rules are proposed by Dick Marquardt, the insurance commissioner, a state public official.

The proposed rules are not necessary as the result of federal or state court action.

Small Business Economic Impact Statement: The proposed rules will have minimal impact on insurers, large or small. Life insurers now must meet essentially the same requirements with respect to replacement situations. The additional cost per employee or per hour of labor is estimated to be zero, whether the insurer has more or less than fifty employees. The proposed revisions will cause them to revise the disclosure form to be used and instruct their agents on the effects of the changes. There is no basis for treating a small insurer—one with fifty or fewer employees—differently from a large company. An insured of either is entitled to the same disclosure information and protection which will result from the adoption and implementation of the proposed rules.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-400 **PURPOSE.** The purpose of this regulation is:

(1) To regulate the activities of insurers and agents and brokers with respect to the replacement of existing life insurance and annuities;

(2) To protect the interests of life insurance ((policyowners)) and annuity purchasers by establishing minimum standards of conduct to be observed in ((the)) replacement ((or proposed replacement of existing life insurance)) transactions by:

(a) Assuring that the ((policyowner)) purchaser receives information with which a decision can be made in his or her own best interest;

(b) Reducing the opportunity for misrepresentation and incomplete disclosures; and

(c) Establishing penalties for failure to comply with the requirements of this regulation.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-410 **DEFINITION OF REPLACEMENT.** "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent or broker, or to the proposing insurer if there is no agent, that by reason of such transaction, existing life insurance or annuity has been or is to be:

(1) Lapsed, forfeited, surrendered, or otherwise terminated;

(2) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(4) Reissued with any reduction in cash value; or

(5) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent of the loan value set forth in the policy.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-420 OTHER DEFINITIONS. (1) ~~((Cash dividend means the current illustrated dividend which can be applied toward payment of the gross premium.~~

~~((2)) "Conservation" means any attempt by the existing insurer or its agent, or by a broker to ((continue)) dissuade a policyowner from the replacement of existing life insurance ((in force when the existing insurer has received a comparative information form as required by WAC 284-23-450 (3)(d) of this regulation from a replacing insurer. A)) or annuity. Conservation ((effort)) does not include such routine administrative procedures as late payment reminders, late payment offers or reinstatement offers.~~

~~((3)) (2) "Direct-response sales" means any sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy.~~

~~((4)) (3) "Existing insurer" means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement."~~

~~((5)) (4) "Existing life insurance or annuity" means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period((-but excluding life insurance obtained through the exercise of a dividend option.~~

~~((6) "Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider).~~

~~((7)) (5) "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.~~

~~((8) "Sales proposal" means individualized, written sales aids of all kinds, excluding comparative information forms and policy summaries, which are used by an insurer, agent or broker in comparing existing life insurance to proposed life insurance in order to recommend the replacement or conservation of existing life insurance. Sales aids of a generally descriptive nature, which are maintained in the insurer's advertising compliance file, shall not be considered a sales proposal within the meaning of this definition.)) (6) "Registered contract" means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.~~

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-430 EXEMPTIONS. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

(1) ~~((Annuities;~~

~~((2) Individual)) Credit life insurance;~~

~~((3)) (2) Group life insurance((;)) or group ((credit life insurance, and life insurance policies issued in connection with a pension, profit-sharing or other benefit plan qualifying for tax deductibility of premiums, provided, however, that as to any plan described in this subsection, full and complete disclosure of all material facts shall be given to the administrator of any plan to be replaced)) annuities, unless coverage under the annuity is solicited on an individual basis and the cost of such coverage is borne substantially by the individual;~~

~~((4) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account;~~

~~((5)) (3) An application to the existing insurer that issued the existing life insurance when a contractual change or conversion privilege is being exercised;~~

~~((6) Existing life insurance that is nonconvertible term life insurance policy which will expire in five years or less and cannot be renewed;~~

~~((7)) (4) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; ((or~~

~~((8) Situations exempted by the commissioner after written request and a showing that the application of this regulation would not be appropriate under the circumstances.))~~

~~((5) Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, agents or brokers proposing replacement shall comply with the requirements of WAC 284-23-440 (1) and (2)(a) and (c); and~~

~~((6) Registered contracts shall be exempt only from the requirements of WAC 284-23-455 (2)(b) and (c), requiring provision of policy summary or ledger statement information; however premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.~~

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-440 DUTIES OF AGENTS AND BROKERS. (1) Each agent or broker who initiates the application shall submit to the ~~((replacing))~~ insurer to which an application for life insurance or annuity is presented, with or as part of each application ~~((for life insurance)):~~

(a) A statement signed by the applicant as to whether ~~((or not such insurance will replace))~~ replacement of existing life insurance or annuity is involved in the transaction; and

(b) A signed statement as to whether ~~((or not))~~ the agent or broker knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved, the agent or broker shall:

(a) Present to the applicant, not later than at the time of taking the application, a ~~((a))~~ completed notice regarding replacement ~~((of life insurance))~~ in the form as described in WAC ~~((284-23-500 and 284-23-510 whichever is applicable))~~ 284-23-485, or other substantially similar form approved by the commissioner. The notice ~~((must be signed by))~~ (and a copy) shall be signed by the applicant after it has been completed and signed by the agent or broker and the signed original shall be left with the applicant.

(b) ~~((Present to the applicant, not later than at the time of taking the application, a comparative information form as described in WAC 284-23-530. (Substantially equivalent forms may be used with the prior approval of the commissioner.) If more than one existing life insurance policy is to be replaced, a separate comparative information form is to be provided for each such policy or separate information is to be provided in the comparative information form for each such policy; and a summary of all the separate policy information to the extent possible must be included. The agent must include in the comparative information form all of the information required to be in that form, except that information concerning the existing life insurance policy that cannot be obtained from that policy itself. The comparative information form must be signed by the agent and the applicant and a copy left with the applicant.))~~ Obtain with or as part of each application a list of all existing life insurance and/or annuity contracts to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(c) Leave with the applicant the original or a copy of ~~((all sales proposals))~~ written or printed communications used for presentation to the applicant.

(d) Submit to the replacing insurer with the application, a copy of the ~~((a))~~ "Notice regarding replacement of life insurance" signed by the applicant, a copy of the comparative information form signed by the agent and the applicant, and a copy of all sales proposals used for presentation to the applicant)) replacement notice provided pursuant to WAC 284-23-440 (2)(a).

(3) Each agent or broker who uses ~~((a sales proposal when conserving existing life insurance shall:~~

(a) Leave with the applicant the original or a copy of all sales proposals used in the conservation effort; and

(b) Submit to the existing insurer a copy of all sales proposals used in the conservation effort)) written or printed communications in a conservation shall leave with the applicant the original or a copy of such materials used.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-450 DUTIES OF ~~((REPLACING))~~ ALL INSURERS. Each ~~((replacing))~~ insurer shall:

(1) Inform its field representatives or other personnel responsible for compliance with this regulation of the requirements of this regulation.

(2) Require with or as part of each completed application for life insurance((:

~~((a))~~ or annuity a statement signed by the applicant as to whether ~~((or not))~~ such proposed insurance or annuity will replace existing life insurance~~((; and))~~ or annuity.

((b) A statement signed by the agent as to whether or not he or she knows replacement is or may be involved in the transaction:

(3) Where a replacement is involved:

(a) Require from the agent with the application for life insurance a copy of the "Notice regarding replacement of life insurance" signed by the applicant, a copy of the comparative information form signed by the agent and the applicant, and a copy of all sales proposals used for presentation to the applicant.

(b) Verify the substantial accuracy of information concerning the proposed policy furnished to the applicant in the comparative information form. If the information concerning that policy is not substantially accurate, the replacing insurer must obtain a comparative information form signed by the agent and the applicant which includes substantially accurate information before it can begin to process the application for the proposed policy.

(c) Unless otherwise modified by the provisions of WAC 284-23-450 (3)(c) or (f), furnish to the applicant a policy summary in accordance with the provisions of the life insurance solicitation regulation.

(d) Send to the existing insurer a verified comparative information form as required by WAC 284-23-450 (3)(a) and (b) within three working days of the date the application and a substantially accurate comparative information form are received at its home or regional office, or the date its policy is issued, whichever is sooner.

(e) Delay, if it is not also the existing insurer, the issue of its policy for twenty days after it sends the existing insurer a copy of the policy summary, unless it provides in its "Notice regarding replacement of life insurance" and in either its policy or in a separate written notice that is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty days commencing from the date of delivery of the policy, and it sends the policy summary required by this section to the existing insurer within three working days of the date its policy is issued, in which event the replacing insurer may issue its policy immediately.

(f) Provide, if it is also the existing insurer, the policyowner a policy summary for the new policy prepared in accordance with WAC 284-23-450 (3)(c), prior to accepting the applicant's initial premium or premium deposit, unless the replacing insurer provides in its "Notice regarding replacement of life insurance" and in either its policy or in a separate written notice that is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty days commencing from the date of delivery of the policy, in which event, the replacing insurer must furnish the policy summary at or prior to delivery of the policy.

(g) Maintain copies of the "Notice regarding replacement of life insurance," the verified comparative information form, the policy summary, and all sales proposals used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced, for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state or domicile, whichever is later:))

NEW SECTION

WAC 284-23-455 DUTIES OF INSURERS THAT USE AGENTS OR BROKERS. Each insurer that uses an agent or broker in a life insurance or annuity sale shall:

(1) Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent or broker as to whether he or she knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved:

(a) Require from the agent or broker with the application for life insurance or annuity (i) a list of all of the applicant's existing life insurance or annuities to be replaced and (ii) a copy of the replacement notice provided the applicant pursuant to WAC 284-23-440 (2)(a). Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(b) Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to (a) of this subsection and a policy summary, contract summary, or ledger statement containing policy data on the proposed life insurance or annuity as required by the life insurance solicitation regulation, WAC 284-23-200 through 284-23-270, and/or the annuity and deposit fund disclosure regulation, WAC

284-23-300 through 284-23-380. Cost indices and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within three working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(c) Each existing insurer or such insurer's agent or a broker that undertakes a conservation shall, within twenty days from the date the written communication plus the materials required in (a) and (b) of this subsection is received by the existing insurer, furnish the policyowner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy and/or annuity. Such policy summary or ledger statement shall be completed in accordance with the provisions of the life insurance solicitation regulation, WAC 284-23-200 through 284-23-270, except that information relating to premiums, cash values, death benefits and dividends, if any, shall be computed from the current policy year of the existing life insurance. The policy summary or ledger statement shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any regulation or statute. Cost indices and equivalent level annual dividend figures need not be included. When annuities are involved, the disclosure information shall be that required in a contract summary under the annuity and deposit fund disclosure regulation, WAC 284-23-300 through 284-23-380. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries or ledger statement, which shall be furnished within five working days of the receipt of the request.

(3) The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," the policy summary, the contract summary and any ledger statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is earlier.

(4) The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within twenty days commencing from the date of delivery of the policy.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-460 DUTIES OF INSURERS WITH RESPECT TO DIRECT-RESPONSE SALES. ((Each insurer shall:

(1) Inform its responsible personnel of the requirements of this regulation:

(2) Require with or as part of each completed application for life insurance a statement signed by the applicant as to whether or not insurance will replace existing life insurance:

(3) Where no replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved:

At the time the policy is mailed to the applicant, include a "Notice regarding replacement of life insurance" in a form substantially as described in WAC 284-23-520:

(4) Where a replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved:

(a) Request from the applicant with or as part of the application a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer:

(b) If the applicant furnishes the names of the existing insurers, then the replacing direct-response insurer shall mail the applicant a "Notice regarding replacement of life insurance" in a form substantially as described in WAC 284-23-520 within three working days after receipt of the application and shall comply with all of the provisions of WAC 284-23-450 (3)(c), (f) and (g), except that it need not meet the requirements of this regulation concerning comparative information forms and need not maintain a replacement register required by WAC 284-23-450 (3)(g):

(c) If the applicant does not furnish the names of the existing insurers, then the replacing direct-response insurer shall at the time the policy is mailed to the applicant, include a "Notice regarding replacement of life insurance" in a form substantially as described in WAC 284-23-520:)) (1) If in the solicitation of a direct response sale, the

insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant, with the policy, a replacement notice as described in WAC 284-23-485 or other substantially similar form approved by the commissioner. In such instances the insurer may omit the portion of the form which is included under the heading "Statement to Applicant by Agent or Broker," but including the portion beginning with "CAUTION" and continuing through the first three points down to and not including the fourth point which begins "study the comments" without having to obtain approval of the form from the commissioner. The applicant's signature is not required on the notice.

(2) If the insurer proposes the replacement in connection with direct response sales, it shall:

(a) Provide to applicants or prospective applicants, with or as a part of the application, a replacement notice as described in WAC 284-23-485 or other substantially similar form approved by the commissioner.

(b) Request from the applicant with or as part of the application, a list of all existing life insurance or annuities to be replaced and properly identified by name of insurer and insured.

(c) Comply with the requirements of WAC 284-23-455 (2)(b), if the applicant furnishes the names of the existing insurers, and the requirements of WAC 284-23-455(3), except that it need not maintain a replacement register.

AMENDATORY SECTION (Amending Order R 80-5, filed 5/2/80, effective 10/1/80)

WAC 284-23-480 PENALTIES. (1) Any broker, and any insurer, agent, representative, officer or employee of such insurer failing to comply with the requirements of this regulation shall be subject to such penalties as may be appropriate under the insurance laws of Washington.

(2) This regulation does not prohibit the use of additional material other than that which is required that is not in violation of this regulation or any other Washington statute or regulation.

(3) Policyowners have the right to replace existing life insurance after indicating in or as part of the applications for life insurance that such is not their intention; however, patterns of such action by policyowners who purchase the replacing policies from the same agent or broker shall be deemed prima facie evidence of the ((agent's)) licensee's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the ((agent's)) licensee's intent to violate this regulation.

NEW SECTION

WAC 284-23-485 FORM TO BE USED FOR NOTICE REGARDING REPLACEMENT.

(Insurance company's name and address)

IMPORTANT NOTICE REGARDING REPLACEMENT OF INSURANCE

The decision to buy a new life insurance policy or annuity and discontinue or change an existing one is very important. Your decision could be a good one—or a mistake. It should be carefully considered. The Washington state insurance commissioner requires us to give you this notice to help you make a wise decision.

STATEMENT TO APPLICANT BY AGENT OR BROKER: (Use additional sheets, as necessary.)

I believe the replacement of insurance involved in this transaction materially improves your position, except as noted in my answers to the following questions:

1. Can there be reduced benefits or increased premiums in later years? ...No ...Yes, explain:

2. Are there penalties, set up or surrender charges for the new policy? ...No ...Yes, explain, emphasizing any extra cost for early withdrawal:

3. Will there be penalties or surrender charges under the existing insurance as a result of the proposed transaction? ...No ...Yes, explain:

4. Are there adverse tax consequences? ...No ...Yes, explain:

5. If the new program is "interest sensitive," are portions of your payments or interest credits used for such elements as mortality expenses or set up charges or policy fees so that they will produce no earnings? ...No ...Yes, explain:

6. Are minimum amounts required to be on deposit before excess interest will be paid? ...No ...Yes, explain:

7. If the new program is based on a single-premium policy or annuity:

- a) Are the interest rates quoted before...or after...fees and mortality charges have been deducted?
b) Interest rates are guaranteed for how long?
c) The minimum interest rate to be paid is how much?
d) If applicable, the rate you pay to borrow is ...and the limit on the amount that can be borrowed is
e) The surrender charges are
f) The death benefit is

8. Are there other short or long term effects from the replacement that might be adverse? ...No ...Yes, explain:

Signature of Agent or Broker Date
Name of Agent or Broker (Print or Type) Address

CAUTION: The insurance commissioner suggests you consider these points:

> Usually, contestable and suicide periods start again under a new policy. Benefits might be excluded under a new policy that would be paid under existing insurance.

> Terminating or altering existing coverage, before new insurance has been issued, might leave you unable to purchase other life insurance or let you buy it only at substantially higher rates.

> You are entitled to advice from the existing agent or company. Such advice might be helpful.

> Study the comments made above by the agent or broker. They apply to you and this proposal. They are important to you and your future.

Completed Copy Received: (Applicant's Signature) (Date)

THIS COMPLETED FORM SHOULD BE FILED PERMANENTLY WITH YOUR NEW INSURANCE POLICY.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 284-23-470 DUTIES OF THE EXISTING INSURER.
WAC 284-23-490 EFFECTIVE DATE, SUPERSEDES PRIOR REGULATION.
WAC 284-23-500 FORM TO BE USED WHERE THE EXISTING AND PROPOSED POLICIES ARE WRITTEN BY DIFFERENT COMPANIES.

WAC 284-23-510 FORM TO BE USED WHERE THE EXISTING AND PROPOSED POLICIES ARE WRITTEN BY THE SAME COMPANY.

WAC 284-23-520 FORM TO BE USED REGARDING REPLACEMENT IN A DIRECT-RESPONSE SALE.

WAC 284-23-530 FORM FOR COMPARATIVE INFORMATION.

WSR 87-09-099
PROPOSED RULES
1989 CENTENNIAL COMMISSION

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the 1989 Washington Centennial Commission intends to adopt, amend, or repeal rules concerning membership of the centennial executive committee.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 4, 1987.

The authority under which these rules are proposed is chapter 34.04 RCW and RCW 27.60.040.

The specific statute these rules are intended to implement is RCW 27.60.040 and [27.60].060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 3, 1987.

Dated: April 22, 1987

By: Putnam Barber

Executive Secretary

STATEMENT OF PURPOSE

Title: Washington Centennial Commission.

Description of Purpose: Procedure to better provide administration of agency's programs.

Statutory Authority: Chapter 27.60 RXW [RCW].

Summary of Rule: The proposed amendment adds two legislative members to the executive committee of the Centennial Commission.

Reasons Supporting Proposed Action: To provide better management of policies.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Put Barber, mailstop KL-12, phone 753-0177.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Washington Centennial Commission.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: N/A.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: N/A.

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/17/86)

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

(*) There shall be an executive committee which shall consist of the chairman, vice chairman, and ~~((a third member))~~ three members to be elected by the commission: PROVIDED that one shall be a Senator/Commissioner and one shall be a Representative/Commissioner. ~~((, and which))~~ The executive committee shall transact such business as may be necessary between meetings, provided that ((the executive

committee)) it shall not obligate the commission for any expenditure exceeding ten thousand dollars.

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

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

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

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

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

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

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

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

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

Reviser's note: 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 87-09-100
EMERGENCY RULES
1989 CENTENNIAL COMMISSION
[Resolution No. 87-2—Filed April 22, 1987]

Be it resolved by the Washington Centennial Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to membership of the centennial executive committee.

We, the 1989 Washington Centennial Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is

change in membership of the centennial executive committee.

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

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

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

APPROVED AND ADOPTED April 2, 1987.

By Putnam Barber
Executive Secretary

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/17/86)

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

((a)) There shall be an executive committee which shall consist of the chairman, vice chairman, and ~~((a third member))~~ three members to be elected by the commission: PROVIDED that one shall be a Senator/Commissioner and one shall be a Representative/Commissioner. ~~((; and which))~~ The executive committee shall transact such business as may be necessary between meetings, provided that ((the executive committee)) it shall not obligate the commission for any expenditure exceeding ten thousand dollars.

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

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

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

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

(b) Unless a statement of responsibilities is adopted by the commission in establishing a standing committee,

said committee shall draft and recommend to the commission, at the earliest practicable opportunity, a statement of responsibilities for that committee.

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

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

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

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

Reviser's note: 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 87-09-101

PROPOSED RULES

1989 CENTENNIAL COMMISSION

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the 1989 Washington Centennial Commission intends to adopt, amend, or repeal rules concerning procedures to implement coordination of fund raising and solicitation of sponsorships related to centennial programs or activities;

that the agency will at 1:00 p.m., Wednesday, June 4, 1987, Redmond, Washington (exact building and room to be announced), 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 34.04 RCW and RCW 27.60.040.

The specific statute these rules are intended to implement is RCW 27.60.040 and [27.60].060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 22, 1987.

This notice is connected to and continues the matter in Notice No. WSR 87-06-046 filed with the code reviser's office on March 4, 1987.

Dated: April 22, 1987

By: Putnam Barber
Executive Secretary

WSR 87-09-102
EMERGENCY RULES
1989 CENTENNIAL COMMISSION
 [Resolution No. 87-1—Filed April 22, 1987]

Be it resolved by the Washington Centennial Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to procedures to implement coordination of fund raising and solicitation of sponsorships related to centennial programs or activities.

We, the 1989 Washington Centennial Commission, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is orderly administration of the licensing program.

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

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

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

APPROVED AND ADOPTED April 2, 1987.

By Putnam Barber
 Executive Secretary

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/17/86)

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

(2) The commission may, from time to time, allow others to associate their projects or activities with the centennial celebration or provide other specific assistance as set forth in the application described in subsection (3) of this section.

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

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

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

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

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

(b) Population affected by the project/activity.

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

(ii) Projects/activities which are ~~((state-wide in scope or intended to draw visitors from a multicounty area shall be reviewed and approved by the executive secretary. The executive secretary may consult with one or more county centennial commissions/committees in the course of his review))~~ of state-wide significance shall be reviewed by the appropriate program committee of the commission and the recommendation of that committee considered prior to action by the commission.

(c) Financial support of the project/activity.

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

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

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

(iv) Requests which may total more than ten thousand dollars to organizations making contributions or grants in more than one county shall comply with "policies and procedures for large gifts" as approved by the commission.

(4) Approved projects may use the commission's centennial logo only when the conditions specified in WAC 100-100-130 through 100-100-180 are satisfied.

(5) In the event of disagreement with the ~~((decision of the executive secretary, either by the applicant recognition or by another group which considers itself affected adversely, the disputed application and all supporting exhibits shall be referred to the executive committee. The executive committee may decide the issue or may refer the dispute to a standing committee or to the commission. In the event of an adverse decision by the executive committee,))~~ recommendation of a program or other committee of the commission, the following procedures shall apply to any request for reconsideration:

(a) The licensing and sponsorships committee shall reconsider requests for letters of support for fund-raising efforts and may deny the requests or refer them for further consideration to the same or a different program

committee or make a recommendation directly to the commission;

(b) The executive committee shall reconsider requests for financial support from funds derived from sales of centennial license plates as provided in subsection (6) of this section, and may deny the requests or refer them for further consideration to the same or a different program committee or directly to the budget and finance committee.

(c) The executive committee shall reconsider all requests for assistance of any other sort and may deny the requests or refer them for further consideration to any committee or to the commission.

(d) Further appeal may be made to the commission in the event of any adverse decision, other than an action of commission, at ((its)) the first meeting which occurs not less than thirty days after such commission review is requested in writing.

(6) **Projects of state-wide significance.** The commission may contract with public agencies and private non-profit organizations which undertake to organize and manage distinctive projects of state-wide significance which are funded in part from revenues resulting from chapter 280, Laws of 1986.

(a) To be considered, proposals must satisfy the following basic criteria:

(i) The commission's share of the projected cash outlays implementation of the proposal must be no more than fifty percent.

(ii) The total amount requested from the commission must be no less than ten thousand dollars and no more than one hundred thousand dollars.

(iii) The proposal's goals and activities must ensure a demonstrable benefit.

(iv) The proposal must be open to participation without discrimination of any kind.

(v) The dates of proposed activities must be consistent with the schedule of the centennial celebration and allow for completion of all activities to be supported by the commission prior to December 31, 1989.

(b) The following process in selection of projects for assistance shall be followed:

(i) The commission's request for proposals shall give at least forty-five days notice before the due date.

(ii) Timely responses shall be reviewed by staff for completeness, responsiveness, compliance with nondiscrimination requirements, and other requirements as specified in the request for proposal.

(iii) Accepted responses shall be reviewed by one or more program committees of the commission. If no suitable program committee exists, the sponsor may request that the commission act as a committee of the whole for the purpose of review. The committee shall make a recommendation to the budget and finance committee concerning the level of funding (if any) for each proposal and the centennial commission which includes the committee's determinations of:

(A) The ways in which the proposal meets and complements the overall goals of the centennial celebration and the specific program goals of the committee; and

(B) The sense in which the project meets the requirement of having state-wide significance.

The program committee may ask for advice or further information from the sponsor of the proposal, relevant country centennial committees, and other interested parties.

(iv) The budget and finance committee shall recommend a level of funding for each project consistent with funds available in the centennial fund.

(v) The executive secretary shall negotiate the necessary contracts or agreements with the sponsor to implement the decision of the commission.

(7) The commission may contract ((with)) or enter into agreements and understandings with affiliated organizations, other agencies, persons, and groups in an appropriate manner(;) to accomplish commission activities(;) in accordance with state law. The commission may work closely with such affiliated organizations and may provide special assistance to them to support their work in support of the commission's goals.

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

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

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

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

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

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

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

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

(ii) Application for publication endorsement shall be made to the executive secretary on forms provided for that purpose; provided that the executive secretary shall require submission of two copies of the publication or manuscript plus twenty-five dollars. Neither the copies nor the twenty-five dollars will be returned.

(iii) In the event that the applicant disagrees with the decision of the executive secretary, the applicant may

request a review by the executive committee who may decide the issue or refer it to the commission's publications committee.

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

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

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

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

(iv) An application for listing in the "centennial bookshelf" and instructions for filing shall be available from the commission upon request.

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

(10) Letters of support. The commission may provide letters of support for the fund-raising efforts of independent organizations sponsoring centennial activities.

(a) To be considered, proposed activities must satisfy the following basic criteria:

(i) The project must require ten thousand dollars or more in support from outside sources;

(ii) The project must have state-wide impact as contrasted to local or specialized scope and must provide for access or participation by Washingtonians from every part of the state;

(iii) The project's goals and activities must ensure a demonstrable benefit;

(iv) The project must be open to participation without discrimination of any kind;

(v) The project dates must be consistent with the schedule of the centennial celebration.

(b) The following process in selection of projects for letters of support shall be followed:

(i) The notice of each review cycle shall give at least forty-five days notice before the due date;

(ii) Timely responses shall be reviewed by staff for completeness, responsiveness, compliance with nondiscrimination requirements, and other requirements as specified by the commission;

(iii) Accepted responses shall be reviewed by one or more program committees of the commission. The committee shall make a recommendation to the commission which includes the committees determinations of:

(A) The ways in which the proposed project complements the overall goals of the centennial celebration and the program goals of the committee;

(B) The sense in which the project meets the requirements of having state-wide significance.

(iv) The executive secretary shall provide letters of support as provided by the commission to any project approved by the commission.

WSR 87-09-103

PROPOSED RULES

DEPARTMENT OF NATURAL RESOURCES

(Board of Natural Resources)

[Filed April 22, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Natural Resources intends to adopt, amend, or repeal rules concerning the establishment of fees to be charged by each county auditor as a condition precedent to the filing and recording of any surveys, subdivision plats, plats, short plats, and condominium surveys, plats or maps;

that the agency will at 9:00 a.m., Tuesday, June 2, 1987, in Senate Hearing Room 3, John Cherberg Building, 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 58.24 RCW.

The specific statute these rules are intended to implement is RCW 58.24.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 20, 1987.

Dated: April 22, 1987

By: John L. Chambers

Executive Assistant,

Commissioner of Public Lands

STATEMENT OF PURPOSE

Purpose and Implementation: To increase the fee charged by each county auditor as a condition precedent to the filing and recording of any surveys, subdivision plats, plats, short plats, and condominium surveys, plats or maps; and to extend the application of the fee to all maps, plats, and plans filed at the county auditors pursuant to local ordinance.

Adopting Agency: Board of Natural Resources.

Statutory Authority: RCW 58.24.070.

Summary of Rule and Reasons Therefor: This rule increases the amount of the fee to be charged by each county auditor as a condition precedent to the filing and recording of surveys, plats and certain types of maps. The purpose of the fee increase set by these rules is to provide adequate revenue to support the approved current level budget. The fees are deposited in the surveys and map account of the general fund. The amount of the fee is correlated with the actual cost to the department for providing the services.

Agency Personnel Responsible for Drafting: Mike Kinnaman, Survey Manager, Engineering Division, Department of Natural Resources, 1102 South Quince Street, Olympia, WA 98504, (206) 586-6047, and Donnell R. Fitch, Unit Manager, Public Land Survey

Unit, Engineering Division, Department of Natural Resources, 1102 South Quince Street, Olympia, WA 98504, (206) 586-6034; Implementation: Board of Natural Resources, Department of Natural Resources, John Cherberg Building, Olympia, WA 98504, and Grant Fredricks, Manager, Engineering Division, Department of Natural Resources, 1102 South Quince Street, Olympia, WA 98504; and Enforcement: The above and all county auditors.

Proponents or Opponents: The Land Surveyors Association of Washington and the Surveys and Maps Advisory Board are in full support of this rule. No opponents are known at this time.

Agency Comments: This rule is required by RCW 58.24.070. The amount of the fee is necessary in order to provide funding for the services furnished to the public by the public land survey unit of the Department of Natural Resources for the identification and preservation of survey points, and the description of common land boundaries.

Economic Impact Statement: This rule will not impact costs for equipment, supplies or labor, but will slightly increase administrative costs for small businesses. It raises an existing fee by \$5.00 causing an estimated 0.1% to 1% increase in the cost of an individual survey. These costs are normally passed on to the customer. This will not cause a reduction in business.

CHAPTER 332-150 WAC
SURVEY, PLAT AND MAP FILING AND RECORDING FEES

AMENDATORY SECTION (Amending Order 378, filed 6/30/82)

WAC 332-150-010 AUTHORITY AND SCOPE. This chapter is promulgated pursuant to the authority granted in ~~((Chapter 165, Laws of 1982, WAC 332-150-010 through WAC 332-150-040 are intended to implement section 7 of Chapter 165, Laws of 1982))~~ Chapter 58.24 RCW.

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 378, filed 6/30/82)

WAC 332-150-020 DEFINITIONS. As used in WAC-150-010 through ~~((WAC 332-150-040;))~~ WAC 332-150-050 the following definitions shall apply:

- (1) "Surveys." All records of surveys required to be filed by law pursuant to Chapter 58.09 RCW and all other ~~((land division))~~ maps, plats, or ~~((maps))~~ plans required by local ordinance to be filed and recorded.
- (2) "Subdivision plats." All plats required to be filed by law pursuant to Chapter 58.17 RCW.
- (3) "Short plats." All short plats required to be filed by law pursuant to Chapter 58.17 RCW.
- (4) "Condominium surveys, plats or maps." All surveys, plats, or maps required to be filed by law pursuant to Chapter 64.32 RCW.
- (5) "Instrument." The total document filed and recorded of each of the above regardless of the number of pages. ~~((This term also includes corrections to such instruments, including but not limited to boundary line adjustments, correction affidavits, and correction plats and surveys.))~~

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

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

AMENDATORY SECTION (Amending Order 378, filed 6/30/82)

WAC 332-150-030 FILING AND RECORDING FEES. ~~((After the c))~~ Effective July 26, 1987, ~~((date of this regulation))~~ each county auditor shall collect the fee of ~~((fifteen))~~ twenty dollars per instrument in addition to any other fees required by law, as a condition precedent to the filing and recording of any surveys, subdivision plats, short plats or condominium surveys, plats or maps.

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 378, filed 6/30/82)

WAC 332-150-050 BIENNIAL REVIEW. The fee established by these rules shall be reviewed subsequent to the adoption of each biennial budget for surveys and maps to determine the sufficiency of such fee. If revenue is determined to be inappropriate for the program need the ~~((department))~~ board of natural resources shall adjust the fee accordingly.

REPEALER

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

WAC 332-150-040 FILING AND RECORDING FEES—
DESIGNATION OF FEES.

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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16-228-470	NEW-E	87-09-054	16-231-225	AMD-P	87-04-060	16-232-315	AMD-E	87-08-072
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Table of WAC Sections Affected

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16-329-001	REP-P 87-09-085	132L-10-110	NEW-P 87-08-017	132L-24-010	AMD-E 87-07-048
16-329-010	REP-P 87-09-085	132L-10-120	NEW-E 87-07-031	132L-24-010	AMD-P 87-08-018
16-329-015	REP-P 87-09-085	132L-10-120	NEW-P 87-08-017	132L-24-020	AMD-E 87-07-048
16-329-020	REP-P 87-09-085	132L-10-130	NEW-E 87-07-031	132L-24-020	AMD-P 87-08-018
16-329-025	REP-P 87-09-085	132L-10-130	NEW-P 87-08-017	132L-24-030	AMD-E 87-07-048
16-329-030	REP-P 87-09-085	132L-10-140	NEW-E 87-07-031	132L-24-030	AMD-P 87-08-018
16-333-020	AMD-P 87-09-085	132L-10-140	NEW-P 87-08-017	132L-24-040	AMD-E 87-07-048
16-333-040	AMD-P 87-09-085	132L-10-150	NEW-E 87-07-031	132L-24-040	AMD-P 87-08-018
16-333-050	AMD-P 87-09-085	132L-10-150	NEW-P 87-08-017	132L-24-050	AMD-E 87-07-048
16-470-500	NEW 87-04-027	132L-10-160	NEW-E 87-07-031	132L-24-050	AMD-P 87-08-018
16-470-510	NEW 87-04-027	132L-10-160	NEW-P 87-08-017	132L-24-060	AMD-E 87-07-048
16-470-520	NEW 87-04-027	132L-20	AMD-E 87-07-048	132L-24-060	AMD-P 87-08-018
16-470-530	NEW 87-04-027	132L-20	AMD-P 87-08-018	132L-24-070	AMD-E 87-07-048
16-532-040	AMD-P 87-04-045	132L-20-010	AMD-E 87-07-048	132L-24-070	AMD-P 87-08-018
16-602-005	NEW-P 87-05-053	132L-20-010	AMD-P 87-08-018	132L-24-080	AMD-E 87-07-048
16-602-010	AMD-P 87-05-053	132L-20-020	AMD-E 87-07-048	132L-24-080	AMD-P 87-08-018
16-602-020	AMD-P 87-05-053	132L-20-020	AMD-P 87-08-018	132Q-08-010	REP 87-06-014
16-602-030	AMD-P 87-05-053	132L-20-030	AMD-E 87-07-048	132Q-08-020	REP 87-06-014
16-657-025	AMD-P 87-07-019	132L-20-030	AMD-P 87-08-018	132Q-08-030	REP 87-06-014
16-750-010	AMD 87-05-016	132L-20-040	AMD-E 87-07-048	132Q-08-040	REP 87-06-014
25-24-010	REP-P 87-02-052	132L-20-040	AMD-P 87-08-018	132Q-08-050	REP 87-06-014
25-24-010	REP 87-05-027	132L-20-050	AMD-E 87-07-048	132Q-08-060	REP 87-06-014
25-24-020	REP-P 87-02-052	132L-20-050	AMD-P 87-08-018	132Q-08-070	REP 87-06-014
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25-24-030	REP-P 87-02-052	132L-20-060	AMD-P 87-08-018	136-04-030	AMD-P 87-08-022
25-24-030	REP 87-05-027	132L-20-070	AMD-E 87-07-048	136-160-050	AMD-P 87-08-022
25-24-040	REP-P 87-02-052	132L-20-070	AMD-P 87-08-018	137-12A-060	AMD-P 87-03-028
25-24-040	REP 87-05-027	132L-20-080	AMD-E 87-07-048	137-12A-060	AMD 87-06-045
25-24-050	REP-P 87-02-052	132L-20-080	AMD-P 87-08-018	137-70-020	AMD 87-03-029
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25-24-070	REP-P 87-02-052	132L-20-100	AMD-P 87-08-018	173-14-060	AMD-P 87-09-080
25-24-070	REP 87-05-027	132L-20-110	AMD-E 87-07-048	173-14-080	AMD-P 87-09-080
50-48-100	NEW-P 87-08-071	132L-20-110	AMD-P 87-08-018	173-14-180	REP-P 87-09-080
82-24-080	AMD 87-06-012	132L-20-120	AMD-E 87-07-048	173-15-040	REP-P 87-09-080
82-24-090	AMD 87-06-012	132L-20-120	AMD-P 87-08-018	173-17-010	NEW-P 87-09-080
82-24-110	AMD 87-06-012	132L-20-140	AMD-E 87-07-048	173-17-020	NEW-P 87-09-080
82-24-130	AMD 87-06-012	132L-20-140	AMD-P 87-08-018	173-17-030	NEW-P 87-09-080
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100-100-050	AMD-E 87-09-100	132L-20-150	AMD-P 87-08-018	173-17-050	NEW-P 87-09-080
100-100-070	AMD-C 87-09-101	132L-20-160	AMD-E 87-07-048	173-17-060	NEW-P 87-09-080
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100-100-070	AMD-P 87-06-046	132L-20-170	AMD-E 87-07-048	173-17-080	NEW-P 87-09-080
113-12-087	NEW 87-05-064	132L-20-170	AMD-P 87-08-018	173-19-064	AMD-P 87-09-080
113-12-115	AMD 87-05-064	132L-21-010	NEW-E 87-07-031	173-19-070	AMD-P 87-09-080
113-12-195	AMD 87-05-064	132L-21-010	NEW-P 87-08-017	173-19-2521	AMD 87-05-015
113-12-197	NEW 87-05-064	132L-21-020	NEW-E 87-07-031	173-19-320	AMD-P 87-06-025
114-12-136	AMD-P 87-07-046	132L-21-020	NEW-P 87-08-017	173-19-3508	AMD 87-08-001
131-08-010	AMD 87-04-025	132L-21-030	NEW-E 87-07-031	173-19-360	AMD-P 87-09-081
132F-148-010	AMD-P 87-04-064	132L-21-030	NEW-P 87-08-017	173-19-390	AMD 87-05-015
132F-148-010	AMD 87-08-026	132L-21-040	NEW-E 87-07-031	173-19-450	AMD-P 87-08-059
132F-148-030	AMD-P 87-04-064	132L-21-040	NEW-P 87-08-017	173-60-110	AMD-P 87-02-059
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173-145	AMD-C	87-03-044	173-303-400	AMD-P	87-09-078	180-24-130	NEW	87-04-059
173-145-010	AMD	87-04-022	173-303-420	AMD-P	87-09-078	180-24-140	NEW	87-04-059
173-145-020	AMD	87-04-022	173-303-420	AMD	87-03-014	180-24-200	AMD	87-04-059
173-145-030	AMD	87-04-022	173-303-515	AMD-P	87-09-078	180-24-300	NEW	87-04-059
173-145-040	AMD	87-04-022	173-303-550	AMD-P	87-09-078	180-24-305	NEW	87-04-059
173-145-050	AMD	87-04-022	173-303-560	AMD-P	87-09-078	180-24-310	NEW	87-04-059
173-145-060	AMD	87-04-022	173-303-600	AMD-P	87-09-078	180-24-312	NEW	87-04-059
173-145-070	AMD	87-04-022	173-303-610	AMD-P	87-09-078	180-24-315	NEW	87-04-059
173-145-080	AMD	87-04-022	173-303-620	AMD-P	87-09-078	180-24-320	NEW	87-04-059
173-145-090	AMD	87-04-022	173-303-660	AMD-P	87-09-078	180-24-325	NEW	87-04-059
173-145-100	AMD	87-04-022	173-303-801	AMD-P	87-09-078	180-24-327	NEW	87-04-059
173-145-110	AMD	87-04-022	173-303-802	AMD-P	87-09-078	180-24-330	NEW	87-04-059
173-145-120	AMD	87-04-022	173-303-805	AMD-P	87-09-078	180-24-335	NEW	87-04-059
173-145-130	AMD	87-04-022	173-303-806	AMD-P	87-09-078	180-24-340	NEW	87-04-059
173-145-140	AMD	87-04-022	173-303-809	AMD-P	87-09-078	180-24-345	NEW	87-04-059
173-145-150	REP	87-04-022	173-303-810	AMD-P	87-09-078	180-24-350	NEW	87-04-059
173-145-155	NEW	87-04-022	173-303-830	AMD-P	87-09-078	180-24-355	NEW	87-04-059
173-245-010	NEW-C	87-02-050	173-303-9901	AMD-P	87-09-078	180-24-360	NEW	87-04-059
173-245-010	NEW-C	87-04-014	173-303-9904	AMD-P	87-09-078	180-24-365	NEW	87-04-059
173-245-010	NEW	87-04-020	173-303-9905	AMD-P	87-09-078	180-24-370	NEW	87-04-059
173-245-015	NEW-C	87-02-050	173-303-9906	AMD-P	87-09-078	180-24-375	NEW	87-04-059
173-245-015	NEW-C	87-04-014	173-303-9907	AMD-P	87-09-078	180-24-380	NEW	87-04-059
173-245-015	NEW	87-04-020	173-304-012	NEW-C	87-02-035	180-40-235	AMD-P	87-05-047
173-245-020	NEW-C	87-02-050	173-304-012	NEW-C	87-04-019	180-40-235	AMD	87-09-040
173-245-020	NEW-C	87-04-014	173-304-012	NEW-W	87-04-037	180-75-005	AMD-P	87-09-052
173-245-020	NEW	87-04-020	173-304-012	NEW-P	87-04-038	180-75-015	AMD-P	87-05-048
173-245-030	NEW-C	87-02-050	173-304-012	NEW-W	87-05-035	180-75-015	AMD	87-09-010
173-245-030	NEW-C	87-04-014	173-304-012	NEW-P	87-05-054	180-75-018	NEW-P	87-05-048
173-245-030	NEW	87-04-020	173-304-012	NEW-C	87-08-060	180-75-018	NEW	87-09-010
173-245-040	NEW-C	87-02-050	173-304-440	AMD-P	87-04-038	180-75-019	NEW-P	87-05-048
173-245-040	NEW-C	87-04-014	173-304-440	AMD-W	87-05-035	180-75-019	NEW	87-09-010
173-245-040	NEW	87-04-020	173-304-440	AMD-P	87-05-054	180-75-025	AMD-P	87-05-048
173-245-050	NEW-C	87-02-050	173-304-440	AMD-C	87-08-060	180-75-025	AMD	87-09-010
173-245-050	NEW-C	87-04-014	173-326-010	NEW-E	87-05-032	180-75-026	NEW-P	87-05-048
173-245-050	NEW	87-04-020	173-326-020	NEW-E	87-05-032	180-75-026	NEW	87-09-010
173-245-055	NEW-C	87-02-050	173-326-030	NEW-E	87-05-032	180-75-034	NEW-P	87-05-048
173-245-055	NEW-C	87-04-014	173-326-040	NEW-E	87-05-032	180-75-034	NEW	87-09-010
173-245-055	NEW	87-04-020	173-422-130	AMD	87-02-051	180-75-035	AMD-P	87-05-048
173-245-060	NEW-C	87-02-050	173-434	NEW-C	87-03-045	180-75-035	AMD	87-09-010
173-245-060	NEW-C	87-04-014	173-434-010	NEW	87-07-041	180-75-037	NEW-P	87-05-048
173-245-060	NEW	87-04-020	173-434-020	NEW	87-07-041	180-75-037	NEW	87-09-010
173-245-070	NEW-C	87-02-050	173-434-030	NEW	87-07-041	180-75-038	NEW-P	87-05-048
173-245-070	NEW-C	87-04-014	173-434-050	NEW	87-07-041	180-75-038	NEW	87-09-010
173-245-070	NEW	87-04-020	173-434-100	NEW	87-07-041	180-75-039	NEW-P	87-05-048
173-245-075	NEW-C	87-02-050	173-434-110	NEW	87-07-041	180-75-039	NEW	87-09-010
173-245-075	NEW-C	87-04-014	173-434-120	NEW	87-07-041	180-75-040	AMD-P	87-05-048
173-245-075	NEW	87-04-020	173-434-130	NEW	87-07-041	180-75-040	AMD	87-09-010
173-245-080	NEW-C	87-02-050	173-434-160	NEW	87-07-041	180-75-042	NEW-P	87-05-048
173-245-080	NEW-C	87-04-014	173-434-170	NEW	87-07-041	180-75-042	NEW	87-09-010
173-245-080	NEW	87-04-020	173-434-190	NEW	87-07-041	180-75-043	NEW-P	87-05-048
173-245-084	NEW-C	87-02-050	173-434-200	NEW	87-07-041	180-75-043	NEW	87-09-010
173-245-084	NEW-C	87-04-014	173-434-210	NEW	87-07-041	180-75-044	NEW-P	87-05-048
173-245-084	NEW	87-04-020	174-107-261	NEW-E	87-03-038	180-75-044	NEW	87-09-010
173-245-090	NEW-C	87-02-050	180-16-210	AMD-P	87-09-051	180-75-065	AMD-P	87-05-048
173-245-090	NEW-C	87-04-014	180-16-221	AMD-P	87-09-092	180-75-065	AMD	87-09-010
173-245-090	NEW	87-04-020	180-24-003	NEW	87-04-059	180-75-070	AMD-P	87-05-048
173-303-017	AMD-P	87-09-078	180-24-005	REP	87-04-059	180-75-070	AMD	87-09-010
173-303-040	AMD-P	87-09-078	180-24-007	NEW	87-04-059	180-75-075	AMD-P	87-05-048
173-303-045	AMD-P	87-09-078	180-24-008	NEW	87-04-059	180-75-075	AMD	87-09-010
173-303-060	AMD-P	87-09-078	180-24-010	REP	87-04-059	180-75-080	AMD-P	87-05-048
173-303-070	AMD-P	87-09-078	180-24-013	NEW	87-04-059	180-75-080	AMD	87-09-010
173-303-071	AMD-P	87-09-078	180-24-015	REP	87-04-059	180-75-081	NEW-P	87-05-048
173-303-081	AMD-P	87-09-078	180-24-016	NEW	87-04-059	180-75-081	NEW	87-09-010
173-303-082	AMD-P	87-09-078	180-24-017	NEW	87-04-059	180-75-082	NEW-P	87-05-048
173-303-084	AMD-P	87-09-078	180-24-020	REP	87-04-059	180-75-082	NEW	87-09-010
173-303-090	AMD-P	87-09-078	180-24-021	NEW	87-04-059	180-75-083	NEW-P	87-05-048
173-303-101	AMD-P	87-09-078	180-24-025	REP	87-04-059	180-75-083	NEW	87-09-010
173-303-102	AMD-P	87-09-078	180-24-030	REP	87-04-059	180-75-084	NEW-P	87-05-048
173-303-103	AMD-P	87-09-078	180-24-080	NEW	87-04-059	180-75-084	NEW	87-09-010
173-303-120	AMD-P	87-09-078	180-24-100	REP	87-04-059	180-75-085	AMD-P	87-05-048
173-303-170	AMD-P	87-09-078	180-24-101	NEW	87-04-059	180-75-085	AMD	87-09-010
173-303-201	AMD-P	87-09-078	180-24-102	NEW	87-04-059	180-75-086	NEW-P	87-05-048
173-303-220	AMD-P	87-09-078	180-24-110	NEW	87-04-059	180-75-086	NEW	87-09-010
173-303-230	AMD-P	87-09-078	180-24-112	NEW	87-04-059	180-75-087	AMD-P	87-05-048
173-303-240	AMD-P	87-09-078	180-24-115	NEW	87-04-059	180-75-087	AMD	87-09-010
173-303-280	AMD-P	87-09-078	180-24-120	NEW	87-04-059	180-75-199	NEW-P	87-05-048

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180-78-003	NEW 87-09-011	180-79-336	NEW 87-09-012	182-12-210	AMD-P 87-04-039
180-78-005	AMD-P 87-05-049	180-79-338	NEW-P 87-05-050	182-12-210	AMD 87-07-034
180-78-005	AMD 87-09-011	180-79-338	NEW 87-09-012	192-12-005	NEW-P 87-08-049
180-78-010	AMD-P 87-05-049	180-79-340	NEW-P 87-05-050	192-12-011	NEW-P 87-08-049
180-78-010	AMD 87-09-011	180-79-340	NEW 87-09-012	192-12-012	NEW-P 87-08-049
180-78-025	AMD-P 87-05-049	180-79-342	NEW-P 87-05-050	192-12-141	AMD-P 87-08-049
180-78-025	AMD 87-09-011	180-79-342	NEW 87-09-012	192-12-158	NEW 87-03-006
180-78-191	NEW-P 87-05-049	180-79-344	NEW-P 87-05-050	192-23	AMD-P 87-08-049
180-78-191	NEW 87-09-011	180-79-344	NEW 87-09-012	192-23-011	AMD-P 87-08-049
180-78-192	NEW-P 87-05-049	180-79-346	NEW-P 87-05-050	192-23-012	AMD-P 87-08-049
180-78-192	NEW 87-09-011	180-79-346	NEW 87-09-012	192-23-014	AMD-P 87-08-049
180-78-193	NEW-P 87-05-049	180-79-348	NEW-P 87-05-050	192-23-015	AMD-W 87-08-049
180-78-193	NEW 87-09-011	180-79-348	NEW 87-09-012	192-23-016	AMD-P 87-08-049
180-78-194	NEW-P 87-05-049	180-79-350	NEW-P 87-05-050	192-23-018	NEW-P 87-08-049
180-78-194	NEW 87-09-011	180-79-350	NEW 87-09-012	192-23-051	AMD-P 87-08-049
180-78-195	NEW-P 87-05-049	180-79-352	NEW-P 87-05-050	192-23-800	AMD-P 87-08-049
180-78-195	NEW 87-09-011	180-79-352	NEW 87-09-012	192-23-810	AMD-P 87-08-049
180-78-197	NEW-P 87-05-049	180-79-354	NEW-P 87-05-050	196-08-085	REP-P 87-08-052
180-78-197	NEW 87-09-011	180-79-354	NEW 87-09-012	196-12-010	AMD-P 87-08-052
180-78-198	NEW-P 87-05-049	180-79-356	NEW-P 87-05-050	196-12-020	AMD-P 87-08-052
180-78-198	NEW 87-09-011	180-79-356	NEW 87-09-012	196-16-007	AMD-P 87-08-052
180-78-199	NEW-P 87-05-049	180-79-358	NEW-P 87-05-050	196-16-010	AMD-P 87-08-052
180-78-199	NEW 87-09-011	180-79-358	NEW 87-09-012	196-20-020	AMD-P 87-08-052
180-79	AMD-P 87-05-050	180-79-360	NEW-P 87-05-050	196-20-030	AMD-P 87-08-052
180-79	AMD 87-09-012	180-79-360	NEW 87-09-012	196-24-050	AMD-P 87-08-052
180-79-003	NEW-P 87-05-050	180-79-362	NEW-P 87-05-050	196-24-070	REP-P 87-08-052
180-79-003	NEW 87-09-012	180-79-362	NEW 87-09-012	196-24-085	AMD-P 87-08-052
180-79-007	NEW-P 87-09-053	180-79-364	NEW-P 87-05-050	196-24-100	NEW-P 87-08-052
180-79-010	AMD-P 87-05-050	180-79-364	NEW 87-09-012	196-24-105	NEW-P 87-08-052
180-79-010	AMD 87-09-012	180-79-366	NEW-P 87-05-050	196-24-110	NEW-P 87-08-052
180-79-045	AMD-P 87-05-050	180-79-366	NEW 87-09-012	196-26-010	REP-P 87-07-046
180-79-045	AMD 87-09-012	180-79-368	NEW-P 87-05-050	196-26-020	NEW-P 87-07-046
180-79-060	AMD-P 87-05-050	180-79-368	NEW 87-09-012	196-27-020	AMD-P 87-08-052
180-79-060	AMD 87-09-012	180-79-370	NEW-P 87-05-050	204-65-010	NEW 87-04-065
180-79-065	AMD-P 87-05-050	180-79-370	NEW 87-09-012	204-65-020	NEW 87-04-065
180-79-065	AMD 87-09-012	180-79-372	NEW-P 87-05-050	204-65-030	NEW 87-04-065
180-79-065	AMD-P 87-09-093	180-79-372	NEW 87-09-012	204-65-040	NEW 87-04-065
180-79-075	AMD-P 87-05-050	180-79-374	NEW-P 87-05-050	204-65-050	NEW 87-04-065
180-79-075	AMD 87-09-012	180-79-374	NEW 87-09-012	204-65-060	NEW 87-04-065
180-79-075	AMD-P 87-09-093	180-79-376	NEW-P 87-05-050	212-51-001	NEW-P 87-03-053
180-79-080	AMD-P 87-05-050	180-79-376	NEW 87-09-012	212-51-001	NEW 87-06-044
180-79-080	AMD 87-09-012	180-79-378	NEW-P 87-05-050	212-51-005	NEW-P 87-03-053
180-79-086	AMD-P 87-05-050	180-79-378	NEW 87-09-012	212-51-005	NEW 87-06-044
180-79-086	AMD 87-09-012	180-79-380	NEW-P 87-05-050	212-51-010	NEW-P 87-03-053
180-79-115	AMD-P 87-05-050	180-79-380	NEW 87-09-012	212-51-010	NEW 87-06-044
180-79-115	AMD 87-09-012	180-79-382	NEW-P 87-05-050	212-51-015	NEW-P 87-03-053
180-79-230	AMD-P 87-05-050	180-79-382	NEW 87-09-012	212-51-015	NEW 87-06-044
180-79-230	AMD 87-09-012	180-79-384	NEW-P 87-05-050	212-51-020	NEW-P 87-03-053
180-79-300	NEW-P 87-05-050	180-79-384	NEW 87-09-012	212-51-020	NEW 87-06-044
180-79-300	NEW 87-09-012	180-79-386	NEW-P 87-05-050	212-51-025	NEW-P 87-03-053
180-79-305	NEW-P 87-05-050	180-79-386	NEW 87-09-012	212-51-025	NEW 87-06-044
180-79-305	NEW 87-09-012	180-79-388	NEW-P 87-05-050	212-51-030	NEW-P 87-03-053
180-79-310	NEW-P 87-05-050	180-79-388	NEW 87-09-012	212-51-030	NEW 87-06-044
180-79-310	NEW 87-09-012	180-79-390	NEW-P 87-05-050	212-51-035	NEW-P 87-03-053
180-79-312	NEW-P 87-05-050	180-79-390	NEW 87-09-012	212-51-040	NEW-P 87-03-053
180-79-312	NEW 87-09-012	180-79-392	NEW-P 87-05-050	212-51-040	NEW 87-06-044
180-79-315	NEW-P 87-05-050	180-79-392	NEW 87-09-012	212-51-045	NEW-P 87-03-053
180-79-315	NEW 87-09-012	180-79-394	NEW-P 87-05-050	212-51-045	NEW 87-06-044
180-79-317	NEW-P 87-05-050	180-79-394	NEW 87-09-012	212-51-050	NEW-P 87-03-053
180-79-317	NEW 87-09-012	180-79-396	NEW-P 87-05-050	212-51-050	NEW 87-06-044
180-79-320	NEW-P 87-05-050	180-79-396	NEW 87-09-012	220-16-075	AMD-P 87-09-082
180-79-320	NEW 87-09-012	180-79-398	NEW-P 87-05-050	220-16-38500A	NEW-E 87-08-034
180-79-322	NEW-P 87-05-050	180-79-398	NEW 87-09-012	220-16-395	NEW-P 87-03-056
180-79-322	NEW 87-09-012	180-85-020	AMD-P 87-09-094	220-16-395	NEW 87-09-066
180-79-324	NEW-P 87-05-050	180-85-045	AMD-P 87-05-051	220-22-030	AMD-P 87-09-082
180-79-324	NEW 87-09-012	180-85-045	AMD 87-09-013	220-28-624	REP-E 87-03-008
180-79-326	NEW-P 87-05-050	180-85-220	AMD-P 87-05-051	220-28-625	NEW-E 87-03-008
180-79-326	NEW 87-09-012	180-85-225	AMD 87-09-013	220-28-625	REP-E 87-05-002
180-79-328	NEW-P 87-05-050	180-85-225	AMD-P 87-05-051	220-32-02200S	NEW-E 87-04-013
180-79-328	NEW 87-09-012	180-90-125	AMD 87-09-013	220-32-03000E	NEW-E 87-05-037
180-79-330	NEW-P 87-05-050	180-90-125	NEW-P 87-05-052	220-32-03000E	NEW-E 87-06-037
180-79-330	NEW 87-09-012	180-90-141	NEW 87-09-039	220-32-05100H	REP-E 87-06-037
180-79-332	NEW-P 87-05-050		NEW-P 87-05-052		NEW-E 87-05-037

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220-32-05900L	NEW-E	87-09-084	220-56-320	AMD-P	87-03-056	220-57-51500B	NEW-E	87-09-024
220-44-050	AMD-P	87-04-070	220-56-320	AMD	87-09-066	220-57-520	AMD-P	87-03-056
220-44-050	AMD	87-07-042	220-56-32000A	NEW-E	87-08-048	220-57-520	AMD	87-09-066
220-44-05000D	NEW-E	87-09-016	220-56-350	AMD-P	87-03-056	220-57-525	AMD-P	87-03-056
220-44-05000D	REP-E	87-09-030	220-56-350	AMD	87-09-066	220-57-525	AMD	87-09-066
220-44-05000E	NEW-E	87-09-030	220-56-35000C	NEW-E	87-08-048	220-57A-175	AMD-P	87-03-056
220-44-05000E	REP-E	87-09-083	220-56-360	AMD-P	87-03-056	220-57A-175	AMD	87-09-066
220-44-05000F	NEW-E	87-09-083	220-56-360	AMD	87-09-066	220-57A-180	AMD-P	87-03-056
220-44-060	REP	87-04-003	220-56-36000N	NEW-E	87-06-034	220-57A-180	AMD	87-09-066
220-44-070	REP	87-04-003	220-56-372	AMD-P	87-03-056	220-76-030	REP-P	87-04-071
220-47-301	AMD-P	87-09-082	220-56-372	AMD	87-09-066	220-77-010	NEW-P	87-04-071
220-47-311	AMD-P	87-09-082	220-56-37200A	NEW-E	87-08-048	220-77-010	NEW	87-08-033
220-47-312	AMD-P	87-09-082	220-56-380	AMD-P	87-03-056	220-77-020	NEW-P	87-04-071
220-47-313	AMD-P	87-09-082	220-56-380	AMD	87-09-066	220-77-020	NEW	87-08-033
220-47-401	AMD-P	87-09-082	220-57-130	AMD-P	87-03-056	220-77-030	NEW-P	87-04-071
220-47-402	AMD-P	87-09-082	220-57-130	AMD	87-09-066	220-77-030	NEW	87-08-033
220-47-403	AMD-P	87-09-082	220-57-135	AMD-P	87-03-056	220-77-040	NEW-P	87-04-071
220-47-411	AMD-P	87-09-082	220-57-135	AMD	87-09-066	220-77-040	NEW	87-08-033
220-47-412	AMD-P	87-09-082	220-57-138	AMD-P	87-03-056	220-77-050	NEW-P	87-04-071
220-47-413	AMD-P	87-09-082	220-57-155	AMD-P	87-03-056	220-77-050	NEW	87-08-033
220-47-414	AMD-P	87-09-082	220-57-155	AMD	87-09-066	220-77-060	NEW-P	87-04-071
220-47-50101	REP-P	87-09-082	220-57-160	AMD-P	87-03-056	220-77-060	NEW	87-08-033
220-47-50201	REP-P	87-09-082	220-57-160	AMD	87-09-066	220-77-070	NEW-P	87-04-071
220-47-503	REP-P	87-09-082	220-57-16000F	NEW-E	87-07-011	220-77-070	NEW	87-08-033
220-48-011	AMD	87-04-003	220-57-175	AMD-P	87-03-056	220-87-010	NEW	87-04-003
220-48-015	AMD	87-04-003	220-57-175	AMD	87-09-066	220-87-020	NEW	87-04-003
220-48-01500W	NEW-E	87-04-028	220-57-215	AMD-P	87-03-056	220-110-010	AMD-P	87-08-062
220-48-01500X	NEW-E	87-05-002	220-57-215	AMD	87-09-066	220-110-020	AMD-P	87-08-062
220-48-01500Y	REP-E	87-07-007	220-57-220	AMD-P	87-03-056	220-110-030	AMD-P	87-08-062
220-48-01500Y	NEW-E	87-07-007	220-57-220	AMD	87-09-066	220-110-040	AMD-P	87-08-062
220-48-01500Y	REP-E	87-08-010	220-57-235	AMD-P	87-03-056	220-110-050	AMD-P	87-08-062
220-48-01500Z	NEW-E	87-08-010	220-57-235	AMD	87-09-066	220-110-060	AMD-P	87-08-062
220-48-017	AMD	87-04-003	220-57-240	AMD-P	87-03-056	220-110-080	AMD-P	87-08-062
220-48-025	AMD	87-04-003	220-57-240	AMD	87-09-066	220-110-090	AMD-P	87-08-062
220-48-026	AMD	87-04-003	220-57-250	AMD-P	87-03-056	220-110-100	AMD-P	87-08-062
220-48-027	AMD	87-04-003	220-57-250	AMD	87-09-066	220-110-110	AMD-P	87-08-062
220-48-032	AMD	87-04-003	220-57-270	AMD-P	87-03-056	220-110-120	AMD-P	87-08-062
220-48-046	REP	87-04-003	220-57-270	AMD	87-09-066	220-110-140	AMD-P	87-08-062
220-48-056	REP	87-04-003	220-57-280	AMD-P	87-03-056	220-110-190	AMD-P	87-08-062
220-48-06200B	NEW-E	87-09-050	220-57-280	AMD	87-09-066	220-110-200	AMD-P	87-08-062
220-49-02000A	NEW-E	87-09-055	220-57-290	AMD-P	87-03-056	220-110-210	AMD-P	87-08-062
220-52-03000D	NEW-E	87-08-047	220-57-290	AMD	87-09-066	220-110-220	AMD-P	87-08-062
220-52-046	AMD	87-05-038	220-57-300	AMD-P	87-03-056	220-110-320	AMD-P	87-08-062
220-52-05300R	NEW-E	87-08-047	220-57-300	AMD	87-09-066	220-110-340	AMD-P	87-08-062
220-52-07100B	NEW-E	87-08-047	220-57-310	AMD-P	87-03-056	220-110-350	AMD-P	87-08-062
220-52-07100B	REP-E	87-09-025	220-57-310	AMD	87-09-066	230-02-240	NEW-P	87-06-013
220-52-07100C	NEW-E	87-09-025	220-57-31000F	NEW-E	87-08-048	230-02-245	NEW-P	87-06-013
220-52-07200A	NEW-E	87-04-004	220-57-315	AMD-P	87-03-056	230-02-350	AMD-P	87-03-024
220-52-35000B	NEW-E	87-08-047	220-57-315	AMD	87-09-066	230-02-350	AMD	87-07-038
220-55-025	AMD-P	87-03-056	220-57-31500F	NEW-E	87-09-014	230-04-020	AMD-P	87-06-008
220-55-025	AMD	87-09-066	220-57-31500F	REP-E	87-09-024	230-04-020	AMD	87-09-043
220-55-02500A	NEW-E	87-08-048	220-57-31500G	NEW-E	87-09-024	230-04-123	AMD-P	87-06-008
220-55-065	AMD-P	87-03-056	220-57-335	AMD-P	87-03-056	230-04-123	AMD	87-09-043
220-55-065	AMD	87-09-066	220-57-335	AMD	87-09-066	230-04-140	AMD-P	87-06-008
220-56-115	AMD-P	87-03-056	220-57-380	AMD-P	87-03-056	230-04-140	AMD	87-09-043
220-56-115	AMD	87-09-066	220-57-380	AMD	87-09-066	230-04-145	AMD-P	87-03-024
220-56-11500E	NEW-E	87-08-048	220-57-385	AMD-P	87-03-056	230-04-145	AMD-P	87-06-008
220-56-120	AMD-P	87-03-056	220-57-385	AMD	87-09-066	230-04-145	AMD	87-07-038
220-56-120	AMD	87-09-066	220-57-410	AMD-P	87-03-056	230-04-145	AMD	87-09-043
220-56-180	AMD-P	87-03-056	220-57-410	AMD	87-09-066	230-04-201	AMD-P	87-03-024
220-56-180	AMD-C	87-08-005	220-57-415	AMD-P	87-03-056	230-04-201	AMD-C	87-07-037
220-56-180	AMD	87-08-006	220-57-415	AMD	87-09-066	230-12-305	NEW-P	87-06-008
220-56-18000T	NEW-E	87-06-035	220-57-445	AMD-P	87-03-056	230-12-305	NEW	87-09-043
220-56-18000T	REP-E	87-07-020	220-57-445	AMD	87-09-066	230-20-064	AMD-P	87-03-024
220-56-18000U	NEW-E	87-07-020	220-57-460	AMD-P	87-03-056	230-20-064	AMD-C	87-07-037
220-56-190	AMD-P	87-03-056	220-57-460	AMD	87-09-066	230-20-064	AMD-P	87-09-041
220-56-190	AMD	87-09-066	220-57-473	AMD-P	87-03-056	230-20-064	AMD-E	87-09-042
220-56-195	AMD-P	87-03-056	220-57-473	AMD	87-09-066	230-20-380	AMD-P	87-03-024
220-56-195	AMD	87-09-066	220-57-495	AMD-P	87-03-056	230-20-380	AMD	87-07-038
220-56-205	AMD-P	87-03-056	220-57-495	AMD	87-09-066	230-30-060	AMD	87-03-023
220-56-24500A	NEW-E	87-07-006	220-57-49500E	NEW-E	87-08-048	230-30-070	AMD	87-03-023
220-56-295	AMD-P	87-03-056	220-57-505	AMD-P	87-03-056	232-12-024	AMD-P	87-08-066
220-56-295	AMD	87-09-066	220-57-505	AMD	87-09-066	232-12-131	AMD-P	87-08-067
220-56-29500C	NEW-E	87-08-048	220-57-50500L	NEW-E	87-08-048	232-12-136	NEW-P	87-08-068
220-56-310	AMD-P	87-03-056	220-57-50500M	NEW-E	87-09-024	232-12-169	NEW-P	87-05-030
220-56-310	AMD	87-09-066	220-57-510	AMD-P	87-03-056	232-12-169	NEW	87-09-026

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232-28-212	REP-P	87-08-069	248-100-211	NEW-P	87-07-039	248-100-560	REP-P	87-07-039
232-28-213	NEW-P	87-08-069	248-100-215	REP-P	87-07-039	248-100-565	REP-P	87-07-039
232-28-61519	NEW-E	87-03-042	248-100-216	NEW-P	87-07-039	248-102-010	REP-E	87-07-033
232-28-61601	NEW-E	87-02-046	248-100-220	REP-P	87-07-039	248-102-010	REP-P	87-07-040
232-28-61602	NEW-E	87-06-028	248-100-221	NEW-P	87-07-039	248-102-020	REP-E	87-07-033
232-28-61603	NEW-E	87-08-039	248-100-225	REP-P	87-07-039	248-102-020	REP-P	87-07-040
232-28-708	REP	87-06-027	248-100-226	NEW-P	87-07-039	248-102-040	REP-E	87-07-033
232-28-709	NEW	87-06-027	248-100-230	REP-P	87-07-039	248-102-040	REP-P	87-07-040
232-28-70901	NEW-E	87-06-029	248-100-231	NEW-P	87-07-039	248-102-070	REP-E	87-07-033
232-28-808	REP-P	87-05-031	248-100-235	REP-P	87-07-039	248-102-070	REP-P	87-07-040
232-28-809	NEW-P	87-05-031	248-100-236	NEW-P	87-07-039	248-102-999	REP-E	87-07-033
248-14-080	AMD	87-03-018	248-100-240	REP-P	87-07-039	248-102-999	REP-P	87-07-040
248-14-090	AMD	87-03-018	248-100-241	NEW-P	87-07-039	248-103-001	NEW-E	87-07-033
248-18-031	AMD	87-03-020	248-100-246	REP-P	87-07-039	248-103-001	NEW-P	87-07-040
248-18-312	NEW	87-03-030	248-100-249	REP-P	87-07-039	248-103-010	NEW-E	87-07-033
248-18-320	REP	87-03-030	248-100-250	REP-P	87-07-039	248-103-010	NEW-P	87-07-040
248-18-321	NEW	87-03-030	248-100-255	REP-P	87-07-039	248-103-020	NEW-E	87-07-033
248-18-662	NEW	87-03-030	248-100-260	REP-P	87-07-039	248-103-020	NEW-P	87-07-040
248-18-663	NEW	87-03-030	248-100-265	REP-P	87-07-039	248-103-030	NEW-E	87-07-033
248-18-99902	AMD	87-04-061	248-100-270	REP-P	87-07-039	248-103-030	NEW-P	87-07-040
248-19-230	AMD-P	87-06-048	248-100-275	REP-P	87-07-039	250-20-021	AMD-P	87-04-076
248-19-270	AMD-P	87-06-048	248-100-280	REP-P	87-07-039	250-40-050	AMD-P	87-04-077
248-19-327	AMD-P	87-06-048	248-100-285	REP-P	87-07-039	251-01-040	AMD-P	87-06-053
248-19-328	NEW-P	87-06-048	248-100-290	REP-P	87-07-039	251-01-190	AMD	87-02-036
248-100-001	REP-P	87-07-039	248-100-295	REP-P	87-07-039	251-01-300	AMD	87-02-036
248-100-002	REP-P	87-07-039	248-100-300	REP-P	87-07-039	251-01-400	AMD	87-02-036
248-100-003	REP-P	87-07-039	248-100-305	REP-P	87-07-039	251-04-040	AMD	87-02-036
248-100-006	NEW-P	87-07-039	248-100-310	REP-P	87-07-039	251-05-060	AMD	87-02-036
248-100-010	REP-P	87-07-039	248-100-315	REP-P	87-07-039	251-07-010	NEW-P	87-04-055
248-100-011	NEW-P	87-07-039	248-100-320	REP-P	87-07-039	251-07-010	NEW	87-08-056
248-100-015	REP-P	87-07-039	248-100-325	REP-P	87-07-039	251-07-020	NEW-P	87-04-055
248-100-016	NEW-P	87-07-039	248-100-330	REP-P	87-07-039	251-07-020	NEW	87-08-056
248-100-020	REP-P	87-07-039	248-100-335	REP-P	87-07-039	251-07-030	NEW-P	87-04-055
248-100-021	NEW-P	87-07-039	248-100-340	REP-P	87-07-039	251-07-030	NEW	87-08-056
248-100-025	AMD-P	87-07-039	248-100-345	REP-P	87-07-039	251-07-040	NEW-P	87-04-055
248-100-030	REP-P	87-07-039	248-100-350	REP-P	87-07-039	251-07-040	NEW	87-08-056
248-100-031	NEW-P	87-07-039	248-100-355	REP-P	87-07-039	251-07-050	NEW-P	87-04-055
248-100-035	REP-P	87-07-039	248-100-360	REP-P	87-07-039	251-07-050	NEW	87-08-056
248-100-040	REP-P	87-07-039	248-100-365	REP-P	87-07-039	251-07-060	NEW-P	87-04-055
248-100-041	NEW-P	87-07-039	248-100-370	REP-P	87-07-039	251-07-060	NEW	87-08-056
248-100-045	REP-P	87-07-039	248-100-375	REP-P	87-07-039	251-08-005	AMD-P	87-04-056
248-100-046	NEW-P	87-07-039	248-100-380	REP-P	87-07-039	251-08-005	AMD	87-08-056
248-100-050	AMD-P	87-07-039	248-100-385	REP-P	87-07-039	251-08-021	AMD-P	87-04-056
248-100-055	REP-P	87-07-039	248-100-390	REP-P	87-07-039	251-08-021	AMD	87-08-056
248-100-060	REP-P	87-07-039	248-100-395	REP-P	87-07-039	251-08-040	AMD-P	87-04-056
248-100-065	REP-P	87-07-039	248-100-400	REP-P	87-07-039	251-08-040	AMD	87-08-056
248-100-070	REP-P	87-07-039	248-100-405	REP-P	87-07-039	251-08-100	AMD-P	87-04-056
248-100-071	NEW-P	87-07-039	248-100-410	REP-P	87-07-039	251-09-090	AMD-P	87-04-056
248-100-075	REP-P	87-07-039	248-100-415	REP-P	87-07-039	251-10-020	AMD-P	87-08-054
248-100-076	NEW-P	87-07-039	248-100-420	REP-P	87-07-039	251-10-020	AMD-P	87-08-055
248-100-080	REP-P	87-07-039	248-100-425	REP-P	87-07-039	251-10-030	AMD	87-02-036
248-100-081	NEW-P	87-07-039	248-100-430	REP-P	87-07-039	251-10-055	AMD	87-02-036
248-100-085	REP-P	87-07-039	248-100-435	REP-P	87-07-039	251-10-108	NEW-P	87-02-054
248-100-086	NEW-P	87-07-039	248-100-445	REP-P	87-07-039	251-10-108	NEW-P	87-04-057
248-100-090	REP-P	87-07-039	248-100-451	REP-P	87-07-039	251-10-108	NEW-P	87-06-054
248-100-091	NEW-P	87-07-039	248-100-455	REP-P	87-07-039	251-10-108	NEW	87-08-056
248-100-095	REP-P	87-07-039	248-100-460	REP-P	87-07-039	251-10-115	NEW-W	87-02-055
248-100-100	REP-P	87-07-039	248-100-465	REP-P	87-07-039	251-10-120	AMD-P	87-04-057
248-100-105	REP-P	87-07-039	248-100-470	REP-P	87-07-039	251-10-120	AMD	87-08-056
248-100-110	REP-P	87-07-039	248-100-475	REP-P	87-07-039	251-10-140	AMD-P	87-04-057
248-100-115	REP-P	87-07-039	248-100-480	REP-P	87-07-039	251-10-140	AMD	87-08-056
248-100-120	REP-P	87-07-039	248-100-485	REP-P	87-07-039	251-10-195	AMD	87-02-036
248-100-125	REP-P	87-07-039	248-100-490	REP-P	87-07-039	251-12-240	AMD	87-02-036
248-100-130	REP-P	87-07-039	248-100-495	REP-P	87-07-039	251-14-050	AMD	87-02-036
248-100-135	REP-P	87-07-039	248-100-500	REP-P	87-07-039	251-18-176	AMD	87-02-036
248-100-140	REP-P	87-07-039	248-100-505	REP-P	87-07-039	251-18-350	AMD	87-02-036
248-100-145	REP-P	87-07-039	248-100-510	REP-P	87-07-039	251-22-040	AMD	87-02-036
248-100-150	REP-P	87-07-039	248-100-515	REP-P	87-07-039	251-22-045	AMD	87-02-036
248-100-155	REP-P	87-07-039	248-100-520	REP-P	87-07-039	251-23-015	NEW-P	87-06-053
248-100-160	REP-P	87-07-039	248-100-525	REP-P	87-07-039	251-23-040	AMD	87-02-036
248-100-170	REP-P	87-07-039	248-100-530	REP-P	87-07-039	251-23-050	AMD	87-02-036
248-100-180	REP-P	87-07-039	248-100-532	REP-P	87-07-039	251-23-060	AMD	87-02-036
248-100-195	REP-P	87-07-039	248-100-535	REP-P	87-07-039	254-20-090	AMD	87-03-039
248-100-200	REP-P	87-07-039	248-100-540	REP-P	87-07-039	260-24-280	AMD-P	87-08-029
248-100-205	REP-P	87-07-039	248-100-545	REP-P	87-07-039	260-24-280	AMD-E	87-09-031
248-100-206	NEW-P	87-07-039	248-100-550	REP-P	87-07-039	260-36-040	AMD-P	87-08-029

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260-40-100	AMD-P 87-08-029	284-13-140	NEW 87-09-056	296-17-57003	NEW-P 87-07-047
260-44-080	AMD-P 87-08-029	284-13-150	NEW-P 87-06-049	296-17-57601	AMD-P 87-07-047
260-44-080	AMD-E 87-09-031	284-13-150	NEW 87-09-056	296-17-57602	AMD-P 87-07-047
260-70-010	AMD-P 87-08-029	284-23-400	AMD-P 87-09-098	296-17-578	AMD-P 87-07-047
260-70-010	AMD-W 87-09-076	284-23-410	AMD-P 87-09-098	296-17-579	AMD-P 87-07-047
260-70-010	AMD-P 87-09-077	284-23-420	AMD-P 87-09-098	296-17-600	AMD-P 87-07-047
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260-70-025	AMD-P 87-08-029	284-23-455	NEW-P 87-09-098	296-17-619	AMD-P 87-07-047
260-70-025	AMD-W 87-09-076	284-23-460	AMD-P 87-09-098	296-17-620	AMD-P 87-07-047
260-70-025	AMD-P 87-09-077	284-23-470	REP-P 87-09-098	296-17-622	AMD-P 87-07-047
260-70-026	AMD-P 87-08-029	284-23-480	AMD-P 87-09-098	296-17-643	AMD-P 87-07-047
260-70-026	AMD-W 87-09-076	284-23-490	REP-P 87-09-098	296-17-649	AMD-P 87-07-047
260-70-026	AMD-P 87-09-077	284-23-485	NEW-P 87-09-098	296-17-655	AMD-P 87-07-047
260-70-050	AMD-P 87-08-029	284-23-500	REP-P 87-09-098	296-17-680	AMD-P 87-07-047
260-70-050	AMD-W 87-09-076	284-23-510	REP-P 87-09-098	296-17-681	AMD-P 87-07-047
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260-70-120	AMD-P 87-08-029	284-30-390	AMD 87-09-071	296-17-758	AMD-P 87-07-047
260-70-120	AMD-W 87-09-076	284-30-500	AMD-P 87-06-039	296-17-759	AMD-P 87-07-047
260-70-120	AMD-P 87-09-077	284-30-500	AMD 87-09-071	296-17-760	AMD-P 87-07-047
260-70-170	AMD-P 87-08-029	284-30-572	NEW-P 87-06-039	296-17-761	AMD-P 87-07-047
260-70-170	AMD-W 87-09-076	284-30-572	NEW 87-09-071	296-17-765	AMD-P 87-07-047
260-70-170	AMD-P 87-09-077	284-30-574	NEW-P 87-06-039	296-17-850	AMD-P 87-07-047
261-50-030	AMD 87-04-008	284-30-574	NEW 87-09-071	296-17-87309	REP-P 87-07-047
261-50-030	AMD-P 87-05-007	284-30-590	NEW-P 87-06-039	296-17-885	AMD-P 87-07-047
261-50-030	AMD 87-08-037	284-30-590	NEW 87-09-071	296-17-895	AMD-P 87-07-047
261-50-035	NEW-P 87-05-007	284-30-620	NEW-P 87-06-039	296-17-913	AMD-P 87-07-017
261-50-040	AMD 87-04-008	284-30-620	NEW 87-09-071	296-17-916	AMD-P 87-07-017
261-50-040	AMD-P 87-05-007	284-30-630	NEW-P 87-06-039	296-17-917	AMD-P 87-07-017
261-50-045	REP 87-04-008	284-30-630	NEW 87-09-071	296-17-920	AMD 87-04-006
261-50-050	AMD 87-04-008	284-30-650	NEW-P 87-06-039	296-18A-450	AMD-P 87-02-057
261-50-050	AMD-P 87-05-007	284-30-650	NEW 87-09-071	296-18A-450	AMD 87-08-004
261-50-060	AMD 87-04-008	284-30-750	NEW-P 87-06-039	296-18A-460	AMD-P 87-05-060
261-50-060	AMD-P 87-05-007	284-30-750	NEW 87-09-071	296-18A-465	NEW-P 87-05-056
261-50-070	NEW-P 87-05-007	284-74-010	NEW-P 87-02-066	296-18A-470	AMD-P 87-05-060
261-50-075	NEW 87-08-037	284-74-010	NEW 87-05-046	296-18A-480	AMD-P 87-02-057
261-50-090	AMD 87-04-008	284-74-100	NEW-P 87-02-066	296-18A-480	AMD 87-08-004
261-50-090	AMD-P 87-05-007	284-74-100	NEW 87-05-046	296-18A-490	AMD-P 87-05-057
261-50-090	AMD 87-08-037	286-16-035	AMD-P 87-05-026	296-18A-490	AMD-E 87-08-044
275-19-030	AMD-P 87-05-021	286-16-035	AMD 87-08-032	296-18A-510	AMD-P 87-05-059
275-19-030	AMD 87-09-035	289-15-225	AMD 87-05-040	296-20-022	NEW 87-03-004
275-19-040	AMD-P 87-05-021	296-08-025	NEW 87-02-037	296-20-035	AMD-P 87-02-057
275-19-040	AMD 87-09-035	296-15-030	AMD 87-05-008	296-20-035	AMD 87-08-004
275-19-050	AMD-P 87-05-021	296-17-310	AMD-P 87-07-047	296-20-135	AMD 87-03-004
275-19-050	AMD 87-09-035	296-17-340	AMD-P 87-07-047	296-20-140	AMD 87-03-004
275-19-075	AMD 87-03-016	296-17-430	AMD-P 87-07-047	296-20-145	AMD 87-03-004
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275-30-010	NEW-P 87-04-023	296-17-502	AMD-P 87-07-047	296-21-011	AMD-E 87-02-042
275-30-020	NEW-P 87-04-023	296-17-505	AMD-P 87-07-047	296-21-011	AMD 87-03-005
275-30-030	NEW-P 87-04-023	296-17-509	AMD-P 87-07-047	296-22-010	AMD-E 87-02-042
275-30-040	NEW-P 87-04-023	296-17-50904	AMD-P 87-07-047	296-22-010	AMD 87-03-005
275-30-050	NEW-P 87-04-023	296-17-520	AMD-P 87-07-047	296-23-01006	AMD-E 87-02-042
275-30-060	NEW-P 87-04-023	296-17-52102	AMD-P 87-07-047	296-23-01006	AMD 87-03-005
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275-56-135	AMD 87-06-026	296-17-52105	NEW-P 87-07-047	296-23-20102	AMD 87-03-005
284-07-010	NEW-P 87-02-065	296-17-526	AMD-P 87-07-047	296-23-212	AMD-E 87-02-042
284-07-010	NEW 87-05-011	296-17-527	AMD-P 87-07-047	296-23-212	AMD 87-03-005
284-07-014	NEW-P 87-02-065	296-17-538	AMD-P 87-07-047	296-23-300	REP-E 87-02-042
284-07-014	NEW 87-05-011	296-17-53806	AMD-P 87-07-047	296-23-300	REP 87-03-005
284-07-024	NEW-P 87-02-065	296-17-542	AMD-P 87-07-047	296-23-301	REP-E 87-02-042
284-07-024	NEW 87-05-011	296-17-544	AMD-P 87-07-047	296-23-301	REP 87-03-005
284-12-080	NEW 87-03-055	296-17-54401	NEW-P 87-07-047	296-23-305	REP-E 87-02-042
284-13-110	NEW-P 87-06-049	296-17-562	AMD-P 87-07-047	296-23-305	REP 87-03-005
284-13-110	NEW 87-09-056	296-17-565	AMD-P 87-07-047	296-23-310	REP-E 87-02-042
284-13-120	NEW-P 87-06-049	296-17-566	AMD-P 87-07-047	296-23-310	REP 87-03-005
284-13-120	NEW 87-09-056	296-17-56601	NEW-P 87-07-047	296-23-315	REP-E 87-02-042
284-13-130	NEW-P 87-06-049	296-17-568	AMD-P 87-07-047	296-23-315	REP 87-03-005
284-13-130	NEW 87-09-056	296-17-56901	NEW-P 87-07-047	296-23-330	REP-E 87-02-042

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296-23-335	REP-E	87-02-042	296-23A-266	NEW	87-03-005	296-46-940	AMD-P	87-06-047
296-23-340	REP	87-03-005	296-23A-268	NEW-E	87-02-042	296-62-05405	AMD-P	87-05-055
296-23-340	REP-E	87-02-042	296-23A-268	NEW	87-03-005	296-62-05427	AMD-P	87-05-055
296-23-356	REP	87-03-005	296-23A-300	NEW-E	87-02-042	296-62-07353	AMD-P	87-02-058
296-23-356	REP-E	87-02-042	296-23A-300	NEW	87-03-005	296-62-07353	AMD	87-07-022
296-23-357	REP	87-03-005	296-23A-310	NEW-E	87-02-042	296-62-07517	AMD-P	87-05-055
296-23-357	REP-E	87-02-042	296-23A-310	NEW	87-03-005	296-62-077	NEW-P	87-05-055
296-23-725	AMD-P	87-03-005	296-23A-315	NEW-E	87-02-042	296-62-07701	NEW-P	87-05-055
296-23-725	AMD	87-08-004	296-23A-315	NEW	87-03-005	296-62-07703	NEW-P	87-05-055
296-23-980	AMD-P	87-02-057	296-23A-320	NEW-E	87-02-042	296-62-07705	NEW-P	87-05-055
296-23-980	AMD	87-08-004	296-23A-320	NEW	87-03-005	296-62-07707	NEW-P	87-05-055
296-23A-100	NEW-E	87-02-042	296-23A-325	NEW-E	87-02-042	296-62-07709	NEW-P	87-05-055
296-23A-100	NEW	87-03-005	296-23A-325	NEW	87-03-005	296-62-07711	NEW-P	87-05-055
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296-23A-105	NEW	87-03-005	296-23A-330	NEW	87-03-005	296-62-07715	NEW-P	87-05-055
296-23A-110	NEW-E	87-02-042	296-23A-335	NEW-E	87-02-042	296-62-07717	NEW-P	87-05-055
296-23A-110	NEW	87-03-005	296-23A-335	NEW	87-03-005	296-62-07719	NEW-P	87-05-055
296-23A-115	NEW-E	87-02-042	296-23A-340	NEW-E	87-02-042	296-62-07721	NEW-P	87-05-055
296-23A-115	NEW	87-03-005	296-23A-340	NEW	87-03-005	296-62-07723	NEW-P	87-05-055
296-23A-120	NEW-E	87-02-042	296-23A-345	NEW-E	87-02-042	296-62-07725	NEW-P	87-05-055
296-23A-120	NEW	87-03-005	296-23A-345	NEW	87-03-005	296-62-07727	NEW-P	87-05-055
296-23A-125	NEW-E	87-02-042	296-23A-350	NEW-E	87-02-042	296-62-07729	NEW-P	87-05-055
296-23A-125	NEW	87-03-005	296-23A-350	NEW	87-03-005	296-62-07731	NEW-P	87-05-055
296-23A-130	NEW-E	87-02-042	296-23A-355	NEW-E	87-02-042	296-62-07733	NEW-P	87-05-055
296-23A-130	NEW	87-03-005	296-23A-355	NEW	87-03-005	296-62-07735	NEW-P	87-05-055
296-23A-135	NEW-E	87-02-042	296-23A-360	NEW-E	87-02-042	296-62-07737	NEW-P	87-05-055
296-23A-135	NEW	87-03-005	296-23A-360	NEW	87-03-005	296-62-07739	NEW-P	87-05-055
296-23A-140	NEW-E	87-02-042	296-23A-400	NEW-E	87-02-042	296-62-07741	NEW-P	87-05-055
296-23A-140	NEW	87-03-005	296-23A-400	NEW	87-03-005	296-62-07743	NEW-P	87-05-055
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296-23A-150	NEW-E	87-02-042	296-23A-415	NEW-E	87-02-042	296-62-07749	NEW-P	87-05-055
296-23A-150	NEW	87-03-005	296-23A-415	NEW	87-03-005	296-65-005	AMD-P	87-05-055
296-23A-200	NEW-E	87-02-042	296-23A-420	NEW-E	87-02-042	296-65-015	AMD-P	87-05-055
296-23A-200	NEW	87-03-005	296-23A-420	NEW	87-03-005	296-65-020	AMD-P	87-05-055
296-23A-205	NEW-E	87-02-042	296-23A-425	NEW-E	87-02-042	296-65-030	AMD-P	87-05-055
296-23A-205	NEW	87-03-005	296-23A-425	NEW	87-03-005	296-65-040	AMD-P	87-05-055
296-23A-210	NEW-E	87-02-042	296-24-14011	AMD-P	87-02-058	296-104-701	NEW-P	87-07-023
296-23A-210	NEW	87-03-005	296-24-14011	AMD	87-07-022	296-104-701	NEW-E	87-07-024
296-23A-215	NEW-E	87-02-042	296-27-160	AMD	87-03-011	296-116-080	AMD-P	87-02-053
296-23A-215	NEW	87-03-005	296-27-16001	AMD	87-03-011	296-155-160	AMD-P	87-05-055
296-23A-220	NEW-E	87-02-042	296-27-16002	NEW	87-03-011	296-155-175	NEW-P	87-05-055
296-23A-220	NEW	87-03-005	296-27-16003	AMD	87-03-011	296-155-17505	NEW-P	87-05-055
296-23A-225	NEW-E	87-02-042	296-27-16004	NEW	87-03-011	296-155-17510	NEW-P	87-05-055
296-23A-225	NEW	87-03-005	296-27-16005	REP	87-03-011	296-155-17515	NEW-P	87-05-055
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296-23A-242	NEW	87-03-005	296-27-16019	REP	87-03-011	296-155-17550	NEW-P	87-05-055
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296-23A-244	NEW	87-03-005	296-27-16021	REP	87-03-011	296-155-17560	NEW-P	87-05-055
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296-23A-246	NEW	87-03-005	296-27-16023	REP	87-03-011	296-155-17570	NEW-P	87-05-055
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296-23A-258	NEW	87-03-005	296-46-350	AMD-P	87-06-047	296-155-265	AMD-C	87-07-021
296-23A-260	NEW-E	87-02-042	296-46-370	AMD-P	87-06-047	296-155-270	AMD-P	87-02-058
296-23A-260	NEW	87-03-005	296-46-420	AMD-P	87-06-047	296-155-270	AMD-C	87-07-021
296-23A-262	NEW-E	87-02-042	296-46-422	NEW-P	87-06-047	296-155-405	AMD-P	87-02-058
296-23A-262	NEW	87-03-005	296-46-495	AMD-P	87-06-047	296-155-405	AMD-C	87-07-021
296-23A-264	NEW-E	87-02-042	296-46-514	NEW-P	87-06-047	296-155-425	REP-P	87-02-058
296-23A-264	NEW	87-03-005	296-46-680	AMD-P	87-06-047	296-155-425	REP-C	87-07-021
296-23A-264	NEW	87-03-005	296-46-910	AMD-P	87-06-047	296-155-426	NEW-P	87-02-058

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296-155-428	NEW-P	87-02-058	308-12-326	NEW-P	87-07-046	308-94-080	AMD	87-03-041
296-155-428	NEW-C	87-07-021	308-13-150	AMD-E	87-03-031	308-94-100	AMD	87-03-041
296-155-429	NEW-P	87-02-058	308-13-150	AMD-P	87-07-046	308-94-110	AMD	87-03-041
296-155-429	NEW-C	87-07-021	308-20-200	REP-P	87-07-046	308-94-160	AMD	87-03-041
296-155-430	REP-P	87-02-058	308-20-210	NEW-P	87-07-046	308-94-170	AMD	87-03-041
296-155-430	REP-C	87-07-021	308-25-065	AMD-P	87-07-046	308-94-180	REP	87-03-041
296-155-432	NEW-P	87-02-058	308-26-040	REP-P	87-07-046	308-94-181	NEW	87-03-041
296-155-432	NEW-C	87-07-021	308-26-045	NEW-P	87-07-046	308-94-190	REP	87-03-041
296-155-434	NEW-P	87-02-058	308-29-030	AMD-P	87-07-025	308-94-191	NEW	87-03-041
296-155-434	NEW-C	87-07-021	308-29-045	AMD-P	87-07-046	308-94-200	AMD	87-03-041
296-155-435	REP-P	87-02-058	308-29-060	AMD-P	87-07-025	308-94-210	AMD	87-03-041
296-155-435	REP-C	87-07-021	308-29-070	AMD-P	87-07-025	308-94-220	AMD	87-03-041
296-155-437	NEW-P	87-02-058	308-29-080	AMD-P	87-07-025	308-94-230	REP	87-03-041
296-155-437	NEW-C	87-07-021	308-31-015	AMD	87-04-050	308-94-240	AMD	87-03-041
296-155-440	REP-P	87-02-058	308-31-025	NEW	87-04-050	308-94-250	AMD	87-03-041
296-155-440	REP-C	87-07-021	308-31-025	AMD-P	87-04-054	308-94-260	REP	87-03-041
296-155-441	NEW-P	87-02-058	308-31-025	AMD	87-09-045	308-94-261	NEW	87-03-041
296-155-441	NEW-C	87-07-021	308-31-055	AMD-P	87-07-046	308-94-265	NEW	87-03-041
296-155-444	NEW-P	87-02-058	308-31-100	AMD	87-04-050	308-94-270	NEW	87-03-041
296-155-444	NEW-C	87-07-021	308-31-120	AMD	87-04-050	308-96A-005	AMD-P	87-04-067
296-155-447	NEW-P	87-02-058	308-31-500	AMD	87-04-050	308-96A-021	NEW-P	87-04-067
296-155-447	NEW-C	87-07-021	308-31-500	AMD-P	87-04-054	308-96A-065	AMD-P	87-04-067
296-155-449	NEW-P	87-02-058	308-31-500	AMD	87-09-045	308-96A-100	AMD-P	87-04-067
296-155-449	NEW-C	87-07-021	308-32-090	REP-P	87-07-046	308-96A-136	NEW-P	87-04-067
296-155-450	REP-P	87-02-058	308-32-100	NEW-P	87-07-046	308-96A-205	AMD-P	87-04-067
296-155-450	REP-C	87-07-021	308-33-105	AMD-P	87-07-046	308-96A-220	AMD-P	87-04-067
296-155-452	NEW-P	87-02-058	308-34-090	NEW-P	87-07-046	308-96A-300	AMD-P	87-04-067
296-155-452	NEW-C	87-07-021	308-37-190	AMD-P	87-07-045	308-96A-306	NEW-P	87-04-067
296-155-455	REP-P	87-02-058	308-37-190	AMD-W	87-09-095	308-96A-310	AMD-P	87-04-067
296-155-455	REP-C	87-07-021	308-37-190	AMD-P	87-09-096	308-96A-325	AMD-P	87-04-067
296-155-456	NEW-P	87-02-058	308-40-102	AMD-P	87-06-051	308-96A-330	AMD-P	87-04-067
296-155-456	NEW-C	87-07-021	308-40-102	AMD	87-09-097	308-96A-335	AMD-P	87-04-067
296-155-459	NEW-P	87-02-058	308-40-105	AMD-P	87-06-051	308-96A-400	AMD-P	87-04-067
296-155-459	NEW-C	87-07-021	308-40-105	AMD	87-09-097	308-96A-410	NEW-P	87-04-067
296-155-462	NEW-P	87-02-058	308-40-125	AMD-P	87-07-046	308-96A-415	NEW-P	87-04-067
296-155-462	NEW-C	87-07-021	308-41-025	REP-P	87-07-046	308-96A-420	NEW-P	87-04-067
296-155-745	AMD-P	87-02-058	308-42-040	AMD-P	87-05-061	308-115-405	AMD-P	87-07-046
296-155-745	AMD-C	87-07-021	308-42-040	AMD	87-08-065	308-116-325	REP-P	87-07-046
296-155-775	AMD-P	87-05-055	308-42-075	AMD-P	87-07-046	308-117-500	NEW-P	87-07-046
296-200-340	AMD	87-07-003	308-48-075	NEW-P	87-08-051	308-120-275	AMD-P	87-07-046
296-200-350	AMD	87-07-003	308-48-210	NEW-P	87-08-051	308-122-275	AMD-P	87-07-046
296-200-370	AMD	87-07-003	308-48-250	REP-P	87-07-046	308-124D-040	AMD	87-05-065
296-306-003	NEW-C	87-02-056	308-48-800	NEW-P	87-07-046	308-138-080	AMD-P	87-07-046
296-306-003	NEW-C	87-05-023	308-50-375	REP-P	87-07-046	308-138-321	NEW-P	87-04-048
296-306-003	NEW	87-09-079	308-50-440	NEW-P	87-07-046	308-138-322	NEW-P	87-04-048
296-306-005	REP-C	87-02-056	308-51-200	REP-P	87-07-046	308-138-323	NEW-P	87-04-048
296-306-005	REP-C	87-05-023	308-51-210	NEW-P	87-07-046	308-138-324	NEW-P	87-04-048
296-306-005	REP	87-09-079	308-52-315	REP-P	87-07-046	308-138-325	NEW-P	87-04-048
296-306-006	NEW-C	87-02-056	308-52-590	NEW-P	87-07-046	308-138-326	NEW-P	87-04-048
296-306-006	NEW-C	87-05-023	308-53-020	AMD-P	87-07-046	308-138-327	NEW-P	87-04-048
296-306-006	NEW	87-09-079	308-53-084	AMD-C	87-02-060	308-138-328	NEW-P	87-04-048
296-306-009	NEW-C	87-02-056	308-53-084	AMD	87-09-046	308-138-330	AMD-P	87-04-048
296-306-009	NEW-C	87-05-023	308-53-085	AMD-C	87-02-060	308-138A-020	AMD-P	87-04-048
296-306-009	NEW	87-09-079	308-53-085	AMD	87-09-046	308-152-015	REP-P	87-07-046
296-306-012	NEW-C	87-02-056	308-53-320	NEW-P	87-09-074	308-152-030	NEW-P	87-07-046
296-306-012	NEW-C	87-05-023	308-53-330	NEW-P	87-09-075	308-171-001	AMD-P	87-05-062
296-306-012	NEW	87-09-079	308-54-315	AMD-P	87-07-046	308-171-001	AMD	87-09-044
296-306-025	AMD-C	87-02-056	308-55-025	AMD-P	87-07-046	308-171-002	AMD-P	87-05-062
296-306-025	AMD-C	87-05-023	308-56A-006	NEW-P	87-04-069	308-171-002	AMD	87-09-044
296-306-025	AMD	87-09-079	308-56A-115	AMD-P	87-04-069	308-171-003	NEW-P	87-05-062
296-306-057	NEW-C	87-02-056	308-56A-125	AMD-P	87-04-069	308-171-003	NEW	87-09-044
296-306-057	NEW-C	87-05-023	308-56A-155	NEW-P	87-04-069	308-171-010	AMD-P	87-05-062
296-306-057	NEW	87-09-079	308-56A-156	NEW-P	87-04-069	308-171-010	AMD	87-09-044
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296-306-300	NEW-C	87-05-023	308-56A-195	AMD-P	87-04-069	308-171-020	AMD	87-09-044
296-306-300	NEW	87-09-079	308-93-010	AMD-P	87-04-068	308-171-030	AMD	87-04-015
296-306-310	NEW-C	87-02-056	308-93-010	AMD	87-09-073	308-171-030	REP-P	87-07-046
296-306-310	NEW-C	87-05-023	308-93-074	AMD-P	87-04-068	308-171-040	AMD	87-04-015
296-306-310	NEW	87-09-079	308-93-074	AMD	87-09-073	308-171-310	NEW-P	87-07-046
296-306-320	NEW-C	87-02-056	308-94	AMD	87-03-041	308-180-100	AMD-E	87-03-013
296-306-320	NEW-C	87-05-023	308-94-010	AMD	87-03-041	308-180-100	AMD	87-06-050
296-306-320	NEW	87-09-079	308-94-020	REP	87-03-041	308-180-100	REP-P	87-07-046
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304-12-140	AMD	87-07-029	308-94-040	AMD	87-03-041	308-180-130	NEW	87-06-050
308-11-030	AMD-P	87-07-046	308-94-050	AMD	87-03-041	308-180-140	NEW-E	87-03-013
308-12-312	AMD-E	87-04-049	308-94-060	REP	87-03-041	308-180-140	NEW	87-06-050

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308-180-150	NEW	87-06-050	332-24-056	REP-P	87-06-055	332-140-300	AMD-E	87-08-043
308-180-160	NEW-E	87-03-013	332-24-057	REP-P	87-06-055	332-150-010	AMD-P	87-09-103
308-180-160	NEW	87-06-050	332-24-058	REP-P	87-06-055	332-150-020	AMD-P	87-09-103
308-180-170	NEW-E	87-03-013	332-24-059	REP-P	87-06-055	332-150-030	AMD-P	87-09-103
308-180-170	NEW	87-06-050	332-24-060	REP-P	87-06-055	332-150-040	REP-P	87-09-103
308-180-190	NEW-E	87-03-013	332-24-063	REP-P	87-06-055	332-150-050	AMD-P	87-09-103
308-180-190	NEW	87-06-050	332-24-070	REP-P	87-06-055	344-12-060	AMD-E	87-06-010
308-180-200	NEW-E	87-03-013	332-24-090	REP-P	87-06-055	352-12-020	AMD-P	87-04-074
308-180-200	NEW	87-06-050	332-24-095	REP-P	87-06-055	352-12-020	AMD	87-08-008
308-180-210	NEW-E	87-03-013	332-24-100	REP-P	87-06-055	352-32-010	AMD-P	87-04-074
308-180-210	NEW	87-06-050	332-24-105	REP-P	87-06-055	352-32-010	AMD	87-08-008
308-180-220	NEW-E	87-03-013	332-24-10501	REP-P	87-06-055	352-32-030	AMD-P	87-04-074
308-180-220	NEW	87-06-050	332-24-10502	REP-P	87-06-055	352-32-030	AMD	87-08-008
308-180-230	NEW-E	87-03-013	332-24-150	REP-P	87-06-055	352-32-035	AMD-P	87-04-074
308-180-230	NEW	87-06-050	332-24-160	REP-P	87-06-055	352-32-035	AMD	87-08-008
308-180-240	NEW-E	87-03-013	332-24-170	REP-P	87-06-055	352-32-235	NEW-P	87-04-073
308-180-240	NEW	87-06-050	332-24-180	REP-P	87-06-055	352-32-235	NEW	87-08-007
308-180-250	NEW-E	87-03-013	332-24-185	REP-P	87-06-055	352-32-250	AMD-P	87-04-074
308-180-250	NEW	87-06-050	332-24-185001	REP-P	87-06-055	352-32-250	AMD	87-08-008
308-180-260	NEW-P	87-07-046	332-24-190	REP-P	87-06-055	352-42	REP-C	87-08-042
314-12-140	AMD	87-04-018	332-24-192	REP-P	87-06-055	352-42-010	REP-P	87-04-075
314-16-160	AMD-C	87-03-025	332-24-194	REP-P	87-06-055	352-42-020	REP-P	87-04-075
314-16-160	AMD	87-04-017	332-24-196	REP-P	87-06-055	352-42-030	REP-P	87-04-075
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314-20-020	AMD	87-08-015	332-24-200	REP-P	87-06-055	352-42-050	REP-P	87-04-075
314-24-090	AMD-P	87-05-044	332-24-201	NEW-P	87-06-055	352-42-060	REP-P	87-04-075
314-24-090	AMD	87-08-016	332-24-205	NEW-P	87-06-055	352-42-070	REP-P	87-04-075
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314-27-010	REVIEW	87-03-034	332-24-211	NEW-P	87-06-055	352-44A-010	REP-P	87-04-075
314-36-020	AMD-P	87-04-063	332-24-215	NEW-P	87-06-055	352-44A-020	REP-P	87-04-075
314-36-020	AMD	87-07-008	332-24-220	REP-P	87-06-055	352-44A-030	REP-P	87-04-075
314-36-100	AMD-P	87-04-063	332-24-221	NEW-P	87-06-055	352-44A-040	REP-P	87-04-075
314-36-100	AMD	87-07-008	332-24-225	NEW-P	87-06-055	352-44A-050	REP-P	87-04-075
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314-36-110	AMD	87-07-008	332-24-231	NEW-P	87-06-055	356-05-180	REP	87-02-038
314-36-150	AMD-P	87-04-063	332-24-232	NEW-P	87-06-055	356-05-207	NEW	87-02-038
314-36-150	AMD	87-07-008	332-24-234	NEW-P	87-06-055	356-05-260	NEW	87-02-038
314-52-114	AMD	87-04-026	332-24-236	NEW-P	87-06-055	356-05-327	NEW	87-02-038
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315-04-090	AMD-P	87-07-051	332-24-242	NEW-P	87-06-055	356-05-447	NEW	87-02-038
315-04-190	AMD	87-05-005	332-24-244	NEW-P	87-06-055	356-05-470	AMD	87-02-038
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315-11-241	NEW	87-05-005	332-24-301	NEW-P	87-06-055	356-05-480	AMD-C	87-06-019
315-11-242	NEW	87-05-005	332-24-310	REP-P	87-06-055	356-05-480	AMD-C	87-07-036
315-11-250	NEW-P	87-07-050	332-24-320	REP-P	87-06-055	356-05-500	AMD-C	87-03-009
315-11-250	NEW-E	87-07-052	332-24-330	REP-P	87-06-055	356-05-500	AMD-C	87-06-019
315-11-251	NEW-P	87-07-050	332-24-340	REP-P	87-06-055	356-05-500	AMD-C	87-07-036
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315-11-252	NEW-P	87-07-050	332-24-360	REP-P	87-06-055	356-06-001	AMD	87-06-032
315-11-252	NEW-E	87-07-052	332-24-370	REP-P	87-06-055	356-07-040	AMD	87-02-038
315-11-260	NEW-P	87-07-050	332-24-380	REP-P	87-06-055	356-07-060	AMD	87-02-038
315-11-261	NEW-P	87-07-050	332-24-385	REP-P	87-06-055	356-09-010	NEW	87-02-038
315-11-262	NEW-P	87-07-050	332-24-387	REP-P	87-06-055	356-09-020	NEW	87-02-038
315-11-270	NEW-P	87-07-050	332-24-390	REP-P	87-06-055	356-09-030	NEW	87-02-038
315-11-271	NEW-P	87-07-050	332-24-395	REP-P	87-06-055	356-09-040	NEW	87-02-038
315-11-272	NEW-P	87-07-050	332-24-401	NEW-P	87-06-055	356-09-050	NEW	87-02-038
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323-12-030	NEW	87-05-014	332-24-412	REP-P	87-06-055	356-14-240	AMD-P	87-08-013
323-12-040	NEW	87-05-014	332-24-415	REP-P	87-06-055	356-15-030	AMD-P	87-04-040
323-12-050	NEW	87-05-014	332-24-418	REP-P	87-06-055	356-15-030	AMD-C	87-07-036
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323-12-080	NEW	87-05-014	332-24-440	REP-P	87-06-055	356-15-090	AMD-C	87-07-036
323-12-090	NEW	87-05-014	332-24-500	REP-P	87-06-055	356-18-100	AMD-P	87-02-045
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356-26-040	AMD	87-02-038	365-170-100	NEW	87-04-007	388-96-745	AMD	87-09-058
356-26-060	AMD	87-02-038	388-17-500	NEW	87-03-015	388-96-754	AMD-P	87-05-018
356-26-090	AMD	87-03-032	388-17-510	NEW	87-03-015	388-96-754	AMD	87-09-058
356-26-130	AMD	87-02-038	388-24-107	AMD-P	87-09-086	388-96-774	AMD-P	87-05-018
356-26-140	NEW-E	87-06-023	388-53-010	AMD-E	87-09-020	388-96-774	AMD	87-09-058
356-26-140	NEW	87-06-024	388-53-010	AMD-P	87-09-021	388-99-020	AMD-P	87-02-064
356-26-140	AMD-P	87-08-014	388-53-020	REP-E	87-09-020	388-99-020	AMD-E	87-03-001
356-30-010	AMD	87-02-038	388-53-020	REP-P	87-09-021	388-99-020	AMD	87-06-006
356-30-050	AMD	87-02-038	388-53-030	REP-E	87-09-020	388-100-005	REVIEW	87-04-062
356-30-065	AMD-C	87-03-010	388-53-030	REP-P	87-09-021	388-100-005	AMD-P	87-09-087
356-30-065	AMD-C	87-06-022	388-53-040	REP-E	87-09-020	390-20-0101	AMD	87-05-001
356-30-070	AMD-C	87-03-010	388-53-040	REP-P	87-09-021	390-20-014	NEW-P	87-05-041
356-30-070	AMD-C	87-06-022	388-53-050	AMD-E	87-09-020	390-20-014	NEW	87-08-025
356-30-075	AMD	87-02-039	388-53-050	AMD-P	87-09-021	390-20-110	AMD	87-05-001
356-30-090	REP-C	87-03-010	388-53-060	REP-E	87-09-020	392-100-050	NEW-P	87-07-027
356-30-090	REP-C	87-06-022	388-53-060	REP-P	87-09-021	392-100-060	NEW-P	87-07-027
356-30-130	AMD-P	87-02-045	388-53-070	REP-E	87-09-020	392-101-010	NEW-P	87-07-026
356-30-130	AMD-C	87-06-021	388-53-070	REP-P	87-09-021	392-122-605	AMD-P	87-04-046
356-30-130	AMD-C	87-07-036	388-53-080	REP-E	87-09-020	392-122-605	AMD	87-09-018
356-30-130	AMD-C	87-09-036	388-53-080	REP-P	87-09-021	392-123-145	AMD-P	87-05-039
356-30-145	AMD-C	87-03-010	388-53-090	REP-E	87-09-020	392-123-145	AMD	87-09-019
356-30-145	AMD-C	87-06-022	388-53-090	REP-P	87-09-021	392-137-060	AMD-P	87-07-028
356-30-300	AMD	87-02-038	388-53-100	REP-E	87-09-020	392-140-058	AMD-P	87-04-047
356-30-330	AMD-E	87-06-023	388-53-100	REP-P	87-09-021	392-140-058	AMD	87-09-017
356-30-330	AMD	87-06-024	388-53-120	REP-E	87-09-020	415-02-090	AMD-P	87-03-049
356-34-090	AMD-E	87-06-023	388-53-120	REP-P	87-09-021	415-02-090	AMD	87-07-013
356-34-090	AMD	87-06-024	388-54-601	AMD-P	87-08-045	415-100	AMD-P	87-03-046
356-35-010	AMD	87-02-038	388-54-601	AMD-E	87-08-046	415-100	AMD	87-07-014
356-42-020	AMD-P	87-04-036	388-54-630	AMD-P	87-06-033	415-100-005	NEW-P	87-03-046
356-42-020	AMD-C	87-07-035	388-54-630	AMD	87-09-028	415-100-005	NEW	87-07-014
356-42-082	AMD-P	87-04-036	388-54-645	AMD-P	87-09-008	415-100-010	REP-P	87-03-046
356-42-082	AMD-C	87-07-035	388-54-645	AMD-E	87-09-009	415-100-010	REP	87-07-014
356-42-084	AMD-P	87-04-036	388-54-645	RESCIND	87-09-029	415-100-015	NEW-P	87-03-046
356-42-084	AMD-C	87-07-035	388-54-662	NEW	87-06-003	415-100-015	NEW	87-07-014
356-46-020	AMD-P	87-02-045	388-54-670	AMD	87-03-019	415-100-020	REP-P	87-03-046
356-46-020	AMD	87-06-032	388-54-675	AMD-P	87-08-045	415-100-020	REP	87-07-014
360-10-010	AMD-P	87-05-063	388-54-675	AMD-E	87-08-046	415-100-025	NEW-P	87-03-046
360-10-010	AMD-P	87-08-064	388-54-677	AMD-P	87-08-045	415-100-025	NEW	87-07-014
360-10-020	AMD-P	87-05-063	388-54-677	AMD-E	87-08-046	415-100-035	NEW-P	87-03-046
360-10-020	AMD-P	87-08-064	388-54-735	AMD	87-03-019	415-100-035	NEW	87-07-014
360-10-030	AMD-P	87-05-063	388-54-735	AMD-E	87-03-021	415-100-040	REP-P	87-03-046
360-10-030	AMD-P	87-08-064	388-54-740	AMD	87-03-054	415-100-040	REP	87-07-014
360-10-040	AMD-P	87-05-063	388-54-740	AMD-P	87-09-090	415-100-050	REP-P	87-03-046
360-10-040	AMD-P	87-08-064	388-54-745	AMD	87-03-054	415-100-050	REP	87-07-014
360-10-050	AMD-P	87-05-063	388-54-765	AMD	87-06-003	415-100-060	REP-P	87-03-046
360-10-050	AMD-P	87-08-064	388-54-775	AMD-P	87-09-088	415-100-060	REP	87-07-014
360-10-060	AMD-P	87-05-063	388-54-805	AMD	87-06-003	415-100-100	REP-P	87-03-046
360-10-060	AMD-P	87-08-064	388-54-850	AMD-P	87-04-010	415-100-100	REP	87-07-014
360-10-070	REP-P	87-05-063	388-54-850	AMD	87-07-032	415-100-110	REP-P	87-03-046
360-10-070	REP-P	87-08-064	388-70-056	REP-P	87-06-043	415-100-110	REP	87-07-014
360-10-080	AMD-P	87-05-063	388-70-056	REP	87-09-027	415-100-120	REP-P	87-03-046
360-10-080	AMD-P	87-08-064	388-83-015	AMD-P	87-02-063	415-100-120	REP	87-07-014
360-16-235	NEW-P	87-05-063	388-83-015	AMD-E	87-03-002	415-100-130	REP-P	87-03-046
360-16-235	NEW	87-08-031	388-83-015	AMD	87-06-005	415-100-130	REP	87-07-014
360-16-240	REP-P	87-05-063	388-86-005	AMD-P	87-09-089	415-100-140	REP-P	87-03-046
360-16-240	REP	87-08-031	388-86-009	AMD	87-06-001	415-100-140	REP	87-07-014
360-16-245	AMD-P	87-05-063	388-86-00901	AMD-P	87-02-062	415-100-150	REP-P	87-03-046
360-16-245	AMD	87-08-031	388-86-00901	AMD-E	87-03-003	415-100-150	REP	87-07-014
360-36-010	AMD-P	87-07-049	388-86-00901	AMD	87-06-004	415-100-160	REP-P	87-03-046
360-36-409	NEW-E	87-08-028	388-86-071	AMD	87-06-002	415-100-160	REP	87-07-014
365-100-010	AMD-E	87-03-035	388-87-005	AMD-P	87-09-057	415-100-170	REP-P	87-03-046
365-100-010	AMD-P	87-03-043	388-87-105	AMD-P	87-09-057	415-100-170	REP	87-07-014
365-100-020	AMD-E	87-03-035	388-87-115	NEW-P	87-09-089	415-100-180	REP-P	87-03-046
365-100-020	AMD-P	87-03-043	388-92-041	NEW-P	87-07-012	415-100-180	REP	87-07-014
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365-100-030	AMD-P	87-03-043	388-96-217	NEW	87-09-058	415-104	AMD	87-07-016
365-100-040	AMD-E	87-03-035	388-96-366	AMD-P	87-05-018	415-104-005	NEW-P	87-03-047
365-100-040	AMD-P	87-03-043	388-96-366	AMD	87-09-058	415-104-005	NEW	87-07-016
365-170-010	NEW	87-04-007	388-96-565	AMD-P	87-05-018	415-104-010	REP	87-03-047
365-170-020	NEW	87-04-007	388-96-565	AMD	87-09-058	415-104-010	REP	87-07-016
365-170-030	NEW	87-04-007	388-96-585	AMD-P	87-05-018	415-104-015	NEW-P	87-03-047
365-170-040	NEW	87-04-007	388-96-585	AMD	87-09-058	415-104-015	NEW	87-07-016
365-170-050	NEW	87-04-007	388-96-710	AMD-P	87-05-018	415-104-020	REP-P	87-03-047
365-170-060	NEW	87-04-007	388-96-710	AMD	87-09-058	415-104-020	REP	87-07-016

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415-104-025	NEW	87-07-016	415-104-410	REP	87-07-016	446-55-170	AMD	87-05-012
415-104-030	REP-P	87-03-047	415-104-800	REP-P	87-03-047	446-55-180	AMD-C	87-04-024
415-104-030	REP	87-07-016	415-104-800	REP	87-07-016	446-55-180	AMD	87-05-012
415-104-035	NEW-P	87-03-047	415-104-810	REP-P	87-03-047	446-55-200	REP-C	87-04-024
415-104-035	NEW	87-07-016	415-104-810	REP	87-07-016	446-55-200	REP	87-05-012
415-104-045	NEW-P	87-03-047	415-104-820	REP-P	87-03-047	446-55-210	REP-C	87-04-024
415-104-045	NEW	87-07-016	415-104-820	REP	87-07-016	446-55-210	REP	87-05-012
415-104-050	NEW-P	87-03-047	415-104-830	REP-P	87-03-047	446-55-220	AMD-C	87-04-024
415-104-050	NEW	87-07-016	415-104-830	REP	87-07-016	446-55-220	AMD	87-05-012
415-104-060	NEW-P	87-03-047	415-105-050	AMD-P	87-03-048	446-55-240	REP-C	87-04-024
415-104-060	NEW	87-07-016	415-105-050	AMD	87-07-015	446-55-240	REP	87-05-012
415-104-070	NEW-P	87-03-047	415-105-060	AMD-P	87-03-048	446-55-250	AMD-P	87-02-040
415-104-070	NEW	87-07-016	415-105-060	AMD	87-07-015	446-55-250	AMD-E	87-02-041
415-104-080	NEW-P	87-03-047	415-105-070	AMD-P	87-03-048	446-55-270	AMD-P	87-02-040
415-104-080	NEW	87-07-016	415-105-070	AMD	87-07-015	446-55-270	AMD-E	87-02-041
415-104-090	NEW-P	87-03-047	415-105-090	AMD-P	87-03-048	446-60-005	NEW-C	87-04-024
415-104-090	NEW	87-07-016	415-105-090	AMD	87-07-015	446-60-005	NEW	87-05-012
415-104-100	AMD-P	87-03-047	415-105-100	NEW-P	87-03-048	446-60-015	NEW-C	87-04-024
415-104-100	REP-P	87-03-047	415-105-100	NEW	87-07-015	446-60-015	NEW	87-05-012
415-104-100	AMD	87-07-016	415-105-110	NEW-P	87-03-048	446-60-020	AMD-C	87-04-024
415-104-105	REP-P	87-03-047	415-105-110	NEW	87-07-015	446-60-020	AMD	87-05-012
415-104-105	REP	87-07-016	415-105-120	NEW-P	87-03-048	446-60-080	AMD-C	87-04-024
415-104-110	REP-P	87-03-047	415-105-120	NEW	87-07-015	446-60-080	AMD	87-05-012
415-104-110	REP	87-07-016	415-105-130	NEW-P	87-03-048	446-70-010	NEW-P	87-06-007
415-104-115	NEW-P	87-03-047	415-105-130	NEW	87-07-015	446-70-010	NEW	87-09-049
415-104-115	NEW	87-07-016	415-105-140	NEW-P	87-03-048	446-70-020	NEW-P	87-06-007
415-104-120	REP-P	87-03-047	415-105-140	NEW	87-07-015	446-70-020	NEW	87-09-049
415-104-120	REP	87-07-016	415-105-150	NEW-P	87-03-048	446-70-030	NEW-P	87-06-007
415-104-125	NEW-P	87-03-047	415-105-150	NEW	87-07-015	446-70-030	NEW	87-09-049
415-104-125	NEW	87-07-016	415-105-160	NEW-P	87-03-048	446-70-040	NEW-P	87-06-007
415-104-135	NEW-P	87-03-047	415-105-160	NEW	87-07-015	446-70-040	NEW	87-09-049
415-104-135	NEW	87-07-016	415-105-170	NEW-P	87-03-048	446-70-050	NEW-P	87-06-007
415-104-140	REP-P	87-03-047	415-105-170	NEW	87-07-015	446-70-050	NEW	87-09-049
415-104-140	REP	87-07-016	415-105-180	NEW-P	87-03-048	446-70-060	NEW-P	87-06-007
415-104-145	NEW-P	87-03-047	415-105-180	NEW	87-07-015	446-70-060	NEW	87-09-049
415-104-145	NEW	87-07-016	434-09-010	NEW-E	87-02-067	446-70-070	NEW-P	87-06-007
415-104-150	REP-P	87-03-047	434-09-010	NEW-P	87-02-068	446-70-070	NEW	87-09-049
415-104-150	REP	87-07-016	434-09-010	NEW	87-06-009	446-70-080	NEW-P	87-06-007
415-104-155	NEW-P	87-03-047	434-09-020	NEW-E	87-02-067	446-70-080	NEW	87-09-049
415-104-155	NEW	87-07-016	434-09-020	NEW-P	87-02-068	458-15-005	NEW	87-05-022
415-104-160	REP-P	87-03-047	434-09-020	NEW	87-06-009	458-15-010	NEW	87-05-022
415-104-160	REP	87-07-016	434-09-030	NEW-E	87-02-067	458-15-015	NEW	87-05-022
415-104-165	NEW-P	87-03-047	434-09-030	NEW-P	87-02-068	458-15-020	NEW	87-05-022
415-104-165	NEW	87-07-016	434-09-030	NEW	87-06-009	458-15-030	NEW	87-05-022
415-104-170	REP-P	87-03-047	434-09-040	NEW-E	87-02-067	458-15-040	NEW	87-05-022
415-104-170	REP	87-07-016	434-09-040	NEW-P	87-02-068	458-15-050	NEW	87-05-022
415-104-175	NEW-P	87-03-047	434-09-040	NEW	87-06-009	458-15-060	NEW	87-05-022
415-104-175	NEW	87-07-016	434-09-050	NEW-E	87-02-067	458-15-070	NEW	87-05-022
415-104-180	REP-P	87-03-047	434-09-050	NEW-P	87-02-068	458-15-080	NEW	87-05-022
415-104-180	REP	87-07-016	434-09-050	NEW	87-06-009	458-15-090	NEW	87-05-022
415-104-190	REP-P	87-03-047	434-09-060	NEW-E	87-02-067	458-15-100	NEW	87-05-022
415-104-190	REP	87-07-016	434-09-060	NEW-P	87-02-068	458-15-110	NEW	87-05-022
415-104-200	REP-P	87-03-047	434-09-060	NEW	87-06-009	458-15-120	NEW	87-05-022
415-104-200	REP	87-07-016	434-09-070	NEW-E	87-02-067	458-20-168	AMD-P	87-02-061
415-104-210	REP-P	87-03-047	434-09-070	NEW-P	87-02-068	458-20-168	AMD	87-05-042
415-104-210	REP	87-07-016	434-09-070	NEW	87-06-009	458-20-182	AMD-P	87-02-061
415-104-220	REP-P	87-03-047	434-09-080	NEW-E	87-02-067	458-20-182	AMD	87-05-042
415-104-220	REP	87-07-016	434-09-080	NEW-P	87-02-068	458-20-18801	AMD-P	87-02-061
415-104-230	REP-P	87-03-047	434-09-080	NEW	87-06-009	458-20-18801	AMD	87-05-042
415-104-230	REP	87-07-016	434-09-090	NEW-E	87-02-067	458-30-500	NEW	87-07-009
415-104-240	REP-P	87-03-047	434-09-090	NEW-P	87-02-068	458-30-510	NEW	87-07-009
415-104-240	REP	87-07-016	434-09-090	NEW	87-06-009	458-30-520	NEW	87-07-009
415-104-250	REP-P	87-03-047	440-44-030	AMD-P	87-09-007	458-30-530	NEW	87-07-009
415-104-250	REP	87-07-016	440-44-061	AMD	87-03-017	458-30-540	NEW	87-07-009
415-104-260	REP-P	87-03-047	446-55-005	NEW-C	87-04-024	458-30-550	NEW	87-07-009
415-104-260	REP	87-07-016	446-55-005	NEW	87-05-012	458-30-560	NEW	87-07-009
415-104-270	REP-P	87-03-047	446-55-020	AMD-C	87-04-024	458-30-570	NEW	87-07-009
415-104-270	REP	87-07-016	446-55-020	AMD	87-05-012	458-30-580	NEW	87-07-009
415-104-300	REP-P	87-03-047	446-55-030	AMD-C	87-04-024	458-30-590	NEW	87-07-009
415-104-300	REP	87-07-016	446-55-030	AMD	87-05-012	458-53-110	AMD-P	87-09-022
415-104-310	REP-P	87-03-047	446-55-060	AMD-C	87-04-024	458-53-141	AMD-P	87-09-022
415-104-310	REP	87-07-016	446-55-060	AMD	87-05-012	458-53-160	AMD-P	87-09-022
415-104-320	REP-P	87-03-047	446-55-090	AMD-P	87-02-040	458-53-163	AMD-P	87-09-022
415-104-320	REP	87-07-016	446-55-090	AMD-E	87-02-041	458-61-030	AMD	87-03-036
415-104-400	REP-P	87-03-047	446-55-100	AMD-P	87-02-040	458-61-030	AMD-P	87-09-034
415-104-400	REP	87-07-016	446-55-100	AMD-E	87-02-041	458-61-050	AMD	87-03-036

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458-61-210	AMD	87-03-036	480-100-072	AMD-P	87-03-058
458-61-335	NEW	87-03-036	480-100-072	RESCIND	87-03-059
458-61-490	AMD	87-03-036	480-100-072	AMD-E	87-03-060
458-61-555	AMD-P	87-09-034	480-100-251	NEW-P	87-06-031
458-61-570	AMD	87-03-036	480-120-027	NEW-C	87-04-011
460-64A-010	AMD	87-03-052	480-120-027	NEW-P	87-05-013
460-64A-020	AMD	87-03-052	504-17-090	AMD-P	87-08-035
460-70-005	NEW	87-02-044	504-24-015	NEW-P	87-08-002
460-70-010	NEW	87-02-044	504-24-020	AMD-P	87-08-002
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460-70-050	NEW	87-02-044	504-32-020	REP-P	87-08-002
460-70-060	NEW	87-02-044	504-32-060	AMD-P	87-08-002
463-42-075	AMD	87-05-017	504-34-010	AMD-P	87-08-002
463-42-455	AMD	87-05-017	504-34-030	AMD-P	87-08-002
463-42-465	AMD	87-05-017	504-34-040	AMD-P	87-08-002
463-42-515	AMD	87-05-017	504-34-050	AMD-P	87-08-002
463-42-655	NEW	87-05-017	504-34-070	AMD-P	87-08-002
463-42-665	NEW	87-05-017	504-34-080	AMD-P	87-08-002
463-42-675	NEW	87-05-017	504-34-090	AMD-P	87-08-002
463-54-080	NEW	87-05-017	504-34-100	AMD-P	87-08-002
468-58-080	AMD-P	87-09-006	504-34-110	AMD-P	87-08-002
468-95-010	AMD	87-05-043	504-34-120	AMD-P	87-08-002
468-300-010	AMD-P	87-06-052	508-60-008	NEW	87-05-034
468-300-010	AMD-E	87-08-019	516-12-400	AMD-P	87-08-011
468-300-010	AMD-C	87-09-047	516-12-470	AMD-P	87-08-011
468-300-020	AMD-P	87-06-052			
468-300-020	AMD-C	87-09-047			
468-300-030	REP-P	87-06-052			
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