

MAY 20, 1987

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filed not later than May 6, 1987

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).

REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

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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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 ¹
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
86-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7
86-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21
86-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4
86-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25
86-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9
86-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23
86-24	Nov 5	Nov 19	Dec 3	Dec 17	Jan 6, 1987
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87-01	Nov 26	Dec 10	Dec 24, 1986	Jan 7, 1987	Jan 27
87-02	Dec 10	Dec 24, 1986	Jan 7, 1987	Jan 21	Feb 10
87-03	Dec 24, 1986	Jan 7, 1987	Jan 21	Feb 4	Feb 24
87-04	Jan 7	Jan 21	Feb 4	Feb 18	Mar 10
87-05	Jan 21	Feb 4	Feb 18	Mar 4	Mar 24
87-06	Feb 4	Feb 18	Mar 4	Mar 18	Apr 7
87-07	Feb 18	Mar 4	Mar 18	Apr 1	Apr 21
87-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5
87-09	Mar 25	Apr 8	Apr 22	May 6	May 26
87-10	Apr 8	Apr 22	May 6	May 20	Jun 9
87-11	Apr 22	May 6	May 20	Jun 3	Jun 23
87-12	May 6	May 20	Jun 3	Jun 17	Jul 7
87-13	May 20	Jun 3	Jun 17	Jul 1	Jul 21
87-14	Jun 3	Jun 17	Jul 1	Jul 15	Aug 4
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87-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8
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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 87-09-067
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

**RULES FOR ADMISSION AND CERTIFICATION
 TO LIMITED PRACTICE UNDER APR 12**

RULE 1

Every person desiring to be admitted to limited practice as a Limited Practice Officer pursuant to APR 12 must submit an application, pay the requisite \$100.00 fee and satisfy all of the requirements of the Rules.

RULE 2
APPLICANTS

A. DEFINITIONS

An "applicant" means any individual who submits an application for admission to limited practice under APR 12.

B. QUALIFICATIONS

An applicant, in order to have an application for admission to limited practice under APR 12 considered, must:

(1) Fully complete the application for admission to limited practice under APR 12 and photocopy the completed application with both copies of the application forwarded to the Office of the Administrator for the Courts;

(2) Return with the application the fingerprint card which has been processed by the applicant at a local police department;

(3) Submit completed, signed and notarized Authorization and Release;

(4) Submit completed, signed and notarized Affidavit of Applicant; and

(5) Pay with application a fee of \$100.00. The applicant shall be entitled to a refund of \$50.00 of the application fee if the application be withdrawn at least fourteen (14) days before the date scheduled for examination. If the application be withdrawn by the applicant, and the applicant reapplies to sit for the examination at

the next scheduled examination date, the applicant shall pay \$50.00 to sit for the examination.

If the application be denied before the examination has been administered, the applicant shall be entitled to a refund of \$50.00 of the application fee. If the applicant reapplies to sit for the examination, the cost of re-application shall be \$100.00.

If an applicant fails the examination and reapplies to sit for the next scheduled examination, the reapplication fee shall be \$50.00.

No application will be considered or processed without the requisite fee.

C. FILING APPLICATION

Persons applying for admission to limited practice under APR 12 should submit their application, in duplicate, together with the required attachments and fee to the Office of the Administrator for the Courts, 1206 S. Quince, Olympia, Washington, 98504.

Intake of the application for admission will be handled by the staff of the Office of the Administrator for the Courts (OAC).

A cutoff date for acceptance of applications will be established by the Limited Practice Board before each scheduled examination. The date shall be disseminated to each applicant when the application packet is distributed by the staff of the OAC.

RULE 3
**PROCEDURE FOR PROCESSING
 APPLICATIONS**

A. INITIAL REVIEW OF THE APPLICATION

The staff of the OAC will conduct an initial review of all applications received to determine if the application has been completed in accordance with Rule 2(B) and (C). If the application does not meet the requirements of Rule 2(B) and (C), the application with all attachments and fee will be returned to the applicant with an explanation of the deficiency in the application.

B. APPLICATION FEE

The \$100.00 application fee will be deposited into an earmarked Limited Practice account by the staff of the OAC. Staff will receipt all monies received, and send a receipt for the application fee to each applicant acknowledging receipt of the application.

C. VERIFICATION OF APPLICATION INFORMATION

Screening criteria and verification will be conducted by the staff of the OAC. Each applicant shall submit a fingerprint card which shall be forwarded to the Washington State Patrol for a criminal history check, and for each applicant who has not resided in the State of Washington for two (2) years, a Federal Bureau of Investigation check shall also be conducted. A status review on all professional licenses shall be conducted for each applicant.

RULE 4
APPROVAL OR DENIAL OF APPLICATION

A. APPROVAL OF APPLICATION

After the application has been screened and verified by the staff of the OAC, staff will make a recommendation for approval of the application to the Chairperson of the Limited Practice Board if the application meets the

criteria established in APR 12. The staff will forward the application together with all attachments to the Chairperson of the Limited Practice Board for review. The Chairperson of the Limited Practice Board will review the application and make a recommendation of approval or denial.

B. DENIAL OF APPLICATION

After the application has been screened and verified by the staff of the OAC and found to be deficient in the criteria established in APR 12, staff will forward the application together with all attachments to the Chairperson of the Limited Practice Board. Further, staff will furnish the Chairperson with a memorandum reciting the facts disclosed during the investigation leading to the recommendation of denial of the application. The Chairperson of the Limited Practice Board will review and consider the application together with all attachments and the memorandum of staff and make a recommendation of approval or denial of the application. If the Chairperson approves the application, he will make a recommendation of approval, and the applicant may sit for the examination. If the application be denied, the applicant will be granted the right to an appeal of the determination pursuant to Rule 5 herein.

C. NOTIFICATION OF ACTION ON APPLICATION

The staff of the OAC shall notify each applicant as to whether the application has been approved or denied. If the application has been approved, the applicant will be informed of the date, time and location of the examination. If the application has been denied, the staff of the OAC will notify the applicant of the appeal process of Rule 5 herein and state the basis of the denial of the application.

RULE 5

DENIAL OF APPLICATION – RIGHT OF APPEAL

A. APPEALS PANEL

The Appeals Panel shall be made up of three (3) members of the Limited Practice Board which shall be appointed by the Chairperson. Staff of the OAC shall supply support to the Appeals Panel.

B. RIGHT OF APPEAL

Every applicant who has been denied admission under APR 12 by the Chairperson of the Limited Practice Board shall have a right of appeal before the Appeals Panel. Written appeal materials will be submitted to the OAC who will distribute them to the Appeals Panel.

C. TIME PERIOD FOR APPEAL

An aggrieved applicant shall have the right to appeal denial of admission pursuant to APR 12 by submitting a written request to the Office of the Administrator for the Courts, 1206 S. Quince, Olympia, Washington, 98504 within fourteen (14) calendar days of the date the denial of application was issued.

D. PROCEDURE FOR APPEAL

(1) To begin the appeal procedure. The aggrieved applicant must file a written request with the OAC. The request must:

- (a) Be timely filed in accordance with Rule 5C herein;
- (b) Sufficiently identify the aggrieved applicant; and
- (c) State the aggrieved applicant's reason for believing that the application should be approved.

(2) Other written submissions. The aggrieved applicant may submit other written materials to the Appeals Panel which may include statements, correspondence, affidavits, memoranda of law or other written items that the aggrieved applicant believes will assist the Appeals Panel in reviewing the denial. If the Appeals Panel determines the written submissions are merely cumulative or not relevant to the appeal, the Appeals Panel may exclude any submitted materials from consideration.

The staff of the OAC shall supply the Appeals Panel with the application together with all attachments and all other material relating to the denial of the application. Written materials must be received by staff no later than ten (10) calendar days prior to the scheduled hearing date.

(3) Stipulations. Upon agreement of the parties, written stipulations may be utilized by the Appeals Panel.

(4) Review by the Appeals Panel. The Appeals Panel shall consider the written material submitted in accordance with Rule 4 unless excluded under Section 2 herein. The Appeals Panel may also request oral presentations by the parties if it deems such helpful to a final determination. The Appeals Panel may set time constraints on the oral presentations.

(5) Findings of the Appeals Panel. The Appeals Panel shall make written findings and may affirm or reverse the denial of the application or remand to the Chairperson of the Limited Practice Board for the reasons stated in the written findings.

(6) Timelines and scheduling of the appeal.

(a) Upon timely receipt of the request for appeal, the Appeals Panel will schedule the matter for consideration on a date not more than fourteen (14) calendar days from the date the request is received at the Office of the Administrator for the Courts. The staff of the OAC will notify the aggrieved applicant of the scheduled date for the consideration of the appeal. Written materials must be received by the Appeals Panel at least seven (7) calendar days prior to the scheduled hearing date.

(b) The Appeals Panel will not consider any request for appeal which does not strictly comply with Rule 5 herein.

(c) Upon a showing of good cause, the Appeals Panel may waive the requirements of Rule 5 herein or reschedule the matter for an earlier or later date.

(d) Telephone conferences may be held in lieu of a hearing, and oral presentations may be made by telephone if requested by the Appeals Panel.

(7) Notification of findings. The staff of the OAC shall notify each aggrieved applicant of the findings of the Appeals Panel. If the application has been approved, the applicant will be supplied any forms or information necessary to sit for the examination by the staff of the OAC. If the application has been denied, the applicant will be informed and supplied a copy of the Appeals Panel's written findings.

RULE 6

EFFECT OF INTERIM ADMISSION TO SIT FOR LIMITED PRACTICE EXAMINATION

~~Approval or denial of the application for interim admission as a Limited Practice Officer pursuant to APR~~

~~12 shall not effect eligibility to sit for any Washington State Limited Practice examination or effect issuance of a limited license under APR 12.~~

RESERVED

RULE 7
TERMINATION DATE FOR INTERIM
ADMISSION

~~An interim license as a Limited Practice Officer shall be valid, unless revoked, for the term specified at APR 12(2)(x).~~

RESERVED

RULE 8
NECESSARY LETTERS AND FORMS

Staff of the OAC shall prepare all the necessary letters and forms and submit them to the Limited Practice Board for approval. Approval of the forms and letters is garnered by the vote of the majority of the members of the Board.

RULE 9
EXAMINATION FREQUENCY AND LOCATIONS

~~The examination will be administered three (3) times in 1984 and in all subsequent years will be administered twice a year. The examination will be given in appropriate locations within the state. The staff of the OAC is to notify all applicants at least thirty (30) days before the scheduled examination date of the times and locations of each examination.~~

RULE 10
EXAMINATION STANDARDS AND
NOTIFICATION OF RESULTS

The passing standard for the examination is set at 75%. All applicants will be notified by the staff of the OAC of the applicant's examination results. Those applicants who unsuccessfully sit for the examination may request that they be informed of their score on the examination by category. The request shall be made in writing by the applicant to the staff of the OAC. Test scores shall not be made available to those applicants who successfully sit for the examination. Copies of the examination shall not be available to any applicant.

RULE 11
REAPPLICATION FOR EXAMINATION

Applicants may take the examination three (3) times without a waiting period for reexamination. However, after three (3) failures, an applicant shall wait a period of one (1) year from the date of the last examination failed before being entitled to sit for reexamination.

RULE 12
SUBMISSION OF SUCCESSFUL APPLICANTS
TO SUPREME COURT

The Chairperson of the Limited Practice Board shall submit to the Chief Justice of the Washington State Supreme Court the names of those persons who have successfully taken the examination for admission pursuant to APR 12 and furnish proof of the applicant's individual policy for Errors and Omissions insurance in the

amount of \$100,000 or the employer's policy in the amount of \$100,000 under provisions of APR 12, or submit an employer's audited financial statement indicating net worth or submit the applicant's audited financial statement showing the net worth in the following amounts in relationship to the number of employees covered which may be subject to approval of the Limited Practice Board:

<u>Net Worth</u>	<u>Number of Employees</u>
\$ 200,000	Each employee to and including five (5); and
\$ 100,000	Each additional employee over five (5).

The names shall be submitted only after compliance with these Rules, and the persons will be duly admitted under APR 12 only after the admission order has been signed by the Chief Justice.

Each successful applicant shall complete all the requirements for certification within nine (9) months of the date the applicant successfully sat for examination. If an applicant fails to satisfy all the requirements for certification within this period, the applicant shall not be eligible for admission under APR 12 without submitting a new application for admission.

RULE 13
ANNUAL FEE

Every Limited Practice Officer shall pay an annual fee of \$75.00 through the office of the OAC. The fee runs in accordance with the fiscal year commencing July 1, 1984. Failure to pay the annual fee shall subject the Limited Practice Officer to disciplinary action.

RULE 14
INSURANCE

Each Limited Practice Officer shall be insured or covered under an employer's financial statement at all times as specified in Rule 12 herein. Each Limited Practice Officer shall notify the staff of the OAC of any cancellation or lapse in coverage. During any period that a Limited Practice Officer is not covered in accordance with Rule 12, the license of the Limited Practice Officer shall be suspended. Each suspended Limited Practice Officer must demonstrate compliance with the requirements of Rule 12 within nine (9) months of the date of the suspension or the license of the suspended Limited Practice Officer shall be revoked.

RULE 15
CONTINUING EDUCATION

Every Limited Practice Officer shall attend ten (10) hours of approved continuing education during each calendar year. Failure to attend the requisite hours of approved continuing education each calendar year shall subject the Limited Practice Officer to disciplinary action.

Every Limited Practice Officer shall submit proof of compliance with the continuing education requirements by filing a Statement of Compliance as prescribed by the

Limited Practice Board through the office of the OAC at the end of each calendar year.

RULE 16
INACTIVE STATUS

Any Limited Practice Officer may request leave of the Limited Practice Board to move to inactive status after being certified. ~~under APR 12 for at least one (1) full calendar year.~~

Any Limited Practice Officer who has been granted inactive status must meet all the continuing education requirements occurring during the period of inactive status within one (1) year of transfer to active status by the Limited Practice Officer.

Any Limited Practice Officer awarded inactive status by the Limited Practice Board is not required to pay the annual fee prescribed by Rule 13 or to meet the insurance requirements prescribed by Rule 14 during the period of inactive status.

If a Limited Practice Officer remains on inactive status for longer than one (1) year from the date of transfer to inactive status, the Limited Practice Officer can be returned to active status only after successfully taking the examination required for certification under APR 12.

A Limited Practice Officer who has been awarded voluntary inactive status may return to active status by filing a petition to return to active status with the Board within one (1) year from the date the LPO was granted voluntary inactive status. To be granted active status, the Limited Practice Officer must pay the annual dues prescribed by Rule 13 and meet the insurance requirements prescribed by Rule 14.

RULE 17
VOLUNTARY CERTIFICATION
CANCELLATION

Any Limited Practice Officer may voluntarily surrender the LPO certificate by notifying the Limited Practice Board in writing of the desire to cancel and returning the LPO certificate with the request. The Limited Practice Board will notify the LPO of the effective date of the cancellation.

The former LPO shall then promptly notify by registered or certified mail, return receipt request, all clients being represented in pending matters, of the certification cancellation and the consequent inability to act as a Limited Practice Officer.

After entry of the cancellation order, the former LPO, shall not accept any new clients or engage in work as a LPO in any matter.

Within ten (10) days after the effective date of the cancellation order, the former LPO shall file with the Clerk of the Supreme Court an affidavit showing:

- (1) The former LPO has fully complied with the provision of the order and with these rules;
- (2) The residence or other address of the former LPO where communications may hereafter be directed; and
- (3) Attaching to such affidavit a copy of the form of letter of notification sent to clients being represented in

pending matters, together with a list of the names and addresses of all clients to whom such notice was sent.

The Board shall cause a notice of the cancellation to be published in the Washington State Escrow Association newsletter and a newspaper of general circulation in the county in which the former LPO worked.

DISCIPLINARY RULES FOR LIMITED
PRACTICE OFFICERS

I.
PROCEDURES

RULE 1.1
GROUND

A Limited Practice Officer (hereinafter referred to as "LPO") may be subjected to the disciplinary actions or sanctions set forth in Rule 1.2 for any of the following causes or actions:

A. The commission of any act involving moral turpitude, dishonesty or corruption, whether the act be committed in the course of a LPO's conduct or otherwise; and whether or not the act constitutes a felony or misdemeanor; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent LPO of the crime described in the indictment or information, and of the violation of the statute upon which it is based. A disciplinary hearing as provided in Rule 1.7 of these Rules shall be had to determine:

(1) Whether moral turpitude was in fact an element of the crime committed by the respondent LPO; and

(2) The disciplinary action recommended to result therefrom;

B. Violation of the oath or duties as a LPO;

C. Permitting an LPO's name to be used as a LPO by another person who is not a LPO authorized under APR 12;

D. Misrepresentation or concealment of a material fact made in the application for admission under APR 12 or in support thereof;

E. Suspension, revocation or other disciplinary sanction by competent authority in any state, federal or foreign jurisdiction;

F. Selecting, preparing, or completing documents authorized by APR 12 for or together with any person whose LPO's certification has been revoked or suspended, if the certified LPO has knowledge of such revocation or suspension;

G. Willful disregard of a subpoena or notice of the Disciplinary Panel or the Limited Practice Board (hereinafter referred to as "Board") or the making of a false statement under oath in any document filed with the staff of the Administrator for the Courts (hereinafter referred to as "OAC") or members of the Board;

H. Conduct demonstrating unfitness to work as a LPO; and

I. Working as a LPO while on inactive status.

RULE 1.2
SANCTIONS

The disciplinary sanctions or actions affecting the status of a LPO are admonitions, letters of censure, reprimands and recommendations to the Supreme Court for the suspension or revocation of the certification.

RULE 1.3
DISCIPLINARY PANEL

A. Appointment. The Chairperson of the Board shall appoint from its members not less than three (3) persons to act as members of the Disciplinary Panel; one of whom shall be appointed Chairperson by the other members of the Panel.

B. Term. The members of the Disciplinary Panel shall serve until replaced by the Chairperson of the Board or for a two (2) year period from the date of their appointment.

C. Duties. It shall be the duty of the Disciplinary Panel to:

(1) Take cognizance of any alleged or apparent violations of these rules coming to its attention, whether by complaint or otherwise, to investigate the same promptly and to submit a report to the full Board within sixty (60) days from the date the matter first came to the attention of the Disciplinary Panel unless the time is extended by the Chairperson of the Board; and

(2) Submit reports to the Board which shall be in such form and pursuant to such procedures as may from time to time be prescribed by the Board; such reports shall form a part of the permanent records of the Board and may be used as a basis for the commencement of disciplinary proceedings.

D. Testimony. Where, in the discretion of the Disciplinary Panel, there is reasonable cause to believe that testimony should be perpetuated, the Disciplinary Panel may, upon reasonable notice to the LPO investigated, cause the deposition of any witness to be taken under oath before a Notary Public or before any other officer authorized by the law of the jurisdiction where the deposition is taken to administer an oath, and have the same transcribed for use in further proceedings under these Rules to which the LPO may be a party.

E. Authority. The authority of the Disciplinary Panel shall include, but not be limited to, the power conditionally to settle and dispose of complaints of a trivial nature without a hearing; provided, that a complete report of the disposition of each complaint shall be made in writing to the Board; upon the filing of this written report with the Board, such conditional disposition shall be deemed conclusive unless the Board acts otherwise within sixty (60) days from receipt of such report. Settlement of, compromise of, or restitution in a matter shall not justify the Disciplinary Panel in failing to undertake or complete its investigation and report thereof to the Board.

F. Matters Involving Related Pending Civil or Criminal Liability. Processing of complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation may be deferred when authorized by the Board. In such

event, the respondent LPO shall make all reasonable efforts to obtain a prompt trial and disposition of such pending litigation. The acquittal of the respondent LPO on criminal charges or a verdict or a judgment in the LPO's favor in a civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary investigation predicated upon the same material allegations.

RULE 1.4
RESPONDENT LIMITED PRACTICE OFFICER

It shall be the duty and the obligation of a LPO who is the subject of a disciplinary investigation to cooperate with the Disciplinary Panel or the Board or OAC staff as requested, subject only to the proper exercise of the LPO's privilege against self-incrimination where applicable by:

A. Furnishing any papers or documents;

B. Furnishing in writing a full and complete explanation covering the matter contained in such complaint; and

C. Appearing before the Disciplinary Panel or Board at the time and place designated.

RULE 1.5
DUTIES OF COMPLAINANT

Upon request, the person complaining shall furnish to the Disciplinary Panel, Board or OAC staff, documentary and other evidence in the complainant's possession and the names and addresses of witnesses, and assist in securing evidence in relation to the facts charged.

RULE 1.6
PLEADINGS

The only permissible pleadings upon proceedings before the Disciplinary Panel are a formal complaint, a notice to answer, answer to complaint and motions to make more definite and certain, or in the alternative, for a bill of particulars. Informality in the complaint or answer shall be disregarded.

A. Formal Complaint. If the Disciplinary Panel determines a hearing should be had to ascertain whether a violation of these Rules has occurred, a formal complaint shall be prepared and filed in the office of the OAC, and proceedings shall be had thereon as hereinafter provided. The formal complaint, which need not be verified, shall set forth the particular acts or omissions of the respondent LPO in such detail as to enable the LPO to know the charge and shall be signed by the Chairperson of the Disciplinary Panel.

(1) Prior Record of a Separate Count. Prior disciplinary proceedings and complaints against a respondent LPO, excluding dismissals after a hearing before the Disciplinary Panel or Board, shall be made a separate count of the complaint if they indicate conduct demonstrating unfitness to act as a LPO.

(2) Prior Record as Professional History. If a prior record of the respondent LPO is not made a separate count of the complaint, any prior record of admonition, letters of censure, reprimand, suspension of further proceedings, suspension or revocation or any absence of such record, shall be made a part of the record prior to

the recommendations of the Disciplinary Panel to the Board.

(3) Joinder. The Disciplinary Panel in its discretion may consolidate for hearing two or more charges as to the same LPO, or may join the charges as to two or more LPOs in one formal complaint.

(4) Commencement of Proceedings. A disciplinary action shall be deemed commenced when the formal complaint has been filed with the office of the OAC.

(5) Procedural Irregularity. No technical irregularity shall affect the validity of such complaint or of any proceedings pursuant thereto.

B. Answer. The answer must contain:

(1) Denials. A general or specific denial of each material allegation of the complaint that is controverted by the respondent LPO, or a denial of knowledge or information thereof sufficient to form a belief. Any allegation, not denied will be deemed admitted;

(2) Affirmative Defenses. A statement of any matter constituting a defense or justification in ordinary and concise language without repetition;

(3) Address. An address at which all further pleadings, notices or other documents in relation to the proceedings may be served upon the respondent LPO;

(4) Verification. A verification before some officer authorized to administer oaths;

(5) The answer with two copies shall be filed at the office of the OAC;

(6) The Chairperson of the Disciplinary Panel may at any time allow or require amendments to the complaint or to the answer;

(7) If personal service is made on the respondent LPO in the State of Washington, the LPO shall be allowed twenty (20) days from the date of service, exclusive of the date of service, in which to answer; if service be made in any other manner or place, the respondent LPO shall be allowed thirty (30) days from the date of service, or the date of mailing, exclusive of the date of service, or mailing, in which to answer; and

(8) For good cause, the Chairperson of the Disciplinary Panel may extend the time for any pleading.

C. Service.

(1) Formal Complaint. A copy of the formal complaint with notice to answer shall be served on the respondent LPO in the following manner.

(a) Personal Service In Washington. If the respondent LPO be found in the state of Washington, by personal service upon the LPO in the manner as is required for personal service of a summons in civil actions in the Superior Court;

(b) Service If Not Found In Washington. If the respondent LPO cannot be found in the state of Washington, then by leaving a copy thereof at the LPO's place of usual abode in the state of Washington, with some person of suitable age and discretion then resident therein, or by mailing by registered or certified mail, postage prepaid, a copy addressed to the LPO at the LPO's last known (i) place of abode, (ii) office address maintained by the LPO as a LPO, or (iii) post office address;

(c) Service Outside Washington. If the respondent LPO be found outside of the state of Washington, then

by personal service or by mail as set forth in subsection (b) above; or

(d) Service When Question of Mental Competence. If a guardian or guardian ad litem has been duly approved for the respondent LPO who has been judicially declared to be of unsound mind, or incapable of conducting the LPO's own affairs, service as above shall be had on the guardian or guardian ad litem. Where a complaint is filed under Rule 1.6 A, service as above shall also be had on the person having the care and custody of the respondent LPO, if there be such a person.

(2) Other Pleadings, Notices or Other Documents. Service upon the respondent LPO of any pleadings, notices or other documents required by these rules to be served, other than the formal complaint and notice to answer, may be made by mailing the same postage prepaid to, or leaving the same at, the address set forth in the LPO's answer, or in the absence of an answer, by mailing the same postage prepaid to, or leaving the same at, the address of the respondent LPO on file in the office of the OAC.

(3) Service on the Board or Disciplinary Panel. Service on the Board or Disciplinary Panel of any pleadings, notices or documents shall be made by filing the same at the office of the OAC, 1206 S. Quince, Olympia, Washington, 98504.

(4) Mailing. When such other pleadings, notices or documents are to be served by mail, they shall be sent by registered or certified mail with postage prepaid.

(5) Proof of Service. Proof of service by Affidavit of Service, Sheriff's Return of Service or a signed Acknowledgment of Service, shall be filed in the office of the OAC.

RULE 1.7 HEARINGS

A. Where Held. All disciplinary hearings shall be held within the state of Washington at such place as may be directed by the Board or Disciplinary Panel Chairperson.

B. Date of Hearing. The Chairperson of the Disciplinary Panel shall cause notice of the time and place of the hearing to be given to the respondent LPO at least ten (10) days prior thereto. The hearing shall occur not earlier than thirty (30) days or later than sixty (60) days after service of the complaint, unless delayed for good cause.

C. Postponements. At the time and place approved for the hearing the Disciplinary Panel may grant a postponement, but no postponement shall be for longer than thirty (30) days, and the total period of time of all postponements shall not exceed sixty (60) days unless approved by the Board. An application for postponement by the respondent LPO or by the complainant shall be supported by affidavit and served and filed at least seven (7) days prior to the scheduled hearing, unless such time is shortened by the Chairperson of the Disciplinary Panel.

D. Representation. The complainant may be present at the hearing(s) before the Disciplinary Panel and may be represented by counsel. The respondent LPO may be present at the hearing(s) before the Disciplinary Panel and may be represented by counsel.

E. Default. In no event shall a default be entered against the respondent LPO. If the LPO fails to answer the complaint within the time allowed by these rules, the Disciplinary Panel shall proceed to a determination of the matter in the same manner as though the respondent LPO were present and had answered by a general denial. No notice of the date of hearing or of the taking of depositions of witnesses to be used at the hearing shall be required to be given to such respondent LPO failing to answer. If the respondent LPO has answered but fails to attend the hearing at the time set, the Disciplinary Panel shall proceed to a determination of the matter in the same manner as though the respondent LPO were present.

F. Proceedings Public. Upon the filing and service of a formal complaint and after the LPO has answered that complaint, or failed to answer within the time required, a disciplinary proceeding shall be public, subject to the provisions of any protective order as may be entered pursuant to section (I). The filing of a motion for a protective order shall stay the provisions of this rule with regard to any matter sought to be kept confidential in that motion, and the motion itself shall be confidential until ruled upon.

G. Matters Which Are Public. In a matter which is public pursuant to section (F), any person may have access to the contents of the Disciplinary Panel's file in the pending proceeding, may attend any hearing on the charges against the LPO, except a hearing on a motion. In any disciplinary matter referred to the Supreme Court, the file, record, briefs, and argument in the case shall also be public except to the extent previously made confidential by a protective order or as otherwise ordered by the court.

H. Matters Which Are Not Public. In no case shall deliberations of a hearing panel, board or court, or matters made confidential by a protective order, be public.

I. Protective Orders. In order to protect a compelling interest of a complainant, witness, third party, or respondent, the panel chairperson or the chairperson of the Board when a matter is before a panel or the Board for review, may, upon motion and for good cause shown, issue a protective order prohibiting the disclosure of specific information or specific documents or pleadings, and direct that the proceedings be conducted so as to implement the order.

J. Procedure. Each member of the Disciplinary Panel shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books or documents at such hearings. The respondent LPO shall have the opportunity to make a defense, and upon timely application may have issued such subpoenas as any member of the Disciplinary Panel deems necessary. Subpoenas shall be served in the same manner as in civil cases in Superior Court. Witnesses shall testify under oath administered by the Chairperson of the Disciplinary Panel. Testimony shall be electronically recorded and may be taken by deposition in accordance with these rules.

K. Depositions. Depositions for use at the hearing may be taken either within or without the state upon either written or oral interrogatories before any member of the

Disciplinary Panel or before any other officer authorized to administer an oath by the law of the jurisdiction where the deposition is taken. Any member of the Disciplinary Panel shall have the power to order the taking of a deposition. All depositions when taken shall be filed in the office of the OAC.

L. Discovery, Admissions, Inspection of Documents. After the filing of the formal complaint against a LPO, the parties shall have the rights afforded to Superior Court litigants under Rules 33, 34 and 36 of the Superior Court Civil Rules, limited and prescribed as follows: Such rights may be limited to the extent the Chairperson of the Disciplinary Panel deems just who shall do so by order.

M. Cooperation. It shall be the duty of a LPO who has been served with a formal complaint to respond to all lawful orders made by the Chairperson of the Disciplinary Panel as provided in the preceding paragraph. Should such LPO fail to do so, the Chairperson of the Disciplinary Panel shall report the same to the Board, and such failure may constitute a separate violation of these rules.

N. Findings, Conclusions and Recommendation. Within twenty (20) days after the hearing, the Chairperson of the Disciplinary Panel shall cause findings, conclusions and recommendation to be filed with the Board.

RULE 1.8 STIPULATIONS

Any disciplinary matter may be disposed of by a stipulation for discipline entered into at any time by the respondent LPO and by the attorney appointed to represent the Board if one has been so appointed. No such stipulation shall be effective unless approved by the Board, and no stipulation for suspension or revocation shall be effective unless approved by the Supreme Court. The stipulation may be presented to the Board and the Supreme Court for approval without notice.

A. Form. A stipulation for discipline shall:

(1) Set forth the material facts relating to the particular acts or omissions of the respondent LPO in such detail as to enable the Board and the Supreme Court to form an opinion as to the propriety of the discipline being agreed upon, and if approved, to make the stipulation useful in any subsequent disciplinary proceedings against the respondent LPO;

(2) Set forth the respondent LPO's prior record of admonition, censure, reprimand, suspension, revocation or any absence of such record;

(3) State the stipulation is not binding as a statement of all existing facts relating to the conduct of the respondent LPO, but that any additional existing acts may be proven in any subsequent disciplinary proceedings; and

(4) Fix the amount of costs and expenses to be paid by the respondent LPO.

B. Stipulation Approved. If the stipulation be approved by the Board and/or the Supreme Court, the

disciplinary action agreed to in the stipulation shall follow. If the stipulation is for admonition, censure or reprimand, the stipulation shall be retained in the office of the OAC with notice thereof sent to the Supreme Court.

C. Stipulation Not Approved. If the stipulation is not approved by the Board or the Supreme Court, as the case may be, then the stipulation shall be of no force and effect and neither it nor the fact of its execution shall be admissible in evidence in any pending disciplinary proceeding, in any subsequent disciplinary proceeding or in any criminal or civil action.

RULE 1.9

TRANSFER TO DISABILITY INACTIVE STATUS

A. Automatic Transfer. In the event an active LPO (1) has been found to be incapable of assisting in the LPO's own defense in a criminal action, (2) has been acquitted of a crime on the ground of insanity, (3) has had a guardian (but not a limited guardian) appointed for the LPO's person or estate upon a finding of incompetency, or (4) has been found to be mentally incapable of conducting the work of a LPO in any other jurisdiction, the LPO shall automatically be transferred from active status to disability inactive status upon receipt by the Board of a certified copy of the judgment, order or other appropriate document demonstrating that one or more of the above events has occurred.

The LPO and the LPO's guardian, if one has been appointed, shall forthwith be notified of the transfer to disability inactive status. The Supreme Court shall be notified of the transfer to disability inactive status and shall be provided with a copy of the judgment, order or other appropriate document upon which the transfer was based.

B. Discretionary Transfer.

(1) Disciplinary Panel May Order Inquiry. When it appears to the Disciplinary Panel that there is reasonable cause to believe that an active LPO is unable to adequately engage in the work of an LPO because of insanity, mental illness, senility, excessive use of alcohol or drugs, or other mental or physical incapacity, the Disciplinary Panel shall order that a hearing be held to inquire into the capacity of the LPO to engage in the limited practice of law.

(2) Inquiry During Disciplinary Proceeding. When it appears to the Disciplinary Panel or Board that there is reasonable cause to believe a respondent LPO is incapable of conducting a proper defense to a disciplinary proceeding against the LPO because of insanity, mental illness, senility, excessive use of alcohol or drugs or other mental or physical incapacity, the Disciplinary Panel or Board shall order that a supplemental hearing be held to inquire into the capacity of the LPO to conduct a proper defense. Such hearing shall be automatic where the respondent LPO alleges in the course of a disciplinary proceeding that the LPO is unable to conduct a proper defense because of such mental or physical incapacity.

(3) Procedure. Proceedings conducted pursuant to this rule are not disciplinary proceedings but shall be conducted under the same procedural rules as disciplinary proceedings. Any hearing held under subsection (2) above may be treated either as a new proceeding or as

part of an existing proceeding, at the discretion of the Disciplinary Panel or Board, and the disciplinary hearing shall be held in abeyance pending the outcome of the supplemental proceeding. A recommendation of the Disciplinary Panel that a LPO be transferred to disability inactive status under this rule shall be treated as a recommendation for suspension for the procedural purposes of these rules, including Rules 2.4 and 3.1.

(4) Appointment of Counsel. In the event the respondent LPO does not appear with counsel within the time required by these rules for the filing of an answer, or within twenty (20) days of being notified of the issues to be considered in a supplemental proceeding under subsection (2) above, the Chairperson of the Board shall appoint a member of the Washington State Bar Association as counsel for the respondent LPO.

(5) Finding of Incapacity. If after review of the decision of the Disciplinary Panel, the Board finds an LPO does not have adequate mental or physical capacity to engage in the work of a LPO or to conduct a proper defense to disciplinary charges, it shall enter an order immediately transferring the LPO to disability inactive status. Such transfer shall become effective upon service of such order upon the LPO or the LPO's counsel.

(6) Appeal to Supreme Court. The LPO may appeal an order of transfer to disability inactive status pursuant to the provisions of Rule 3.1. The order of the Board shall remain in effect, regardless of the pendency of such appeal unless and until reversed by the Supreme Court.

(7) Proceedings Confidential. All proceedings conducted pursuant to this rule shall be confidential except as otherwise provided for herein.

RULE 1.10

REINSTATEMENT TO ACTIVE STATUS

A. Restriction, Right of Petition and Burden. No LPO transferred to disability inactive status may resume active status except by order of the Board or the Supreme Court. Any LPO transferred to disability inactive status shall be entitled to petition the Board for transfer to active status. The LPO shall have the burden of showing that the disability has been removed.

B. Petition and Initial Review. The petition for reinstatement shall set forth the facts demonstrating that the disability has been removed. The petition shall be filed with the Board at the office of the OAC. Upon the filing of the petition, the Chairperson of the Board shall direct whatever action appears necessary or proper to determine whether the disability has been removed. Such actions include, but are not limited to, direction: (1) that an appointed counsel for the Board or any other person conduct an investigation and file a report, (2) that an examination of the LPO be conducted by a qualified expert or experts, and (3) that a hearing be held before the Disciplinary Panel or Board.

C. Waiver of Doctor-Patient Privilege. The filing of a petition for reinstatement to active status by a LPO transferred to disability inactive status shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the LPO during the period of the LPO's disability. The LPO shall be required to disclose the name of each psychiatrist, psychologist,

physician or other person and each hospital or other institution by whom or in which the LPO has been examined or treated since the LPO's transfer to disability inactive status. The LPO shall furnish, if requested by the Board or its appointed attorney, if there be one, written consent to each person or hospital to divulge information and records relating to the disability.

D. Review of Record. Prior to the submission of the petition and any report to the Board, the LPO shall have a reasonable opportunity to review the report and to make any additional submissions deemed desirable.

E. Board Review. The Board shall review the petition and report as expeditiously as possible and take one or more of the following actions:

- (1) Grant the petition;
- (2) Direct whatever additional action the Board deems necessary or proper to determine whether the disability has been removed;
- (3) Direct that the LPO establish proof of competence and learning in the area of work of a LPO, which proof may include certification by the APR 12 examiners of the LPO's successful completion of an examination for a limited admission to practice under APR 12;
- (4) Deny the petition, but no such denial shall occur except as hereinafter provided without the LPO having the opportunity for a hearing before the Board or Disciplinary Panel. A hearing is not necessary if the LPO has failed to state a prima facie case for reinstatement in the LPO's petition, or if the petition does not indicate a material change of circumstance since a previous denial of a petition for reinstatement filed by a LPO; and/or
- (5) Direct the LPO to pay the costs of the reinstatement proceedings.

F. Petition Granted. If the petition for reinstatement be granted, the respondent LPO shall immediately be transferred to active status and the Supreme Court notified thereof. If a disciplinary proceeding has been held in abeyance because of a disability transfer, the proceeding shall go forward upon reinstatement.

G. Review by Supreme Court. If the petition for reinstatement is not granted, the respondent LPO shall have the right to appeal the decision of the Board to the Supreme Court by filing a notice of appeal with the office of the OAC within fifteen (15) days of service of the decision of the Board upon the respondent LPO. Review shall be conducted pursuant to the procedures of Title III herein.

H. Continuing Education Requirements. All of the required continuing education requirements occurring during the disability inactive status of a LPO must be made up within one (1) year of transfer to active status by the LPO.

I. Length of Inactive Status. No LPO shall remain on disability inactive status for longer than one (1) year from the date of transfer to disability inactive status. If a LPO remains on disability inactive status for a period longer than one (1) year from the date of transfer to disability inactive status, the LPO can be returned to active status only after successfully taking the examination required for certification under APR 12.

II. REVIEW BY THE BOARD

RULE 2.1 NOTICES

When the findings, conclusions and recommendation of the Disciplinary Panel are filed in the office of the OAC, a copy thereof and a notice of filing, with a copy of Rules 2.1 through 2.6, shall be served upon the respondent LPO or the LPO's counsel.

RULE 2.2 STATEMENT IN SUPPORT OR OPPOSITION

At any time within ten (10) days after the service of the above-mentioned notice, the counsel appointed by the Board, if any, or the respondent LPO shall have the right to file with the Board a typewritten statement in support of or in opposition to the findings, alleged errors of law or any other matter in support of such statement. A copy of such statement, when filed, shall be served on the counsel appointed by the Board, if any, or the respondent LPO or the LPO's counsel.

RULE 2.3 ADDITIONAL HEARING

In making the above statement in support of or in opposition to the findings, conclusions and recommendation of the Disciplinary Panel, the counsel appointed by the Board, if any, or the respondent LPO may request an additional hearing before the Disciplinary Panel based on newly discovered evidence; provided however, that such statement shall contain a complete outline of such newly discovered evidence and shall set forth the reasons why the same was not presented at the hearing, all supported by affidavit. Such request may be granted or denied at the discretion of the Board.

RULE 2.4 BOARD REVIEW

Each proceeding in which a hearing has occurred shall be reviewed by the Board upon the record made and filed in the office of the OAC, together with the statements in support of or in opposition to such findings, conclusions and recommendation as provided by these rules. No person shall be entitled to be heard orally in such review, unless ordered by the Board.

RULE 2.5 TRANSCRIPT OF THE RECORD

The Board may have all the testimony transcribed. If a transcript be made, a copy thereof shall be served upon the respondent LPO or the LPO's counsel and the counsel appointed by the Board, if any, each of whom shall have ten (10) days from the date of service of the transcript to file objections to the contents thereof with the staff of the OAC.

RULE 2.6 BOARD ACTION

A. Decision of Board. Prompt decision of the Board upon such review shall be made. The Board shall adopt,

modify or reverse the findings, conclusions and recommendation of the Disciplinary Panel by written order, a copy of which shall be served upon the respondent LPO or the LPO's counsel.

B. Transcript Required for Suspension or Revocation. No suspension or revocation shall be recommended by the Board unless and until a transcript of the testimony before the Disciplinary Panel shall have been reduced to writing and settled as provided in Rule 2.5.

C. Dissent. If any member or members of the Board shall dissent from the findings, conclusions and recommendation of the majority, the member or members shall state briefly the reasons therefore and such dissent or dissents shall be made a part of the record.

D. Disposition Not Requiring Supreme Court Action. If the formal complaint is dismissed or if there is no recommendation of discipline by the Board or if the recommendation is that the respondent LPO be admonished, censured or reprimanded, the record of the proceeding shall be retained in the office of the OAC.

E. Disposition Requiring Supreme Court Action. If the recommendation of the Board is that the respondent LPO be suspended or revoked, that recommendation along with the record shall be transmitted to the Supreme Court.

F. Chairperson Not Disqualified. Neither the Chairperson of the Board nor a member or members of the Board who also serve on the Disciplinary Panel are, by virtue of that office or service, disqualified from participating in the review before the Board of that Disciplinary Panel's findings, conclusions and recommendation or from participating in that Board's vote on the matter.

G. Information to Complainant. The complainant in all cases shall be advised by the Board of the final disposition of the complaint.

III.

REVIEW BY THE SUPREME COURT

RULE 3.1 PROCEDURE

A. Notification of Filing. Upon the filing of the recommendation of suspension or revocation and of the record, the Clerk of the court shall mail written notice to the counsel appointed by the Board, if any, and the respondent LPO and the LPO's counsel.

B. Review on the Record. The Supreme Court shall review the recommendation of the Board for suspension or revocation together with the record. The Supreme Court shall adopt, modify or reverse the recommendation of the Board by written order. A copy of the order shall be mailed to the respondent LPO and the Board by the Clerk of the court.

C. Finality. An opinion in a disciplinary proceeding is final when filed unless the court specifically provides otherwise.

RULE 3.2 SUSPENDED OR REVOKED LPOs

A. A revoked LPO, or one that is suspended for longer than thirty (30) days, shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters of the revocation or suspension and the consequent inability to act as a Limited Practice Officer after the effective date of the revocation or suspension and shall advise clients to seek services elsewhere.

B. The revoked or suspended LPO, after entry of the revocation or suspension order, shall not accept any new clients or engage in work as a LPO in any matter.

C. Within ten (10) days after the effective date of the revocation or suspension order, the revoked or suspended LPO shall file with the Clerk of the Supreme Court an affidavit showing:

(1) That the LPO has fully complied with the provision of the order and with these rules;

(2) The residence or other address of the revoked or suspended LPO where communications may hereafter be directed to the LPO; and

(3) Attaching to such affidavit a copy of the form of letter of notification sent to clients, together with a list of the names and addresses of all clients to whom such notice was sent.

D. The Board shall cause a notice of the suspension or revocation to be published in the Washington State Es-crow Association newsletter and a newspaper of general circulation in the county in which the disciplined LPO worked.

E. A revoked or suspended LPO shall keep and maintain written records of the various steps taken by the LPO under these rules so that, upon any subsequent proceeding instituted by or against the LPO, proof of compliance with these rules and with the revocation or suspension order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

IV.

COSTS

RULE 4.1 COSTS AND EXPENSES

In all cases resulting in the administration of admonition, censure, reprimand, suspension or revocation pursuant to these rules, the Chairperson of the Board shall serve upon the respondent LPO and file in the office of the OAC the verified statement of cost and expenses for the disciplinary proceedings to the time the Board makes its recommendation.

A. Costs and Expenses Defined. The term "costs" is defined to be all sums so taxable in civil proceedings. The term "expenses" is defined as all other obligations in money reasonably and necessarily incurred by the Board in the complete performance of its duties under these rules; such as but not limited to necessary expenses of the Disciplinary Panel or Board members, charges of expert witnesses, charges of court reporters, reasonable attorney's fee as well as other direct provable expenses. The Board may waive payment of any and all costs and

expenses if it deems such waiver to be in the interests of justice.

B. Statement of Costs and Expenses. In all cases in which the Board determines that an admonition, censure or reprimand should be administered, the statement of costs and expenses shall be served on the respondent LPO at the time the LPO is notified of the Board's recommendation, together with a statement by said Board as to the amount of said costs and expenses which it, in its discretion, deems just to assess against the respondent LPO.

C. Assessment on Suspension or Revocation. In all cases in which the Board recommends suspension or revocation, the statement of costs and expenses together with a statement by the Board as to the amount of the costs and expenses which it, in its discretion, deems just to assess against the respondent LPO at the time the LPO is notified of the recommendation of the Board, shall be a part of the record sent to the Clerk of the Supreme Court.

D. Payment of Costs and Expenses. In all cases where disciplinary action results, the respondent LPO shall pay the assessed costs and expenses within thirty (30) days or such longer period of time as is determined by the Board in its discretion. Should the respondent LPO fail to pay the costs and expenses as herein provided, such failure shall be grounds for suspension, and the Board may move the Supreme Court for an order suspending the LPO until the costs and expenses are paid.

E. Assessment Upon Dismissal of Charges. In cases in which the Board dismisses the charges, the Board may fix the amount of the LPO's costs and expenses which the Board, in its discretion, deems just to assess against the complainant.

F. Determination of Costs by Supreme Court. The Board and the respondent LPO shall each submit a verified cost statement to the Clerk of the Supreme Court which shall be served on the adverse party within ten (10) days after the cause has been submitted to that court. The parties shall have ten (10) days after such service within which to file exceptions thereto. The judgment of the Supreme Court, in any suspension or revocation proceeding, shall fix the amount of the costs and expenses to be paid by the parties as it shall deem just.

RULE 4.2

TERMINATION OF SUSPENSION

No suspended LPO shall resume working as a Limited Practice Officer until the amount of the costs and expenses fixed pursuant to these rules has been fully paid.

V.

REINSTATEMENT AFTER REVOCATION

RULE 5.1

RESTRICTIONS AGAINST PETITIONING

A. When Petition May Be Filed. No petition for reinstatement shall be filed within a period of two (2) years after revocation or within one (1) year after an adverse decision of the Supreme Court upon a former petition, or within a period of six (6) months after an adverse recommendation of the Board on a former petition when that recommendation is not submitted to the Supreme

Court. If prior to revocation the LPO was suspended pursuant to the provisions of Rule 6.2 herein, or any comparable rule, the period of suspension shall be credited toward the two (2) years referred to above.

B. Payment of Obligations. No revoked LPO may file a petition for reinstatement until costs and expenses assessed pursuant to these rules, and restitution ordered as provided, have been paid by the revoked LPO.

RULE 5.2

REVERSAL OF CONVICTION

If a LPO has been revoked solely because of the LPO's conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the LPO, enter an order reinstating the LPO to limited practice under APR 12. At the time such direct application is filed with the court, a copy shall be filed with the Board.

RULE 5.3

FORM OF PETITION

A petition for reinstatement as a LPO after revocation shall be in writing in such form as the Board may prescribe. The petition shall set forth the age, residence and address of the petitioner, the date of revocation, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required for application under APR 12.

RULE 5.4

INVESTIGATION

The Board may, in its discretion, refer the petition for reinstatement for investigation and report to counsel appointed by the Board, if any, or such other person or persons as may be determined by the Board.

RULE 5.5

HEARING BEFORE BOARD

A. Notice. The Board may fix a time and place for a hearing on the petition and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such other persons as may be ordered by the Board. Notice of the hearing shall also be published in such newspaper or periodical as the Board shall direct. Such published notice shall contain a statement that a petition for reinstatement has been filed and shall give the date fixed for the hearing.

B. Statement in Support or Opposition. On or prior to the date of hearing, anyone wishing to do so may file with the Board a written statement for or against reinstatement, such statements to set forth factual matters showing that the petitioner does or does not meet the requirements of Rule 5.6 A. Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Board.

RULE 5.6

ACTION BY BOARD

A. Requirements for Favorable Recommendation. Reinstatement may be recommended by the Board only upon an affirmative showing that the petitioner possesses

the qualifications and meets the requirements as set forth by the Board and APR 12, and that the LPO's reinstatement will not be contrary to the public interest.

B. Action on Recommendation. The recommendation of the Board shall be served upon the petitioner. If the Board recommends reinstatement, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the Board recommends against reinstatement, the record and recommendation shall be retained in the office of the OAC unless the petitioner requests that it be submitted to the Supreme Court. If the petitioner so requests, the record and recommendation shall be transmitted to the Supreme Court for disposition. If the petitioner does not so request, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of costs incidental to the reinstatement proceeding as directed by the Board.

**RULE 5.7
ACTION ON SUPREME COURT'S
DETERMINATION**

A. Petition Approved. If the petition for reinstatement is granted by the Supreme Court, the reinstatement shall be subject to the petitioner's taking and passing the examination for APR 12 applicants and paying the costs incidental to the reinstatement proceeding as directed by the Supreme Court.

B. Petition Denied. If the petition for reinstatement be denied, the examination fee shall be refunded to the petitioner, but the petitioner shall still be responsible for payment of the costs incidental to the reinstatement proceeding.

**VI.
SUSPENSION**

**RULE 6.1
SUSPENSION FOR CONVICTION OF FELONY**

A. Suspension Automatic. A LPO shall be automatically suspended under APR 12 upon the conviction of a felony under either state or federal law, whether such conviction be after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of an appeal, and upon the filing of a certified copy of such conviction with the Clerk of the Supreme Court. Provided, however, that the Board may recommend to the Supreme Court for final disposition the prevention or termination of the suspension if the Board affirmatively finds that moral turpitude was not an element of the crime of which the LPO was convicted, or if the Board affirmatively finds that there is other good cause for preventing or terminating the suspension. Suspension in this manner shall not be a substitute or alternative for disciplinary proceedings against the LPO, but such proceedings shall be commenced upon the conviction, or prior thereto if reasonable cause therefor exists and shall proceed without regard to the suspension.

B. Duration. When a LPO is suspended upon conviction of a felony as provided in this rule, the duration of such suspension shall not exceed final disposition of the disciplinary proceedings commenced against the LPO. When the disciplinary proceedings are fully completed,

after appeal or otherwise, the suspension occurring in this manner shall end and such disciplinary action as then occurs shall commence.

C. Petition for Reinstatement. A petition for reinstatement after automatic suspension for conviction of a felony pending completion of disciplinary proceedings shall be in writing and verified by the petitioner and filed with the Board at the OAC office. The petition shall set forth the age, residence and address of the petitioner, the date of the conviction and a concise statement of the facts claimed to justify reinstatement pending completion of the disciplinary proceedings. The petition shall be accompanied by the application for admission and the total fees required for certification under APR 12.

D. Investigation. In its discretion, the Board may refer the petition for reinstatement for investigation and report to the Disciplinary Panel or to such other person or persons as may be determined by the Board.

E. Notice of Hearing. The Board shall fix a time and place for hearing of the petition by the Board and shall serve notice thereof ten (10) days prior to the hearing upon the petitioner and upon such persons as may be ordered by the Board.

F. Requirements and Procedure. Such petition for reinstatement shall be recommended to the Supreme Court only upon affirmation showing to the satisfaction of the Board that the petitioner possesses the qualifications and requirements for certification under APR 12 and that the LPO's reinstatement will not be detrimental to the integrity of the profession or be contrary to the public interest.

G. Granting or Denial of the Petition by the Supreme Court. The board shall keep a record of the hearing upon the petition for reinstatement and shall make and file its findings, conclusions and recommendation thereon with the Supreme Court for final disposition.

**RULE 6.2
SUSPENSION DURING PENDENCY OF
DISCIPLINARY PROCEEDINGS**

A. Supreme Court May Suspend. At any time after institution of the disciplinary proceeding under Rule 1.6, where it appears that a continuation of certification under APR 12 by a LPO will result in substantial risk of injury to the public, the Board may recommend on petition to the Supreme Court for an order suspending the respondent LPO during the pendency of the disciplinary proceedings. If the court finds a risk of injury to the public, it may enter an order suspending the LPO from certification under APR 12. Such suspension shall not continue beyond the conclusion of the disciplinary proceedings.

B. Petition and Notice to Answer. The petition to the Supreme Court under this rule shall set forth the acts and omissions of the respondent LPO contained in the pending complaint, together with such other facts as may constitute grounds for suspension pending disciplinary proceedings. The petition may be supported by documents or affidavits. An order to show cause to be signed by the Chief Justice of the Supreme Court shall be issued thereon requiring the respondent LPO to be and appear before the Supreme Court on the court's first

motion day following the expiration of seven (7) calendar days after the date on which the show cause order was signed, or on such other date as the Chief Justice may set, then and there to show cause why the prayer of the Petition for Suspension Pending Disciplinary Proceedings should not be granted.

C. Service. Service of the petition and order to show cause shall be by service of a certified copy of such order to show cause and an uncertified copy of such petition served in the manner provided in Rule 1.6 C(1) at least five (5) calendar days before the scheduled show cause hearing.

D. Answer to Petition. The answer may contain additional facts relating only to the issue of substantial risk of injury to the public, shall be verified by the respondent LPO or the LPO's counsel, and may be supported by documents or affidavits. The answer shall be filed with the Clerk of the Supreme Court at least three (3) days before the scheduled show cause hearing. For good cause shown, the Chief Justice may extend the time for answer.

E. Service of Answer. A copy of the answer shall be served on the Board at the office of the OAC.

F. Costs. No costs shall be assessed.

RULE VII.

SUSPENSION FOR CUMULATIVE DISCIPLINE

RULE 7.1
CRITERIA

A LPO disciplined who has a record of:

A. Three (3) or more admonitions, censures and/or reprimands, or

B. Any combination of a suspension or revocation plus one or more admonitions, censures and/or reprimands, shall be subject to suspension from limited practice under APR 12.

RULE 7.2
PROCEDURE

A. Upon a LPO's accumulation of discipline as provided in Rule 7.1, the Board may recommend to the Supreme Court suspension of the LPO.

B. The Board shall file with the Supreme Court the respondent LPO's prior record of discipline and its recommendation for suspension. The respondent LPO shall be served in the manner provided in Rule 1.6 C(1) with a copy of the record filed with the Supreme Court.

C. The Supreme Court shall allow the Board and the respondent LPO the opportunity to submit written briefs or oral arguments under such conditions and within such time as the court directs.

VIII.
GENERAL PROVISIONS

RULE 8.1
RESIDENCE

For the purposes of these rules, a LPO is a resident of that county, district or congressional district in which the LPO maintains, or last maintained, the LPO's principal office whether or not that be the LPO's place of abode.

RULE 8.2
PAPERS

All pleadings, briefs, documents or notices in these rules provided for must be typewritten or printed.

RULE 8.3
DOCUMENTS

Whenever in these rules it is required that any document shall be filed with the Board, such documents shall be served on the Board at the Office of the Administrator for the Courts, 1206 S. Quince, Olympia, Washington, 98504.

RULE 8.4
REPRESENTATION OF RESPONDENT

A former member of the Board who is also a licensed attorney in Washington shall not represent a respondent LPO in proceedings under these rules until after the lapse of two (2) years following expiration of the former Board member's term of office.

RULE 8.5
RECIPROCAL DISCIPLINE

A. Upon receipt of a certified copy of an order demonstrating that a LPO admitted to limited practice in this state has been disciplined in another jurisdiction, the Supreme Court shall forthwith direct the Board to issue a notice directed to the respondent LPO containing:

(1) A copy of the order from the other jurisdiction; and

(2) An order directing that the respondent LPO inform the court within thirty (30) days from service of the notice, of any claim by the respondent LPO that the imposition of the identical discipline in this state would be unwarranted, and the reasons therefore.

The Board shall cause this notice to be served upon the respondent LPO in the manner provided in Rule 1.6 C(1).

B. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this state shall be deferred until such stay expires.

C. In all other respects, a final adjudication in another jurisdiction that a LPO has been found guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this state.

RULE 8.6
DISCLOSURE

A. Disciplinary Files and Records Confidential. Except as otherwise provided in these rules, the file in a disciplinary proceeding and a disciplinary record shall be open only to the Board, Disciplinary Panel, staff of the OAC and the Supreme Court if filed for recommendation or review or requested by a member of the Supreme Court; however,

(1) The respondent LPO or the LPO's counsel may have access to the file consisting of the formal complaint, and all other pleadings, documents and instruments filed in the proceeding subsequent thereto.

(2) When requested by the official disciplinary body of another state in connection with a pending disciplinary action in that state, the Clerk of the Supreme Court will certify and transmit to the official disciplinary body of the state that record of the LPO involved.

B. Disclosure. Notwithstanding all existing rules relating to confidentiality of these proceedings, the Board may inform the public of disciplinary investigation or proceedings against any LPO when, in the judgment of the Board, it is determined that the matters involved are of such grave importance that the public interest is affected thereby.

C. Notice of Disciplinary Action Taken.

(1) If a LPO be permitted to resign during the pendency of disciplinary hearings, or upon suspension or revocation, the fact of such resignation, suspension or revocation, including the LPO's name, shall be published in the Washington State Escrow Association publication.

(2) If an admonition or censure is given to a LPO who has previously been suspended or revoked or reprimanded, notice of such admonition or censure, including the LPO's name, shall be published in the publication of the Washington State Escrow Association.

(3) Notice of all reprimands, including the LPO's name, shall be published in the publication of the Washington State Escrow Association.

D. Disciplinary Records. The disciplinary record of a LPO shall consist of a brief summary of any complaint made against the LPO and the disposition or status thereof. Information with reference thereto may be released by the Board:

- (1) When specified by these rules;
- (2) When requested in writing by the LPO;
- (3) When requested by the Chairperson of the Disciplinary Panel;
- (4) When directed by the Board in the public interest; or
- (5) When directed by the Supreme Court.

E. Contempt. Disclosure, except as herein provided, of any matter made confidential by these rules by any person whomsoever shall subject such person to a proceeding as for contempt.

IX.

EXONERATION FROM LIABILITY

RULE 9.1

EXONERATION FROM LIABILITY

No cause of action shall accrue in favor of a respondent LPO or any other person arising from an investigation or proceeding pursuant to these rules against the Limited Practice Board, its members or agents (including but not limited to its staff, Disciplinary Panel or staff of the Administrator for the Courts) provided that such Board or individual shall have acted in good faith. The burden of proving bad faith in this context shall be upon the party asserting same.

X.

EXAMINATION OF BOOKS AND RECORDS

RULE 10.1

EXAMINATION AND INVESTIGATIONS OF BOOKS AND RECORDS

The Board and its Chairperson shall have the following authority to examine and investigate the books and records of any LPO. The Board may authorize examinations of documents selected, prepared, and completed by authority of APR 12 of any LPO or firm by which LPOs are employed in conjunction with an investigation. Such examination shall extend only to documents selected, prepared, and completed by authority of APR 12 of such LPO or firm. Upon the examination set forth above, if the Chairperson of the Board shall determine that further examination is warranted, the Chairperson may then order an appropriate examination of the LPO's or the firm's documents which were selected, prepared, and completed by authority of APR 12, including verification of the information therein from available sources.

RULE 10.2

COOPERATION OF LPO

It shall be the duty and obligation of any LPO or firm who is subject to examination and investigation under Rule 10.1 to cooperate with the person conducting the examination, investigation or examination subject only to the proper exercise of any privilege against self-incrimination where applicable, by:

A. Producing to such person forthwith all evidence and documents selected, prepared, and completed by authority of APR 12 as such person shall request for the purpose of the examination and investigation; and

B. Furnishing forthwith explanations as such person may require for the purpose of the examination and investigation.

RULE 10.3

DISCLOSURE

The examination and investigation report shall be open to the Disciplinary Panel, the Board and the LPO examined unless a disciplinary proceeding be commenced in which event the disclosure provision of Rule 8.6 shall apply.

RULE 10.4

REGULATIONS

The Board may adopt regulations pursuant to its powers set forth in this rule subject to the approval of the Supreme Court.

.....

TO: Limited Practice Officers
FROM: Dorothy DeYoung, Chairman
Continuing Education Committee
Limited Practice Board

DATE: April, 1985

RE: Continuing Education Rules and Regulations
Forms for Compliance

The Continuing Education Regulations of the Limited Practice Board have been approved by the Washington Supreme Court; a copy is attached for your information. Included in the regulations is a set of the forms needed to comply with the Continuing Education requirements. Please make copies of these forms as needed. There are three forms that will be used:

Form No. 1 – Application for Approval of Continuing Education Activity:

This form is to be used by sponsors of education activities who wish to request approval of the activity so that participants can receive continuing education credits. Such approval must be granted before a sponsor can offer approved hours of credit to Limited Practice Officers. This form may also be used by Limited Practice Officers if a sponsor has not applied for approval and credit for participation is desired.

The information requested on the form should be provided in as much detail as possible and the attached exhibits should provide supplemental information which will enable a quick and thorough review of the request by the staff of the Office of the Administrator for the Courts. Information should include:

1. Biography of the instructor(s) which identifies expertise in content area being taught;
2. Copies of printed materials, handouts and/or course bibliography;
3. Copies of test material (if any);
4. Course outline detailing dates, time allocations to topics, length of course and location of course;
5. Description of physical setting in which course will take place; and
6. Cover letter which identifies recommended number of clock hours for course.

Note: Credit approval should be sought before course is conducted. An individual simultaneously filing Form 1 (Application for Credit) and Form 2 (Affidavit of Attendance) could be in non-compliance if requested credits are not approved.

Form No. 2 – Affidavit of Attendance at Approved Continuing Education Activities:

This form is to be filed by each LPO annually, on or before January 31, to verify credits earned. All Officers are exempt from meeting the 10 credit requirement in the calendar year of initial certification. For example, an Officer certified in April of 1985 would need to file Form No. 2 on or before January 31, 1987 and on each January 31 thereafter.

Continuing education credits cannot be claimed for courses taken or seminars attended prior to date of certification.

Late filing of Form No. 2 requires payment of a \$50.00 service fee. Officers who do not file Form No. 2 by April 30 will be subject to disciplinary action in accordance with Rule 111 of the Continuing Education Regulations.

Form No. 3 – Affidavit of Teaching or Participating in Approved Continuing Education Course:

Credit may be earned by teaching or participating in an approved continuing education program (see Regulation 109). Form No. 3 must be submitted with Form

No. 2 in order to verify credits. The courses for which credit is claimed must be approved courses (see Form No. 1).

Continuing education credits for teaching and/or participation cannot be claimed for courses or seminars conducted prior to date of certification.

There are many kinds of activities and a variety of sponsors which may qualify for approved clock hours for continuing education for Limited Practice Officers. The classes must comply with Regulation 104 of the Continuing Education Regulations and specifically with Regulation 104(b). Some of these include:

1. Real Estate classes from accredited university or community college (excluding pre-licensing classes);
2. Classes and seminars sponsored by the Department of Licensing (excluding pre-licensing classes);
3. Industry association seminars (in or out-of-state);
4. In-house training seminars and classes;
5. Courses sponsored by private individuals and/or schools which have no industry affiliation; and
6. Seminars sponsored by governmental agencies.

An industry liaison group has been selected which can assist in planning activities to meet the needs of Limited Practice Officers. If you need assistance in planning an activity or in finding approved courses, please contact a member of the committee (membership list attached). In addition, staff of the Office of the Administrator for the Courts are responsible for course approval and certification records. Both Susan Curtright and Carol Weaver may be reached at (206) 753-3365.

Enclosure: Continuing Education Regulations of the Limited Practice Board

CONTINUING EDUCATION REGULATIONS OF THE LIMITED PRACTICE BOARD

REGULATION 101. DEFINITIONS

As used in these regulations, the following definitions shall apply:

(a) A "Limited Practice Officer" (LPO) shall mean any person admitted to practice under Washington Supreme Court Rule APR 12.

(b) An "approved" education activity shall mean an individual seminar, course, or other continuing education activity approved by the Continuing Education Committee of the Limited Practice Board.

(c) A "credit hour" equals one (1) clock hour of actual attendance.

(d) The "Committee" shall mean the Continuing Education Committee of the Limited Practice Board.

(e) The "staff" shall mean the staff of the Office of the Administrator for the Courts.

(f) "APR 12" shall mean Admission to Practice Rule 12, together with any subsequent amendments thereto, as adopted by the Supreme Court of the State of Washington.

(g) "Teaching" in an approved continuing education activity shall mean and encompass the preparation and/or delivery of a prepared talk, lecture, or address at such activity.

(h) "Participating" in an approved continuing education activity shall mean and encompass (1) acting as a

planning and organizing chairperson of such activity or (2) taking part in such activity as a member of a panel discussion, without the preparation of written materials or the delivery of a prepared talk, lecture or address.

(i) "Calendar year" shall mean January 1 to December 31.

REGULATION 102. CONTINUING EDUCATION REQUIREMENT

As provided for in Rule 15 of the Rules of Admission and Certification, each Limited Practice Officer (LPO) shall complete a minimum of 10 credit hours of approved education during each calendar year beginning January 1, 1985 except as exempted by Regulation 114. If an active LPO completes more than 10 such credit hours in a given calendar year, the excess credit, up to 10 credits, may be carried forward and applied to such LPO's education requirement for the next calendar year.

REGULATION 103. CREDITS; COMPUTATION

(a) Continuing education credit may be obtained by attending, or teaching or participating in, continuing education activities which have (1) been previously approved by the Committee, or (2) have been afforded retroactive approval by the Committee pursuant to APR 12 and these regulations.

(b) A credit shall be awarded for each hour actually spent by an active LPO in attendance at an approved education activity.

(c) Credit will not be given for time spent in meal breaks. Credit will not be given for speeches presented at meal functions.

(d) Excess or "carry-over" credits may be applied to the succeeding calendar year's credit hour requirement. Such credits shall be reported to the Committee on or before January 31 as required by Regulation 108(a).

(e) Credit toward the continuing education requirements set forth in APR 12 and Regulation 102 may be earned through teaching or participating in an approved continuing education activity on the following basis:

(1) An active LPO teaching in an approved education activity shall receive credit on the basis of one credit for each hour actually spent by such LPO in attendance at and teaching in a presentation of such activity. Additionally, an active LPO teaching in such an activity shall also be awarded further credit on the basis of one credit for each hour actually spent in preparation time, provided that in no event shall more than ten (10) hours of credit be awarded for the preparation of one hour or less of actual presentation.

(2) An active LPO participating in an approved educational activity shall receive credit on the basis of one credit for each hour actually spent by such LPO in attendance at a presentation of such activity. Additionally, an active LPO participating in such an activity shall also be awarded further credit on the basis of one credit for each hour actually spent in preparation time, provided that in no event shall more than five (5) hours of credit be awarded for such preparation time in any one such continuing education activity.

REGULATION 104. STANDARDS FOR APPROVAL

The following standards shall be met by any course or activity for which approval is sought:

(a) The course shall have significant intellectual or practical content and its primary objective shall be to increase the attendee's professional competence as an LPO.

(b) The course shall constitute an organized program of learning dealing with matters directly relating to the limited practice of law and/or to the professional responsibility or ethical obligations of an LPO.

(c) Each faculty member shall be qualified by practical or academic experience to teach a specific subject.

(d) Thorough, high quality, readable, and carefully prepared written materials should be distributed to all attendees at or before the time the course is presented. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials for distribution should, however, be the exception and not the rule.

(e) Courses should be conducted in a setting physically suitable to the educational activity of the program. A suitable writing surface should be provided where feasible.

(f) No course will be approved which involves solely television viewing in the home or office or correspondence work or self-study. Video, motion picture, or sound tape presentations may be approved provided a teacher or moderator is in attendance at each presentation to comment thereon, answer questions, or conduct the discussion.

REGULATION 105. PROCEDURE FOR APPROVAL OF CONTINUING EDUCATION ACTIVITIES

(a) An active LPO or sponsoring agency desiring approval of a continuing education activity shall submit to the Committee all information called for by Form No. 1.

(b) Approval shall be granted or denied in accordance with the provisions of Regulation 107 herein.

(c) As to a course that has been approved, the sponsoring agency may announce, in informational brochures and/or registration materials: "This course has been approved by the Continuing Education Committee of the Limited Practice Board for _____ hours of credit."

REGULATION 106. DELEGATION

(a) To facilitate the orderly and prompt administration of APR 12 and these regulations, and to expedite the processes of, inter alia, course approval, and the interpretation of these regulations, the staff of the Office of the Administrator for the Courts may act on behalf of the Committee under APR 12 and these regulations. Any adverse determinations and all questions of interpretation of these regulations of APR 12 by the staff shall be subject to review by the Committee upon written application by person adversely affected.

(b) The Committee may organize itself into committees and/or appoint subcommittees for the purpose of considering and deciding matters arising under APR 12 and these regulations.

REGULATION 107. STAFF DETERMINATIONS AND REVIEW

(a) Staff of the Office of the Administrator for the Courts shall, in accordance with Regulations 104 and 106, respond in writing to all written requests for course approval and interpretation of the continuing education regulations of APR 12. The staff may seek a determination of the Committee before making such response. At each meeting of the Committee, the staff shall report on all determinations made since the last meeting of the Committee.

(b) The Committee shall review any adverse determination of the staff. An active LPO or the sponsoring agency affected may, at the discretion of the Committee chairperson, present information to the Committee in writing, in person or both.

If the Committee finds that the staff has incorrectly interpreted the facts, the provisions of APR 12, or the provisions of these regulations, it may take such action as may be appropriate. The Committee shall advise the active LPO or sponsoring agency affected of its findings and any action taken.

REGULATION 108. SUBMISSION OF INFORMATION—REPORTING OF ATTENDANCE

(a) **Compliance Report.** Each active LPO shall, on or before January 31 of each year, commencing January 31, 1986, submit an affidavit to the Committee, at the Office of the Administrator for the Courts, setting forth all information required by Form No. 2, concerning such active LPO's completion of approved continuing education during the preceding calendar year. Such affidavit shall also contain a report of "carry-over" credits, if any, as delineated in Regulation 102.

(b) **Supplemental Report.** If an active LPO has not completed the minimum education requirement for the preceding calendar year, or complied with Regulation 108(a), compliance may still be accomplished by:

(1) Submitting by April 30 the affidavit called for by Regulation 108(a) (Form No. 2) setting forth therein the extent of the active LPO's compliance with the minimum education requirement, **and**

(2) Paying at the time of filing such supplemental affidavit a special \$50 service fee.

(c) An active LPO who fails to comply with the provisions of this regulation shall be subject to the procedures and provisions of Regulation 111.

REGULATION 109. SUBMISSION OF INFORMATION—CREDIT FOR TEACHING OR PARTICIPATING

An active LPO who seeks credit for teaching or participating in an approved continuing education activity pursuant to Regulation 103(e), shall, on or before January 31 of the year following the calendar year in which such teaching or participating was accomplished, submit an affidavit to the Committee, at the Office of the Administrator for the Courts, setting forth all information required by the appropriate portion(s) of Form No. 3,

concerning such teaching and/or participating in approved education courses or activities during the preceding calendar year.

REGULATION 110. EXTENSIONS, WAIVER, MODIFICATIONS

The Committee may grant extensions, waivers, or modifications of these regulations in cases of undue hardship, age, or infirmity. Requests for extensions, waivers, or modifications shall be made in writing.

REGULATION 111. NON-COMPLIANCE; BOARD PROCEDURES

An active LPO who has not complied with the educational, or reporting requirements of APR 12 and these regulations by April 30 of each year, commencing with April 30, 1986, may be removed (or conditionally removed) from the roll of certified LPO's and transferred to inactive status pending compliance with the regulations.

To effect such removal, the Committee shall send to the non-complying LPO by certified mail, directed to the LPO's last known address as maintained on the records of the Office of the Administrator for the Courts, a written notice of non-compliance. The notice shall advise such active LPO of the pendency of removal proceedings unless within ten (10) days of receipt of such notice such active LPO complete and return to the Committee an accompanying form of petition, to which supportive affidavit(s) may be attached for extension of time for, or waiver of, compliance with the requirements of APR 12 and these regulations **or** for a ruling by the Committee of substantial compliance with the requirements.

(a) If such petition is not filed, such lack of action shall be deemed acquiescence by the active LPO in the finding of non-compliance. The Committee shall report such fact to the Board with the Committee's recommendations for appropriate action. The Board shall take such action as it deems appropriate.

(c) If such petition is filed, the Committee may, at its discretion, approve the same without hearing or may enter into an agreement on terms with such active LPO as to time and other requirements for achieving compliance with APR 12 and these regulations.

(d) If the Committee does not approve such petition or enter into such agreement, the affected LPO may request a hearing before the Board. At the discretion of the chairperson of the Board, the hearing may be held before the entire Board or panel thereof. The Board or panel thereof shall enter written findings of fact and an appropriate order, a copy of which shall be transmitted by certified mail to the active LPO affected at the address of such member on file with the Office of the Administrator for the Courts. Any such order shall be final and, in case of an adverse determination, shall be transmitted to the Supreme Court.

REGULATION 112. APPEALS TO THE SUPREME COURT

An adverse decision of the Board may be appealed by the active LPO affected to the Supreme Court in accordance with the applicable provisions of APR 12. As to such appeals, the Board shall be represented by counsel as the Board may designate.

REGULATION 113. REACTIVATION OF INACTIVE MEMBERS

A person desiring transfer from inactive to active status must comply with the applicable rules and procedures of the Board pertaining to such change of membership status, including the filing of an application with the Board in such form as is prescribed by the Board. The Board shall determine whether such application shall be granted. Compliance with APR 12 and these regulations is only one factor pertaining to such determination.

REGULATION 114. EXEMPTIONS

(a) New Admission. An active LPO shall not be required to comply with the minimum continuing education requirements of APR 12, as implemented by these regulations, during the calendar year in which the LPO is admitted to practice.

(b) Inactive Members. Inactive LPO's are not required to comply with the minimum continuing education requirement of APR 12 and these regulations.

REGULATION 115. RULEMAKING AUTHORITY

The Committee, subject to the approval of the Board, has continuing authority to make or amend regulations consistent with APR 12 in furtherance of the development of continuing education for LPO's and the regulation thereof.

REGULATION 116. CONFIDENTIALITY

The files and records of the Committee shall be deemed confidential and shall not be disclosed except in furtherance of the Committee's duties, or upon the request of an affected LPO member, or pursuant to a proper subpoena duces tecum, or as directed by the Supreme Court.

FORM NO. 1

LIMITED PRACTICE BOARD

Application for Approval of Continuing Education Activity

1. Name, address and phone number of sponsoring agency: _____

2. Title of educational activity: _____

3. Dates and exact locations (city, building, room) of each presentation:

<u>Dates</u>	<u>Locations</u>
_____	_____
_____	_____
_____	_____

4. Registration fee for activity: _____

5. Faculty:

<u>Name</u>	<u>Professional Educ. Background</u>	<u>Practice/Teaching Experience</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Complete description of all materials to be distributed to participants (copies may be submitted in lieu of a description):

7. Description of physical facilities (e.g., classroom or theater seating, availability of writing surface, etc.):

8. Method of evaluation of program (e.g., participant critique, independent evaluator, etc.): _____

9. Total number of credit hours requested: _____

10. Please complete Outline of Course Presentation on page 3.

Sponsoring agency agrees (a) to allow the Limited Practice Board, a member thereof or such other person as it shall designate, to audit the program in questions, and (2) to maintain a list of all Limited Practice Officers actually attending the program and to transmit such list to the Limited Practice Board thirty (30) days following the final presentation of the program as listed on page 1 of this form.

Sponsoring Agency or Limited Practice Officer

By: _____

Title: _____

11. Estimated number of attendees: _____

12. Contact person for information regarding course: _____
_____ Telephone _____

Return this form to: Continuing Education Committee
c/o Administrator for the Courts
1206 S. Quince Street
MS EZ-11
Olympia, WA 98504

OUTLINE OF COURSE PRESENTATION

Time each segment offered	Subject content each segment	Faculty	Technique used in each segment	Total hrs. each segment

FORM NO. 2

LIMITED PRACTICE BOARD

Affidavit of Attendance at Approved Continuing Education Activities

1. Name and address of person seeking credit:

2. Period covered: January 1, 19__ to December 31, 19__.

3. List below all approved continuing education courses attended during identified calendar year:

A Sponsoring Agency	B Name of Course	C Date Attended	D Credit Hours

- a. _____
- b. _____
- c. _____
- d. _____

4. Enter total number of credit hours reported in Column D above: _____

5. Enter carry-over credits from preceding year [maximum 10.00]: _____

6. Enter total of lines 4 and 5: _____

7. Subtract 10.00 (credits needed to satisfy current calendar year requirement) from the figure entered on line 6: -10.00

8. Enter remainder on this line. This represents excess credits to be carried over to next calendar year [cannot exceed 10.00]: _____

9. I swear or affirm that information hereon is, to the best of my knowledge, complete and accurate and that I did in fact attend, for the number of hours indicated, the courses listed above.

Signature: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19__.

THIS FORM MUST BE SIGNED AND NOTARIZED Notary in and for the State of _____ Residing at _____

Complete and return by January 31 to:
 Continuing Education Committee
 c/o Administrator for the Courts
 1206 S. Quince Street MS EZ-11
 Olympia, WA 98504

In accordance with Regulation 108(b), a special service fee of \$50 must be paid if this form is filed after January 31. Deadline: April 30.

FORM NO. 3

LIMITED PRACTICE BOARD

Affidavit of Teaching or Participating in Approved Continuing Education Courses

1. Name and address of person seeking credit:

2. Period covering: January 1, 19__ through December 31, 19__.

3. Title of course taught or participated in: _____

4. Name of sponsoring agency: _____

5. Date(s) and place(s) where course was presented:

6. Type of activity (teaching or participating) and credits claimed. (Fill out part A or B as appropriate. See Continuing Education Regulation 103(e) for explanations and computations.)

A. Fill out this part to claim credit for TEACHING

1. Subject matter taught: _____

2. Length of teaching presentation: _____

3. Credit hours claimed for attendance: _____

4. Credit hours claimed for preparation: _____

5. Total credit hours claimed for teaching activity (total #3 and #4): _____

B. Fill out this part to claim credit for PARTICIPATING

1. Nature of participating activity (panel discussion, participant, seminar chairperson, etc.):

2. Credit hours claimed for attendance: _____

3. Credit hours claimed for participating: _____

4. Total credit hours claimed for participating activity (total #2 and #3): _____

I swear or affirm that the information hereon is to the best of my knowledge complete and accurate.

Signature

SUBSCRIBED AND SWORN to before me this ____ day of _____, 19__.

Notary Public in and for the State of Washington residing at _____

Complete and return by January 31 to:

Continuing Education Committee
c/o Administrator for the Courts
1206 S. Quince Street MS EZ-11
Olympia, WA 98504

In accordance with Regulation 108(b), a special service fee of \$50 must be paid if this form is filed after January 31. Deadline: April 30.

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

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

WSR 87-10-001
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
[Memorandum—April 22, 1987]

Notice is hereby given that the regular meeting of the Public Works Board set for 8:30 a.m. on the 5th day of May 1987, is hereby cancelled. The next regular Public Works Board meeting will be at 8:30 a.m. on the 4th day of August 1987, at a place to be announced.

WSR 87-10-002
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
(Transportation Commission)
[Filed April 24, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Transportation — Commission 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, May 21, 1987, in the Vancouver City Council Chambers, 210 East 13th Street, Vancouver, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 21, 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 May 19, 1987.

This notice is connected to and continues the matter in Notice Nos. WSR 87-06-052 and 87-09-047 filed with the code reviser's office on March 4, 1987, and April 16, 1987.

Dated: April 23, 1987
By: Lue Clarkson
Administrator

WSR 87-10-003
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 87-31—Filed April 27, 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 rule conforms state regulations with Pacific Fishery Management Council recommendations and intent regarding seasons and maximum allowable harvest of chinook salmon.

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 220-24-02000S LAWFUL ACTS—TROLL FISHERY. Notwithstanding the provisions of WAC 220-24-010, 220-24-020, and WAC 220-24-030, effective immediately it is unlawful to take, fish for or possess any salmon for commercial purposes taken with troll gear in the waters west of the Bonilla-Tatoosh line, the Pacific Ocean, or west of a line drawn true north-south through Buoy 10 at the mouth of the Columbia River except as follows:

(1) Effective 12:01 a.m. May 1, 1987, it is lawful to take, fish for and possess all salmon species except coho

salmon in the above waters except for those waters of a closed conservation zone at the mouth of the Columbia River defined as those waters bounded by a line extending for six nautical miles due west from North Head along 46°18'00" north latitude to 124°13'18" longitude, then southerly along a line of 167° true to 46°11'06"N latitude and 124°11'00" longitude (Columbia River Buoy), then east along Red Buoy line to tip of south jetty from which conservation zone no salmon may be taken or possessed.

(2) Lawful terminal gear hooks are restricted to barbless hooks.

(3) No chinook salmon less than 28 inches in total length may be retained or possessed.

(4) The above waters will close for commercial troll fishing for salmon at 12:01 a.m. May 16, 1987, or when the chinook harvest ceiling of 42,400 chinook salmon is taken from Cape Falcon, Oregon, to the United States-Canada border, whichever is earliest.

(5) It shall be unlawful to possess or land fish in Washington, harvested by troll gear from waters outside the area from Cape Falcon, Oregon, to the United States-Canada border.

(6) It shall be unlawful to land fish taken with the described opened waters, in any Puget Sound port east of the Sekiu River unless notification to the Washington Department of Fisheries-Harvest Management Division is made prior to landing.

(7) It shall be unlawful to take, fish for or possess salmon taken for commercial purposes with purse seine, drag seine, or gill net gear from Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, and 4.

(8) It shall be unlawful to transport through Coastal Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 or land in the State of Washington, any salmon taken for commercial purposes contrary to the provisions of Chapter 220-47 WAC relative to seasons and species and as provided in WAC 220-24-020.

WSR 87-10-004
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-35—Filed April 27, 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 24, 1987.

By Judith Merchant
for Joseph R. Blum
Director

NEW SECTION

WAC 220-49-02000U SEASONS—HERRING ROE Notwithstanding the provisions of WAC 220-49-020 and 220-49-021 it is unlawful to fish for or possess Sac-roe herring taken in Marine Fish Shellfish Management Catch Reporting Areas 20A, 21A or 21B except that effective April 27, 1987 until further notice, purse seine vessel "Yankee Boy", registration number 00140 and operated by James Glenovich, may fish daily from one hour before official sunrise to one hour after official sunset for Sac-roe herring for commercial purposes in Marine Fish and Shellfish Catch Reporting Areas 20A, 21A or 21B.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-49-02000A SEASONS—LAWFUL GEAR (87-32)

WSR 87-10-005
PROCLAMATION NO. 87-02
OFFICE OF THE GOVERNOR

WHEREAS, in accordance with Article II, Section 12 (Amendment 68), the 1987 Regular Session adjourned April 26, 1987, the 105th day of the session without finishing its essential tasks; and

WHEREAS, it is therefore necessary for me to convene a Special Session for the purposes of addressing state budgets and revenue and related items, hazardous waste, Health Care Access Act of 1987, matters relating to the Washington State Convention and Trade Center, and K-12 education financing;

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68), and Article III, Section 7 of the State Constitution, do hereby convene the Legislature of the State of Washington on Monday, April 27, 1987, at 10:00 a.m. in Special Session in the Capitol at Olympia for the purposes stated herein.

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
26th day of April, Nineteen
Hundred and Eighty-seven.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 87-10-006

PROCLAMATION NO. 87-03

OFFICE OF THE GOVERNOR

TERMINATING EMERGENCY

Reference Executive Order 85-06

WHEREAS, in the past, several executive orders have established emergency boundaries, entry and occupancy rules and the administration of a restricted zone surrounding Mount St. Helens to help reduce the risk of harm to life, health and property from the potential for major eruptions, earthquakes, ashfall and flash flooding associated with Mount St. Helens; and

WHEREAS, this situation has been closely monitored by the U.S. Geological Survey since the eruption of 1980, and this agency, along with the U.S. Forest Service and a number of other involved agencies, now believes there are sufficient precursors to volcanic events, including spring-time phreatic events, to permit timely warning by the U.S. Forest Service to climbers and to allow the U.S. Forest Service to order the mountain closed; and

WHEREAS, the Division of Emergency Management and the Office of the Attorney General of the State of Washington, after reviewing input from a number of involved federal and local agencies, have recommended that the Governor lift his Executive Order related to Mount St. Helens, with the understanding that the U.S. Forest Service would be able to restrict access via recreational climbing permits in a sufficient manner to insure public safety such that the declaration of emergency is no longer needed; and

WHEREAS, the Washington State Division of Emergency Management is directed to continue contact with the appropriate federal and local agencies monitoring the activity of Mount St. Helens and to immediately notify the Governor if circumstances change such that it would be necessary for the Governor to consider reinstating or adopting a new emergency declaration;

I, BOOTH GARDNER, Governor of the State of Washington, pursuant to RCW 43.06.210, do hereby terminate Executive Order 85-06 of July 3, 1985, which declared a state of emergency in Washington State and established boundaries, entry and occupancy rules and the administration of a restricted zone surrounding Mount St. Helens.

This Proclamation shall be effective on May 4, 1987, in order to give the U.S. Forest Service time to establish and implement procedures to assist climber safety.

IN WITNESS TO, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia this 27th day of April A.D., nineteen hundred and eighty-seven.

Booth Gardner

Governor of the State of Washington

By the Governor:

Ralph Munro

Secretary of State

WSR 87-10-007

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 12

[April 22, 1987]

MUNICIPAL CORPORATIONS—PORT DISTRICTS—FORMATION OF LESS THAN COUNTY-SIZE DISTRICT WHERE COUNTY-WIDE DISTRICT EXISTS

The provisions of chapter 262, Laws of 1986, do not allow the formation of a port district of less than county size where there is already a county-wide port district established and functional.

There is no requirement that the question of port district formation be presented to the voters by the county legislative authority even if a proper petition is submitted to the county auditor and such petition is certified by the auditor to the legislative authority when the proposal is for a port district of less than county size where there is already a county-wide port district established and functional.

Requested by:

Honorable Stuart A. Halsan
State Senator, 20th District
437 John A. Cherberg Bldg.
Olympia, Washington 98504

WSR 87-10-008

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-06—Filed April 27, 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 general occupational health standards, chapter 296-62 WAC, amended by deleting the last paragraph of WAC 296-62-05427 Appendix D, definition of "trade secret" (mandatory) and changing the definitions of "employee" and "employer" in WAC 296-62-05405 to conform to the definitions of RCW 49.17.020. The changes have been adopted to be at least as effective as the OSHA amendments and statutory requirements; general occupational health standards, chapter 296-62 WAC, amended by repealing specific sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes have been adopted to be at least as effective as the OSHA amendments; asbestos removal and encapsulation, chapter 296-65 WAC, amended to correct references required by changes in chapter 296-62 WAC, general occupational health standards, and chapter 296-155 WAC, safety standards for construction work; and safety standards for construction work, chapter 296-155 WAC, amended by repealing specific sections, adding new sections, and clarifying and updating definitions as they apply to the occupational exposure to asbestos, tremolite, anthophyllite, and actinolite. WISHA's existing asbestos standard will continue in effect until the revised standard becomes effective so that WISHA will not be compromising safety. Employers are required to continue to comply with the existing standard until the effective date. The changes have been adopted to be at least as effective as the OSHA amendments.

New	WAC 296-62-077	Asbestos, tremolite, anthophyllite, and actinolite.
New	WAC 296-62-07701	Scope and application.
New	WAC 296-62-07703	Definitions.
New	WAC 296-62-07705	Permissible exposure limits (PEL).
New	WAC 296-62-07707	Identification.
New	WAC 296-62-07709	Exposure monitoring.
New	WAC 296-62-07711	Regulated areas.
New	WAC 296-62-07713	Methods of compliance.
New	WAC 296-62-07715	Respiratory protection.
New	WAC 296-62-07717	Protective work clothing and equipment.
New	WAC 296-62-07719	Hygiene facilities and practices.
New	WAC 296-62-07721	Communication of hazards to employees.
New	WAC 296-62-07723	Housekeeping.
New	WAC 296-62-07725	Medical surveillance.
New	WAC 296-62-07727	Recordkeeping.
New	WAC 296-62-07729	Observation of monitoring.
New	WAC 296-62-07731	Dates.
New	WAC 296-62-07733	Appendices.

New	WAC 296-62-07735	Appendix A—WISHA reference method—Mandatory.
New	WAC 296-62-07737	Appendix B—Detailed procedure for asbestos, tremolite, anthophyllite, and actinolite sampling and analysis—Nonmandatory.
New	WAC 296-62-07739	Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.
New	WAC 296-62-07741	Appendix D—Medical questionnaires—Mandatory.
New	WAC 296-62-07743	Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.
New	WAC 296-62-07745	Appendix F—Work practices and engineering controls for automotive brake repair operations—Nonmandatory.
New	WAC 296-62-07747	Appendix G—Substance technical information for asbestos—Nonmandatory.
New	WAC 296-62-07749	Appendix H—Medical surveillance guidelines for asbestos, tremolite, anthophyllite, and actinolite—Nonmandatory.
New	WAC 296-155-175	Scope and application.
New	WAC 296-155-17505	Definitions.
New	WAC 296-155-17510	Permissible exposure limits (PEL).
New	WAC 296-155-17515	Communication among employers.
New	WAC 296-155-17520	Identification.
New	WAC 296-155-17525	Regulated areas.
New	WAC 296-155-17530	Exposure monitoring.
New	WAC 296-155-17532	Methods of compliance.
New	WAC 296-155-17535	Respiratory protection.
New	WAC 296-155-17540	Protective clothing.
New	WAC 296-155-17545	Hygiene facilities and practices.
New	WAC 296-155-17550	Communication of hazards to employees.
New	WAC 296-155-17555	Housekeeping.
New	WAC 296-155-17560	Medical surveillance.
New	WAC 296-155-17565	Recordkeeping.
New	WAC 296-155-17570	Dates.
New	WAC 296-155-17575	Appendices.
New	WAC 296-155-177	Appendix A—WISHA reference method—Mandatory.
New	WAC 296-155-179	Appendix B—Detailed procedure for asbestos, tremolite, anthophyllite, and actinolite sampling and analysis—Nonmandatory.
New	WAC 296-155-181	Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.
New	WAC 296-155-183	Appendix D—Medical questionnaires—Mandatory.
New	WAC 296-155-185	Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.
New	WAC 296-155-187	Appendix F—Work practices and engineering controls for major asbestos removal, renovation, and demolition operations—Nonmandatory.
New	WAC 296-155-189	Appendix G—Work practices and engineering controls for small-scale, short-duration asbestos renovation and maintenance operations—Nonmandatory.
New	WAC 296-155-191	Appendix H—Substance technical information for asbestos—Nonmandatory.
New	WAC 296-155-193	Appendix I—Medical surveillance guidelines for asbestos, tremolite, anthophyllite, and actinolite—Nonmandatory.
Amd	WAC 296-62-07517	Asbestos.
Amd	WAC 296-62-05405	Definitions applicable to this section.

Amd	WAC 296-62-05427	Appendix D, definition of "trade secret" (mandatory).
Amd	WAC 296-65-005	Training course content.
Amd	WAC 296-65-015	Training course certification.
Amd	WAC 296-65-020	Notification requirements.
Amd	WAC 296-65-030	Methods of compliance.
Amd	WAC 296-65-040	Appeals—Notice and filing.
Amd	WAC 296-155-160	Gases, vapors, fumes, dusts, and mists.
Amd	WAC 296-155-775	Preparatory operations.

This action is taken pursuant to Notice No. WSR 87-05-055 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 49.17.050(2) and 49.17.040 which directs that the Department of Labor and Industries has authority to implement the provisions of the Washington Industrial Safety and Health Act, chapter 49.17 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 27, 1987.

By Richard A. Davis
Director

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

WAC 296-62-05405 DEFINITIONS APPLICABLE TO THIS SECTION. (1) Article – a manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and

(c) Which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

(2) Chemical – any element, chemical compound or mixture of elements and/or compounds.

(3) Chemical manufacturer – an employer with a workplace where chemical(s) are produced for use or distribution.

(4) Chemical name – the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

(5) Combustible liquid – any liquid having a flashpoint at or above 100°F (37.8°C), but below 200°F (93.3°C), except any mixture having components with flashpoints of 200°F (93.3°C), or higher, the total volume of which make up ((99)) ninety-nine percent or more of the total volume of the mixture.

(6) Common name – any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

(7) Compressed gas

(a) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70°F (21.1°C); or

(b) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100°F (37.8°C) as determined by ASTM D-323-72.

(8) Container – any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section, pipes or piping systems are not considered to be containers.

(9) Designated representative – any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

(10) Director – the director of the department of labor and industries or his/her designee.

(11) Distributor – a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to purchasers.

(12) Employee – ((a worker employed by an employer who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies, including, but not limited to production workers, line supervisors, and repair or maintenance personnel. Office workers, grounds maintenance personnel, security personnel or nonresident management are included if their job performance routinely involves potential exposure to hazardous chemicals)) means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is personal labor for an employer under this standard whether by way of manual labor or otherwise. However, for the purposes of this subsection, employee shall not mean immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity or officers of any closely held corporation engaged in agricultural production of crops or livestock.

(13) Employer – ((a person engaged in a business where chemicals are either used, or are produced for use or distribution)) means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any business, industry, profession, or activity in this state and employs one or more employees or who contract with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

(14) Explosive – a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat

when subjected to sudden shock, pressure, or high temperature.

(15) Exposure or exposed – an employee that is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (e.g., accidental or possible) exposure.

(16) Flammable – a chemical that falls into one of the following categories:

(a) Aerosol flammable – an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding ((†8)) eighteen inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(b) Gas, flammable:

(i) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen percent by volume or less; or

(ii) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve percent by volume, regardless of the lower limit;

(c) Liquid, flammable – any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up ((99)) ninety-nine percent or more of the total volume of the mixture.

(d) Solid, flammable – a solid, other than a blasting agent or explosive as defined in 29 CFR s1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(17) Flashpoint – the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(a) Tagliabue closed tester – (see American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(b) Pensky-Martens closed tester – (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100°F (37.8°C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(c) Setaflash closed tester – (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

(18) Foreseeable emergency – any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

(19) Hazardous chemical – any chemical which is a physical hazard or a health hazard.

(20) Hazard warning – any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemical(s) in the container(s).

(21) Health hazard – a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

(22) Identity – any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

(23) Immediate use – that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

(24) Importer – the first business within Washington which receives hazardous chemicals produced in other states or countries, for the purpose of supplying them to distributors or purchasers within Washington.

(25) Label – any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

(26) Material safety data sheet (MSDS) – written or printed material concerning a hazardous chemical which is prepared in accordance with WAC 296-62-05413.

(27) Mixture – any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

(28) Organic peroxide – an organic compound that contains the bivalent-0-0-structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(29) Oxidizer – a chemical other than a blasting agent or explosive as defined in WAC 296-52-030, that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.

(30) Physical hazard – a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic

peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

(31) Produce – to manufacture, process, formulate, or repackage.

(32) Purchaser – an employer with a workplace who purchases a hazardous chemical for use within that workplace.

(33) Pyrophoric – a chemical that will ignite spontaneously in air at a temperature of 130°F (54.4°C) or below.

(34) Responsible party – someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(35) Specific chemical identity – the chemical name, Chemical Abstracts Service (CAS) registry number, or any other information that reveals the precise chemical designation of the substance.

(36) Trade secret – any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. WAC 296-62-05427, Appendix D, sets out the criteria to be used in evaluating trade secrets.

(37) Unstable (reactive) – a chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

(38) Use – to package, handle, react, or transfer.

(39) Water-reactive – a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

(40) Work area – a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

(41) Workplace – an establishment at one geographical location containing one or more work areas.

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

WAC 296-62-05427 APPENDIX D. Definition of "trade secret" (mandatory)

The following is a reprint of the Restatement of Torts section 757, comment b (1939):

"b. Definition of trade secret. A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business (see § 759 of the Restatement of Torts which is not included in this Appendix) in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a

process or device for continuous use in the operations of the business. Generally it relates to the production of goods, as, for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

Secrecy. The subject matter of a trade secret must be secret. Matters of public knowledge or of general knowledge in an industry cannot be appropriated by one as his secret. Matters which are completely disclosed by the goods which one markets cannot be his secret. Substantially, a trade secret is known only in the particular business in which it is used. It is not requisite that only the proprietor of the business know it. He may, without losing his protection, communicate it to employees involved in its use. He may likewise communicate it to other pledged to secrecy. Others may also know of it independently, as, for example, when they have discovered the process or formula by independent invention and are keeping it secret. Nevertheless, a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one's trade secret are: (1) The extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Novelty and prior art. A trade secret may be a device or process which is patentable; but it need not be that. It may be a device or process which is clearly anticipated in the prior art or one which is merely a mechanical improvement that a good mechanic can make. Novelty and invention are not requisite for a trade secret as they are for patentability. These requirements are essential to patentability because a patent protects against unlicensed use of the patented device or process even by one who discovers it properly through independent research. The patent monopoly is a reward to the inventor. But such is not the case with a trade secret. Its protection is not based on a policy of rewarding or otherwise encouraging the development of secret processes or devices. The protection is merely against breach of faith and reprehensible means of learning another's secret. For this limited protection it is not appropriate to require also the kind of novelty and invention which is a requisite of patentability. The nature of the secret is, however, an important factor in determining the kind of relief that is appropriate against one who is subject to liability under the rule stated in this Section. Thus, if the secret consists of a device or process which is a novel invention, one who acquires the secret wrongfully is ordinarily enjoined from further use of it and is required to account

for the profits derived from his past use. If, on the other hand, the secret consists of mechanical improvements that a good mechanic can make without resort to the secret, the wrongdoer's liability may be limited to damages, and an injunction against future use of the improvements made with the aid of the secret may be inappropriate.

~~((Information not a trade secret. Although given information is not a trade secret, one who receives the information in a confidential relation or discovers it by improper means may be under some duty not to disclose or use that information. Because of the confidential relation or the impropriety of the means of discovery, he may be compelled to go to other sources for the information. As stated in Comment a, even the rule stated in this Section rests not upon a view of trade secrets as physical objects of property but rather upon abuse of confidence or impropriety in learning the secret. Such abuse or impropriety may exist also where the information is not a trade secret and may be equally a basis for liability. The rules relating to the liability for duties arising from confidential relationships generally are not within the scope of the Restatement of this Subject. As to the use of improper means to acquire information, see § 759.))~~"

NEW SECTION

WAC 296-62-077 ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE.

NEW SECTION

WAC 296-62-07701 SCOPE AND APPLICATION. (1) WAC 296-62-07701 through 296-62-07749 applies to all occupational exposures to asbestos, tremolite, anthophyllite, and actinolite, in all industries covered by the Washington Industrial Safety and Health Act, except as provided in subsection (2) of this section.

(2) This section does not apply to construction work as defined in WAC 296-155-012(6). Exposure to asbestos, tremolite, anthophyllite, and actinolite in construction work is covered by WAC 296-155-175 through 296-155-193.

Note: Enforcement of WAC 296-62-077 through 296-62-07749 is stayed as it applies to nonasbestiform tremolite, anthophyllite, and actinolite. During the period of this stay, the provisions of WAC 296-62-07517 will remain in effect with respect to regulation of nonasbestiform tremolite, anthophyllite, and actinolite.

NEW SECTION

WAC 296-62-07703 DEFINITIONS. For the purpose of WAC 296-62-077 through 296-62-07749:

(1) "Action level" means an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals, of 0.1 fiber per cubic centimeter (f/cc) of air calculated as an eight-hour time-weighted average.

(2) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

(3) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(6) "Employee exposure" means that exposure to airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals that would occur if the employee were not using respiratory protective equipment.

(7) "Fiber" means a particulate form of asbestos, tremolite, anthophyllite, or actinolite, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

(8) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

(9) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed, or can reasonably be expected to exceed, the permissible exposure limit.

(10) "Tremolite, anthophyllite, or actinolite" means the nonasbestos form of these minerals, and any of these minerals that have been chemically treated and/or altered.

NEW SECTION

WAC 296-62-07705 PERMISSIBLE EXPOSURE LIMITS (PEL). (1) The employer shall ensure that no employee is exposed to an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 0.2 fiber per cubic centimeter (0.2 f/cc) of air as an eight-hour time-weighted average (TWA) as determined by the method prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

(2) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 1.0 fiber per cubic centimeter (1.0 f/cc) of air during any fifteen minute period, as determined by the methods prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

NEW SECTION

WAC 296-62-07707 IDENTIFICATION. The employer shall determine if materials to be worked on or removed contain asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals. Determinations shall be documented (e.g., laboratory analysis report, manufacturer's product information), maintained on file and made available upon request to the director. A determination shall not be required when an employer assumes that the suspect material contains asbestos,

tremolite, anthophyllite, actinolite, or a combination of these minerals and handles the material in accordance with WAC 296-62-077 through 296-62-07749.

NEW SECTION

WAC 296-62-07709 EXPOSURE MONITORING. (1) General.

(a) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight-hour TWA of each employee and of the ceiling concentrations of each employee.

(b) Representative eight-hour TWA employee exposures shall be determined on the basis of one or more samples representing full-shift exposures for each shift for each employee in each job classification in each work area.

(2) Initial monitoring.

(a) Each employer who has a workplace or work operation covered by this standard, except as provided for in (b) and (c) of this subsection, shall perform initial monitoring of employees who are, or may reasonably be expected to be exposed to airborne concentrations at or above the action level.

(b) Where the employer has monitored after December 20, 1985, and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection.

(c) Where the employer has relied upon objective data that demonstrates that asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is not capable of being released in airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, then no initial monitoring is required.

(3) Monitoring frequency (periodic monitoring) and patterns. After the initial determinations required by subsection (2)(a) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than six months for employees whose exposures may reasonably be foreseen to exceed the action level.

(4) Changes in monitoring frequency. If either the initial or the periodic monitoring required by subsections (2) and (3) of this section statistically indicates that employee exposures are below the action level, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(5) Additional monitoring. Notwithstanding the provisions of subsections (2)(b) and (4) of this section, the employer shall institute the exposure monitoring required under subsections (2)(a) and (3) of this section whenever there has been a change in the production, process, control equipment, personnel, or work practices that may result in new or additional exposures above the action level or when the employer has any reason to suspect that a change may result in new or additional exposures above the action level.

(6) Method of monitoring.

(a) All samples taken to satisfy the monitoring requirements of this section shall be personal samples collected following the procedures specified in WAC 296-62-07735, Appendix A.

(b) Monitoring shall be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques.

(c) All samples taken to satisfy the monitoring requirements of this section shall be evaluated using the WISHA reference method specified in WAC 296-62-07735, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA reference method is used, the employer shall ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons;

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.1 to 0.4 f/cc have an accuracy range of plus or minus twenty-five percent of the WISHA reference method results with a ninety-five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers must use the results of monitoring analysis performed by laboratories which have instituted quality assurance programs that include the elements as prescribed in WAC 296-62-07735, Appendix A.

(7) Employee notification of monitoring results.

(a) The employer shall, within fifteen working days after the receipt of the results of any monitoring performed under the standard, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by (a) of this subsection shall contain the corrective action being taken by the employer to reduce employee exposure to or below the PEL, wherever monitoring results indicated that the PEL had been exceeded.

NEW SECTION

WAC 296-62-07711 REGULATED AREAS. (1) Establishment. The employer shall establish regulated areas wherever airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals are in excess of the permissible exposure limit prescribed in WAC 296-62-07705.

(2) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to asbestos, tremolite, anthophyllite, or actinolite.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by the Washington Industrial Safety and Health Act or regulations issued pursuant thereto.

(4) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with WAC 296-62-07715.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-62-07717.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated areas.

NEW SECTION

WAC 296-62-07713 METHODS OF COMPLIANCE. (1) Engineering controls and work practices.

(a) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the exposure limit prescribed in WAC 296-62-07705, except to the extent that such controls are not feasible.

(b) Wherever the feasible engineering controls and work practices that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(c) For the following operations, wherever feasible engineering controls and work practices that can be instituted are not sufficient to reduce the employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to or below 0.5 fiber per cubic centimeter of air (as an eight-hour time-weighted average) and shall supplement them by the use of any combination of respiratory protection that complies with the requirements of WAC 296-62-07715, work practices and feasible engineering controls that will reduce employee exposure to or below the permissible exposure limit prescribed in WAC 296-62-07705: Coupling cutoff in primary asbestos cement pipe manufacturing; sanding in primary and secondary asbestos cement sheet manufacturing; grinding in primary and secondary friction product manufacturing; carding and spinning in dry textile processes; and grinding and sanding in primary plastics manufacturing.

(d) Local exhaust ventilation. Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with good practices such as those found in the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1979.

(e) Particular tools. All hand-operated and power-operated tools which would produce or release fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals so as to expose employees to levels in excess of the exposure limit prescribed in WAC 296-62-07705, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local

exhaust ventilation systems which comply with (d) of this subsection.

(f) Wet methods. Insofar as practicable, asbestos, tremolite, anthophyllite, or actinolite shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers so as to expose employees to levels in excess of the exposure limit prescribed in WAC 296-62-07705, unless the usefulness of the product would be diminished thereby.

(g) Materials containing asbestos, tremolite, anthophyllite, or actinolite shall not be applied by spray methods unless the materials contain less than 0.1% asbestos, tremolite, anthophyllite, or actinolite by weight, the asbestos is a natural contaminant and objective data indicate employee exposure will not exceed the action level of 0.1 f/cc.

(h) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos, tremolite, anthophyllite, or actinolite shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, enclosed, or ventilated so as to prevent effectively the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals so as to expose employees to levels in excess of the limit prescribed in WAC 296-62-07705.

(i) Compressed air. Compressed air shall not be used to remove asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite, unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(2) Compliance program.

(a) Where the PEL is exceeded, the employer shall establish and implement a written program to reduce employee exposure to or below the limit by means of engineering and work practice controls as required by subsection (1) of this section, and by the use of respiratory protection where required or permitted under this section.

(b) Such programs shall be reviewed and updated as necessary to reflect significant changes in the status of the employer's compliance program.

(c) Written programs shall be submitted upon request for examination and copying to the director, affected employees and designated employee representatives.

(d) The employer shall not use employee rotation as a means of compliance with the PEL.

NEW SECTION

WAC 296-62-07715 RESPIRATORY PROTECTION. (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-077 through 296-62-07749. Respirators shall be used in the following circumstances:

(a) During the interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations, such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the exposure limit;

(d) In emergencies; and

(e) Whenever employee exposure exceeds the PEL.

(2) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator as specified in Table 1 of this section. The employer shall select respirators from among those approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) or by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(b) The employer shall provide a powered, air-purifying respirator in lieu of any negative pressure respirator specified in Table 1 of this section whenever:

(i) An employee chooses to use this type of respirator; and

(ii) This respirator will provide adequate protection to the employee.

TABLE 1—RESPIRATORY PROTECTION FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE FIBERS

Concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals	Required Respirator ^a
Not in excess of 2 f/cc.	1. Half-mask, air-purifying respirator equipped with high-efficiency filters. ^b
Not in excess of 10 f/cc.	1. Full facepiece air-purifying respirator equipped with high-efficiency filters.
Not in excess of 20 f/cc.	1. Any powered air-purifying respirator equipped with high-efficiency filters. 2. Any supplied-air respirator operated in continuous flow mode.
Not in excess of 200 f/cc.	1. Full facepiece supplied-air respirator operated in pressure demand mode.
Greater than 200 f/cc or unknown concentration.	1. Full facepiece supplied-air respirator operated in pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter. ^c 2. Full facepiece positive-pressure self-contained breathing apparatus (SCBA).

Note: a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.

b. A high-efficiency filter means a filter that is capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

c. See subsection (4)(c) of this section for fit testing requirements.

(3) Respirator program.

(a) Where respiratory protection is required, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave the regulated area to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employee shall be assigned to tasks requiring the use of respirators if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employee shall be assigned to another job or given the opportunity to transfer to a different position whose duties he or she is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay the employee had just prior to such transfer, if such a different position is available.

(4) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) For each employee wearing negative pressure respirators, employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter. The qualitative fit tests may be used only for testing the fit of negative pressure respirators to be worn in concentrations of asbestos not in excess of 2 f/cc, and shall be conducted in accordance with WAC 296-62-07739, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1 of this section.

(c) Any supplied-air respirator facepiece equipped with a back-up HEPA filter shall be fit tested as a negative pressure respirator in accordance with (b) of this subsection with the air supply disconnected.

NEW SECTION

WAC 296-62-07717 PROTECTIVE WORK CLOTHING AND EQUIPMENT. (1) Provision and use. If an employee is exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL, or where the possibility of eye irritation exists, the employer shall provide at no cost to the employee and ensure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(a) Coveralls or similar full-body work clothing;

(b) Gloves, head coverings, and foot coverings; and

(c) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-07801.

(2) Removal and storage.

(a) The employer shall ensure that employees remove work clothing contaminated with asbestos, tremolite, anthophyllite, or actinolite only in change rooms provided in accordance with WAC 296-62-07719(1).

(b) The employer shall ensure that no employee takes contaminated work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(c) Contaminated work clothing shall be placed and stored in closed containers which prevent dispersion of the asbestos, tremolite, anthophyllite, and actinolite outside the container.

(d) Containers of contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal, shall bear labels in accordance with WAC 296-62-07721(2).

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. The employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(b) The employer shall prohibit the removal of asbestos, tremolite, anthophyllite, and actinolite from protective clothing and equipment by blowing or shaking.

(c) Laundering of contaminated clothing shall be done so as to prevent the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit prescribed in WAC 296-62-07705.

(d) Any employer who gives contaminated clothing to another person for laundering shall inform such person of the requirement in (c) of this subsection to effectively prevent the release of airborne fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with asbestos, tremolite, anthophyllite, or actinolite of the potentially harmful effects of exposure to asbestos, tremolite, anthophyllite, or actinolite.

(f) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with WAC 296-62-07721.

NEW SECTION

WAC 296-62-07719 HYGIENE FACILITIES AND PRACTICES. (1) Change rooms.

(a) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is above the permissible exposure limit.

(b) The employer shall ensure that change rooms are in accordance with WAC 296-24-120, and are equipped with two separate lockers or storage facilities, so separated as to prevent contamination of the employee's street clothes from his protective work clothing and equipment.

(2) Showers.

(a) The employer shall ensure that employees who work in areas where their airborne exposure is above the permissible exposure limit shower at the end of the work shift.

(b) The employer shall provide shower facilities which comply with WAC 296-24-12009(3).

(c) The employer shall ensure that employees who are required to shower pursuant to (a) of this subsection do not leave the workplace wearing any clothing or equipment worn during the work shift.

(3) Lunchrooms.

(a) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure is above the permissible exposure limit.

(b) The employer shall ensure that lunchroom facilities have a positive pressure, filtered air supply, and are readily accessible to employees.

(c) The employer shall ensure that employees who work in areas where their airborne exposure is above the permissible exposure limit wash their hands and faces prior to eating, drinking, or smoking.

(d) The employer shall ensure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface asbestos, tremolite, anthophyllite, and actinolite fibers have been removed from the clothing or equipment by vacuuming or other method that removes dust without causing the asbestos, tremolite, anthophyllite, or actinolite to become airborne.

NEW SECTION

WAC 296-62-07721 COMMUNICATION OF HAZARDS TO EMPLOYEES. (1) Warning signs.

(a) Warning signs shall be provided and displayed at each regulated area. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) The warning signs required by (a) of this subsection shall bear the following information:

DANGER
ASBESTOS

CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY

RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED
IN THIS AREA

(c) Where minerals in the regulated area are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(2) Warning labels.

(a) Warning labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos, tremolite, anthophyllite, or actinolite fibers, or to their containers.

(b) The labels shall comply with the requirements of WAC 296-62-05411, and shall include the following information:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
AVOID BREATHING AIRBORNE ASBESTOS,
TREMOLITE, ANTHOPHYLLITE, OR
ACTINOLITE FIBERS

(c) Where minerals to be labeled are only tremolite, anthophyllite, or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(3) Material safety data sheets. Employers who are manufacturers or importers of asbestos, tremolite, anthophyllite, or actinolite, or asbestos, tremolite, anthophyllite, or actinolite products shall comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-05413, except as provided by subsection (4) of this section.

(4) The provisions for labels required by subsection (2) of this section or for material safety data sheets required by subsection (3) of this section do not apply where:

(a) Asbestos, tremolite, anthophyllite, or actinolite fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the action level will be released; or

(b) Asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals is present in a product in concentrations less than 0.1 percent by weight.

(5) Employee information and training.

(a) The employer shall institute a training program for all employees who are exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level and ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment and at least annually thereafter.

(c) The training program shall be conducted in a manner which the employee is able to understand. The employer shall ensure that each employee is informed of the following:

(i) The health effect associated with asbestos, tremolite, anthophyllite, or actinolite exposure;

(ii) The relationship between smoking and exposure to asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer;

(iii) The quantity, location, manner of use, release, and storage of asbestos, tremolite, anthophyllite, or actinolite, and the specific nature of operations which could result in exposure to asbestos, tremolite, anthophyllite, or actinolite;

(iv) The engineering controls and work practices associated with the employee's job assignment;

(v) The specific procedures implemented to protect employees from exposure to asbestos, tremolite, anthophyllite, or actinolite, such as appropriate work practices, emergency and clean-up procedures, and personal protective equipment to be used;

(vi) The purpose, proper use, and limitations of respirators and protective clothing;

(vii) The purpose and a description of the medical surveillance program required by WAC 296-62-07725; and

(viii) A review of this standard, including appendices.

(d) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(6) Certification.

(a) All individuals working on asbestos projects, as defined in WAC 296-65-003(4) shall be certified as required by WAC 296-65-010 and 296-65-030.

(b) In cases excepted under WAC 296-65-030 (1) and (2), all employees shall be trained according to subsection (5) of this section.

NEW SECTION

WAC 296-62-07723 HOUSEKEEPING. (1) All surfaces shall be maintained as free as practicable of accumulations of dusts and waste containing asbestos, tremolite, anthophyllite, or actinolite.

(2) All spills and sudden releases of material containing asbestos, tremolite, anthophyllite, or actinolite shall be cleaned up as soon as possible.

(3) Surfaces contaminated with asbestos, tremolite, anthophyllite, or actinolite may not be cleaned by the use of compressed air.

(4) Vacuuming. HEPA-filtered vacuuming equipment shall be used for vacuuming. The equipment shall be used and emptied in a manner which minimizes the re-entry of asbestos, tremolite, anthophyllite, or actinolite into the workplace.

(5) Shoveling, dry sweeping, and dry clean-up of asbestos, tremolite, anthophyllite, or actinolite may be used only where vacuuming and/or wet cleaning are not feasible.

(6) Waste disposal. Waste, scrap, debris, bags, containers, equipment, and clothing contaminated with asbestos, tremolite, anthophyllite, or actinolite consigned for disposal, shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(7) Deterioration. Asbestos, tremolite, anthophyllite, or actinolite which has become damaged or deteriorated shall be repaired, enclosed, encapsulated, or removed.

NEW SECTION

WAC 296-62-07725 MEDICAL SURVEILLANCE. (1) General.

(a) The employer shall institute a medical surveillance program for all employees who are or will be exposed to

airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level.

(b) Examination by a physician.

(i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee and at a reasonable time and place.

(ii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section, shall complete a training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Preplacement examinations.

(a) Before an employee is assigned to an occupation exposed to airborne concentrations of asbestos, tremolite, anthophyllite, or actinolite fibers, a preplacement medical examination shall be provided or made available by the employer.

(b) Such examination shall include, as a minimum, a medical and work history: A complete physical examination of all systems with emphasis on the respiratory system, the cardiovascular system and digestive tract; completion of the respiratory disease standardized questionnaire in WAC 296-62-07741, Appendix D, Part 1; a chest roentgenogram (posterior-anterior 14x17 inches); pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}); and any additional tests deemed appropriate by the examining physician. Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-62-07743, Appendix E.

(3) Periodic examinations. (a) Periodic medical examinations shall be made available annually.

(b) The scope of the medical examination shall be in conformance with the protocol established in subsection (2)(b) of this section, except that the frequency of chest roentgenograms shall be conducted in accordance with Table 2 of this section, and the abbreviated standardized questionnaire contained in WAC 296-62-07741, Appendix D, Part 2, shall be administered to the employee.

TABLE 2—FREQUENCY OF CHEST ROENTGENOGRAMS

Years since first exposure	Age of employee		
	15 to 35	35+ to 45	45+
0 to 10.....	Every 5 years	Every 5 years	Every 5 years.
10+	Every 5 years	Every 2 years	Every 1 year.

(4) Termination of employment examinations.

(a) The employer shall provide, or make available, a termination of employment medical examination for any employee who has been exposed to airborne concentrations of fibers of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals at or above the action level.

(b) The medical examination shall be in accordance with the requirements of the periodic examinations stipulated in subsection (3) of this section, and shall be given within thirty calendar days before or after the date of termination of employment.

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with subsection (2), (3), or (4) of this section within the past one-year period.

(6) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D and E of WAC 296-62-07741 and 296-62-07743, respectively.

(b) A description of the affected employee's duties as they relate to the employee's exposure.

(c) The employee's representative exposure level or anticipated exposure level.

(d) A description of any personal protective and respiratory equipment used or to be used.

(e) Information from previous medical examinations of the affected employee that is not otherwise available to the examining physician.

(7) Physician's written opinion.

(a) The employer shall obtain a written signed opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos, tremolite, anthophyllite, or actinolite;

(ii) Any recommended limitations on the employee or upon the use of personal protective equipment such as clothing or respirators; and

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions resulting from asbestos, tremolite, anthophyllite, or actinolite exposure that require further explanation or treatment.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos, tremolite, anthophyllite, or actinolite.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

NEW SECTION

WAC 296-62-07727 RECORDKEEPING. (1) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to asbestos, tremolite, anthophyllite, or actinolite as prescribed in WAC 296-62-07709.

(b) This record shall include at least the following information:

(i) Name of employer;

(ii) Name of person conducting monitoring;

(iii) The date of measurement;

(iv) Address of operation or activity;

(v) Description of the operation or activity involving exposure to asbestos, tremolite, anthophyllite, or actinolite that is being monitored;

- (vi) Personal or area sample;
- (vii) Name, Social Security number, and exposure level of the employees whose exposures are represented;
- (viii) Type of protective devices worn, if any;
- (ix) Pump calibration date and flow rate;
- (x) Total volume of air sampled;
- (xi) Name and address of analytical laboratory;
- (xii) Number, duration, and results (f/cc) of samples taken;
- (xiii) Date of analysis; and
- (xiv) Sampling and analytical methods used and evidence of their accuracy.

(c) The employer shall maintain this record for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(2) Objective data for exempted operations.

(a) Where the processing, use, or handling of products made from or containing asbestos, tremolite, anthophyllite, or actinolite is exempted from other requirements of this section under WAC 296-62-07709 (2)(c), the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following:

- (i) The product qualifying for exemption;
- (ii) The source of the objective data;
- (iii) The testing protocol, results of testing, and/or analysis of the material for the release of asbestos, tremolite, anthophyllite, or actinolite;
- (iv) A description of the operation exempted and how the data support the exemption; and
- (v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

Note: The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-62-07725 (1)(a), in accordance with WAC 296-62-052.

(b) The record shall include at least the following information:

- (i) The name and Social Security number of the employee;
- (ii) Physician's written opinions;
- (iii) Any employee medical complaints related to exposure to asbestos, tremolite, anthophyllite, or actinolite; and
- (iv) A copy of the information provided to the physician as required by WAC 296-62-07725(6).

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(4) Training. The employer shall maintain all employee training records for one year beyond the last date of employment of that employee.

(5) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying.

(b) The employer, upon request shall make any exposure records required by subsection (1) of this section available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) The employer, upon request, shall make employee medical records required by subsection (2) of this section available for examination and copying to the subject employee, to anyone having the specific written consent of the subject employee, and the director, in accordance with WAC 296-62-052.

(6) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal of records and, upon request, transmit them to the director.

NEW SECTION

WAC 296-62-07729 OBSERVATION OF MONITORING. (1) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite conducted in accordance with this section.

(2) Observation procedures. When observation of the monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-62-07731 DATES. (1) The requirements of the asbestos standard issued in May 1973, as amended, and published in WAC 296-62-07517, remain in effect until compliance is achieved with the parallel provisions of WAC 296-62-077 through 296-62-07749.

(2) Start-up dates. All obligations of this section commence on the effective date except as follows:

(a) Hygiene and lunchroom facilities. Changerooms, showers, lavatories, and lunchroom facilities shall be constructed and in use no later than July 20, 1987. However, if as part of the compliance plan it is predicted by an independent engineering firm that engineering controls and work practices will reduce exposures below the permissible exposure limit by July 20, 1988, for affected employees, then such facilities need not be completed until one year after the engineering controls are completed, if such controls have not in fact succeeded in

reducing exposure to below the permissible exposure limit.

(b) Compliance program. Written compliance programs required by WAC 296-62-07713(2) as a result of initial monitoring shall be completed and available for inspection and copying as soon as possible but no later than July 20, 1987.

(c) Methods of compliance. The engineering and work practice controls as required by WAC 296-62-07713(1) shall be implemented as soon as possible but no later than July 20, 1988.

NEW SECTION

WAC 296-62-07733 APPENDICES. (1) The following appendices to this chapter are mandatory.

(a) WAC 296-62-07735, Appendix A—WISHA reference method—Mandatory.

(b) WAC 296-62-07739, Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.

(c) WAC 296-62-07741, Appendix D—Medical questionnaires—Mandatory.

(d) WAC 296-62-07743, Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.

(2) The following appendices to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(a) WAC 296-62-07737, Appendix B—Detailed procedure for asbestos, tremolite, anthophyllite, and actinolite sampling and analysis—Nonmandatory.

(b) WAC 296-62-07745, Appendix F—Work practices and engineering controls for automotive brake repair operations—Nonmandatory.

(c) WAC 296-62-07747, Appendix G—Substance technical information for asbestos—Nonmandatory.

(d) WAC 296-62-07749, Appendix H—Surveillance guidelines for asbestos, tremolite, anthophyllite, and actinolite—Nonmandatory.

NEW SECTION

WAC 296-62-07735 APPENDIX A—WISHA REFERENCE METHOD—MANDATORY. This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described below represent the elements of the available monitoring methods (such as the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under paragraph (f) of the standard are required to utilize analytical laboratories that use this procedure, or an equivalent method recognized by the department, for collecting and analyzing samples.

(1) Sampling and analytical procedure.

(a) The sampling medium for air samples shall be mixed cellulose ester filter membranes. These shall be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device shall be the 25-mm diameter cassette with an open-faced 50-mm extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record.

(c) An air flow rate between 0.5 liter/min and 4.0 liters/min shall be selected for the 25-mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min shall be selected.

(d) Where possible, a sufficient air volume for each air sample shall be collected to yield between one hundred and one thousand three hundred fibers per square millimeter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample shall be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples shall be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts shall be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope shall be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of one hundred micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope shall be about 3 degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets one to seven, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six and seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include ten percent blanks or a minimum of two blanks. The blank results shall be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of seven fibers/one hundred fields shall be rejected.

(l) The samples shall be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than five micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of three to one or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field shall receive a count of one. Fibers crossing the boundary once, having one end within the circle, shall receive the count of one-half. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) For a 25mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than ten fibers are found after counting one hundred fields and the sample air volume is less than sixty liters, count a total number of fields calculated from the following formulas:

$$N = 6000/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 2400/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 25mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

Note: Filter samples (25mm) with air volumes of less than thirty liters will have decreased analytical accuracy and precision and should be avoided.

(vi) For a 37mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than one hundred fibers are found after counting one hundred fields and the sample air volume is less than one hundred thirty-three liters, count a total number of fields calculated from the following formulas:

$$N = 13300/V \quad \text{For TWA Determination (QL = 0.085)}$$

$$N = 5320/V \quad \text{For Ceiling Determinations (QL = 0.21)}$$

Where N = Number of fields counted on a 37mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc

Note: Filter samples (37mm) with air volumes of less than seventy liters will have decreased analytical accuracy and precision and should be avoided.

(n) Blind recounts shall be conducted at the rate of ten percent.

(2) Quality control procedures.

(a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting

slides shall establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program shall include all laboratories and shall also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program. Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory shall participate in round robin testing at least once every six months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory shall submit slides typical of its own work load for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope shall be evaluated and the microscope shall be replaced, as necessary.

(e) Current results of these quality assurance programs shall be posted in each laboratory to keep the microscopists informed.

NEW SECTION

WAC 296-62-07737 APPENDIX B—DETAILED PROCEDURE FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE SAMPLING AND ANALYSIS—NONMANDATORY. This appendix contains a detailed procedure for sampling and analysis and includes those critical elements specified in WAC 296-62-07735, Appendix A. Employers are not required to use this procedure, but they are required to use Appendix A. The purpose of Appendix B is to provide a detailed step-by-step sampling and analysis procedure that conforms to the elements specified in WAC 296-62-07735, Appendix A. Since this procedure may also standardize the analysis and reduce variability, WISHA encourages employers to use this appendix.

Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis Method

Technique: Microscopy, phase contrast.

Analyte: Fibers (manual count).

Sample preparation: Acetone/triacetin method.

Calibration: Phase-shift detection limit about three degrees.

Range: One hundred to one thousand three hundred fibers/mm²filter area.

Estimated limit of detection: Seven fibers/mm²filter area.

Sampler: Filter (0.8-1.2 um mixed cellulose ester membrane, 25-mm diameter).

Flow rate: 0.5 l/min to 4.0 l/min (25-mm cassette)
1.0 l/min to 4.0 l/min (37-mm cassette).

Sample volume: Adjust to obtain one hundred to one thousand three hundred fibers/mm².

Shipment: Routine.

Sample stability: Indefinite.

Blanks: Ten percent of samples (minimum two).

Standard analytical error: 0.25.

Applicability: The working range is 0.02 f/cc (1920-L air sample) to 1.25 f/cc (400-L air sample). The method gives an index of airborne asbestos, tremolite, anthophyllite, and actinolite fibers but may be used for other materials such as fibrous glass by inserting suitable parameters into the counting rules. The method does not differentiate between asbestos, tremolite, anthophyllite, and actinolite and other fibers. Asbestos, tremolite, anthophyllite, and actinolite fibers less than ca. 0.25 µm diameter will not be detected by this method.

Interferences: Any other airborne fiber may interfere since all particles meeting the counting criteria are counted. Chain-like particles may appear fibrous. High levels of nonfibrous dust particles may obscure fibers in the field of view and raise the detection limit.

(1) Reagents.

(a) Acetone.

(b) Triacetin (glycerol triacetate), reagent grade.

Special precautions: Acetone is an extremely flammable liquid and precautions must be taken not to ignite it. Heating of acetone must be done in a ventilated laboratory fume hood using a flameless, spark-free heat source.

(2) Equipment.

(a) Collection device: 25-mm cassette with 50-mm extension cowl with cellulose ester filter, 0.8 to 1.2 mm pore size and backup pad.

Note: Analyze representative filters for fiber background before use and discard the filter lot if more than five fibers/one hundred fields are found.

(b) Personal sampling pump, greater than or equal to 0.5 L/min. with flexible connecting tubing.

(c) Microscope, phase contrast, with green or blue filter, 8 to 10 X eyepiece, and 40 to 45 X phase objective (total magnification ca. 400 X); numerical aperture = 0.65 to 0.75.

(d) Slides, glass, single-frosted, precleaned, 25 x 75 mm.

(e) Cover slips, 25 x 25 mm, No. 1 1/2 unless otherwise specified by microscope manufacturer.

(f) Knife, No. 1 surgical steel, curved blade.

(g) Tweezers.

(h) Flask, Guth-type, insulated neck, 250 to 500 mL (with single-hole rubber stopper and elbow-jointed glass tubing, 16 to 22 cm long).

(i) Hotplate, spark-free, stirring type; heating mantle; or infrared lamp and magnetic stirrer.

(j) Syringe, hypodermic, with 22-gauge needle.

(k) Graticule, Walton-Beckett type with 100 µm diameter circular field at the specimen plane (area = 0.00785 mm²), (Type G-22).

Note: The graticule is custom-made for each microscope.

(l) HSE/NPL phase contrast test slide, Mark II.

(m) Telescope, ocular phase-ring centering.

(n) Stage micrometer (0.01 mm divisions).

(3) Sampling.

(a) Calibrate each personal sampling pump with a representative sampler in line.

(b) Fasten the sampler to the worker's lapel as close as possible to the worker's mouth. Remove the top cover from the end of the cowl extension (open face) and orient face down. Wrap the joint between the extender and the monitor's body with shrink tape to prevent air leaks.

(c) Submit at least two blanks (or ten percent of the total samples, whichever is greater) for each set of samples. Remove the caps from the field blank cassettes and store the caps and cassettes in a clean area (bag or box) during the sampling period. Replace the caps in the cassettes when sampling is completed.

(d) Sample at 0.5 L/min or greater. Do not exceed 1 mg total dust loading on the filter. Adjust sampling flow rate, Q (L/min), and time to produce a fiber density, E (fibers/mm²), of one hundred to one thousand three hundred fibers/mm² (3.85×10^4 to 5×10^5 fibers per 25-mm filter with effective collection area ($A_c=385$ mm²)) for optimum counting precision (see subsection (7)(a) of this section). Calculate the minimum sampling time, T (minutes) at the action level (one-half of the current standard), L (f/cc) of the fibrous aerosol being sampled:

$$T = \frac{(A_c)(E)}{(Q)(L)10^3}$$

(e) Remove the field monitor at the end of sampling, replace the plastic top cover and small end caps, and store the monitor.

(f) Ship the samples in a rigid container with sufficient packing material to prevent jostling or damage.

Note: Do not use polystyrene foam in the shipping container because of electrostatic forces which may cause fiber loss from the sampler filter.

(4) Sample preparation.

Note: The object is to produce samples with a smooth (nongrainy) background in a medium with a refractive index equal to or less than 1.46. The method below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. Other mounting techniques meeting the above criteria may also be used, e.g., the nonpermanent field mounting technique used in P & CAM 239.

(a) Ensure that the glass slides and cover slips are free of dust and fibers.

(b) Place 40 to 60 ml of acetone into a Guth-type flask. Stopper the flask with a single-hole rubber stopper through which a glass tube extends 5 to 8 cm into the flask. The portion of the glass tube that exits the top of the stopper (8 to ten cm) is bent downward in an elbow that makes an angle of twenty to thirty degrees with the horizontal.

(c) Place the flask in a stirring hotplate or wrap in a heating mantle. Heat the acetone gradually to its boiling temperature (ca. 58°C).

Caution: The acetone vapor must be generated in a ventilated fume hood away from all open flames and spark sources. Alternate heating methods can be used, providing no open flame or sparks are present.

(d) Mount either the whole sample filter or a wedge cut from the sample filter on a clean glass slide.

(i) Cut wedges of ca. twenty-five percent of the filter area with a curved-blade steel surgical knife using a rocking motion to prevent tearing.

(ii) Place the filter or wedge, dust slide up, on the slide. Static electricity will usually keep the filter on the slide until it is cleared.

(iii) Hold the glass slide supporting the filter approximately 1 to 2 cm from the glass tube port where the acetone vapor is escaping from the heated flask. The acetone vapor stream should cause a condensation spot on the glass slide ca. 2 to 3 cm in diameter. Move the glass slide gently in the vapor stream. The filter should clear in two to five seconds. If the filter curls, distorts, or is otherwise rendered unusable, the vapor stream is probably not strong enough. Periodically wipe the outlet port with tissue to prevent liquid acetone dripping onto the filter.

(iv) Using the hypodermic syringe with a 22-gauge needle, place one to two drops of triacetin on the filter. Gently lower a clean 25-mm square cover slip down onto the filter at a slight angle to reduce the possibility of forming bubbles. If too many bubbles form or the amount of triacetin is insufficient, the cover slip may become detached within a few hours.

(v) Glue the edges of the cover slip to the glass slide using a lacquer or nail polish.

Note: If clearing is slow, the slide preparation may be heated on a hotplate (surface temperature 50°C) for fifteen minutes to hasten clearing. Counting may proceed immediately after clearing and mounting are completed.

(5) Calibration and quality control.

(a) Calibration of the Walton-Beckett graticule. The diameter, d_c (mm), of the circular counting area and the disc diameter must be specified when ordering the graticule.

(i) Insert any available graticule into the eyepiece and focus so that the graticule lines are sharp and clear.

(ii) Set the appropriate interpupillary distance and, if applicable, reset the binocular head adjustment so that the magnification remains constant.

(iii) Install the 40 to 45 X phase objective.

(iv) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(v) Measure the magnified grid length, L_o (μ m) using the stage micrometer.

(vi) Remove the graticule from the microscope and measure its actual grid length, L_a (mm). This can best be accomplished by using a stage fitted with verniers.

(vii) Calculate the circle diameter, d_c (mm), for the Walton-Beckett graticule:

$$d_c = \frac{L_a \times D}{L_o}$$

Example: If $L_o = 108 \mu\text{m}$, $L_a = 2.93 \text{ mm}$ and $D = 100 \mu\text{m}$, then $d_c = 2.71 \text{ mm}$.

(viii) Check the field diameter, D (acceptable range $100 \text{ mm} \pm 2 \text{ mm}$) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine field area (mm^2).

(b) Microscope adjustments. Follow the manufacturer's instructions and also the following:

(i) Adjust the light source for even illumination across the field of view at the condenser iris.

Note: Kohler illumination is preferred, where available.

(ii) Focus on the particulate material to be examined.

(iii) Make sure that the field iris is in focus, centered on the sample, and open only enough to fully illuminate the field of view.

(iv) Use the telescope ocular supplied by the manufacturer to ensure that the phase rings (annular diaphragm and phase-shifting elements) are concentric.

(c) Check the phase-shift detection limit of the microscope periodically.

(i) Remove the HSE/NPL phase-contrast test slide from its shipping container and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooves (ca. 20 grooves to each block) in descending order of visibility from sets one to seven. The requirements for counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six to seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope which fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image quality deteriorates, clean the microscope optics and, if the problem persists, consult the microscope manufacturer.

(d) Quality control of fiber counts.

(i) Prepare and count field blanks along with the field samples. Report the counts on each blank. Calculate the mean of the field blank counts and subtract this value from each sample count before reporting the results.

Note 1: The identity of the blank filters should be unknown to the counter until all counts have been completed.

Note 2: If a field blank yields fiber counts greater than seven fibers/one hundred fields, report possible contamination of the samples.

(ii) Perform blind recounts by the same counter on ten percent of filters counted (slides relabeled by a person other than the counter).

(e) Use the following test to determine whether a pair of counts on the same filter should be rejected because of possible bias. This statistic estimates the counting repeatability at the ninety-five percent confidence level. Discard the sample if the difference between the two

counts exceeds $2.77(F)s_r$, where F = average of the two fiber counts and S_r = relative standard deviation, which should be derived by each laboratory based on historical in-house data.

Note: If a pair of counts is rejected as a result of this test, recount the remaining samples in the set and test the new counts against the first counts. Discard all rejected paired counts.

(f) Enroll each new counter in a training course that compares performance of counters on a variety of samples using this procedure.

Note: To ensure good reproducibility, all laboratories engaged in asbestos, tremolite, anthophyllite, and actinolite counting are required to participate in the proficiency analytical testing (PAT) program and should routinely participate with other asbestos, tremolite, anthophyllite, and actinolite fiber counting laboratories in the exchange of field samples to compare performance of counters.

(6) Measurement.

(a) Place the slide on the mechanical stage of the calibrated microscope with the center of the filter under the objective lens. Focus the microscope on the plane of the filter.

(b) Regularly check phase-ring alignment and Kohler illumination.

(c) The following are the counting rules:

(i) Count only fibers longer than 5 μm . Measure the length of curved fibers along the curve.

(ii) Count only fibers with a length-to-width ratio equal to or greater than three to one.

(iii) For fibers that cross the boundary of the graticule field, do the following:

(A) Count any fiber longer than 5 μm that lies entirely within the graticule area.

(B) Count as one-half fiber any fiber with only one end lying within the graticule area.

(C) Do not count any fiber that crosses the graticule boundary more than once.

(D) Reject and do not count all other fibers.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of a fiber.

(v) For a 25mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than ten fibers are found after counting one hundred fields and the sample air volume is less than sixty liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 6000/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 2400/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 25mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

Note: Filter samples (25mm) with air volumes of less than thirty liters will have decreased analytical accuracy and precision and should be avoided.

(vi) For a 37mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than one hundred fibers are found after counting one hundred fields and the sample air volume is less than one hundred thirty-three liters, count

a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 13300/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 5320/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 37mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc

Note: Filter samples (37mm) with air volumes of less than seventy liters will have decreased analytical accuracy and precision and should be avoided.

(d) Start counting from one end of the filter and progress along a radial line to the other end, shift either up or down on the filter, and continue in the reverse direction. Select fields randomly by looking away from the eyepiece briefly while advancing the mechanical stage. When an agglomerate covers ca. 1/6 or more of the field of view, reject the field and select another. Do not report rejected fields in the number of total fields counted.

Note: When counting a field, continuously scan a range of focal planes by moving the fine focus knob to detect very fine fibers which have become embedded in the filter. The small-diameter fibers will be very faint but are an important contribution to the total count.

(7) Calculations.

(a) Calculate and report fiber density on the filter, E (fibers/ mm^2); by dividing the total fiber count, F ; minus the mean field blank count, B , by the number of fields, n ; and the field area, A_f (0.00785 mm^2 for a properly calibrated Walton-Beckett graticule):

$$E = \frac{F-B}{(n)(A_f)} \text{ fibers}/\text{mm}^2$$

(b) Calculate the concentration, C (f/cc), of fibers in the air volume sampled, V (L), using the effective collection area of the filter, A_c (385 mm^2 for a 25-mm filter):

$$C = \frac{(E)(A_c)}{V(10^3)}$$

Note: Periodically check and adjust the value of A_c , if necessary.

Bulk sample collection and analysis.

Bulk samples should be collected as specified in Appendix G, Section 1 of the United States Environmental Protection Agency (EPA) publication No. 560/5-85-024 (June 1985) entitled Guidance for Controlling Asbestos-Containing Materials in Buildings.

Analysis of the samples should be conducted by polarizing light microscopy in a qualified laboratory. In certain cases, x-ray diffraction may be required to confirm the presence of asbestos. Qualified laboratories must be participants in the EPA bulk asbestos quality assurance program or other bulk asbestos quality assurance program recognized by the department.

NEW SECTION

WAC 296-62-07739 APPENDIX C—QUALITATIVE AND QUANTITATIVE FIT TESTING PROCEDURES—MANDATORY. (1) Qualitative fit test protocols.

(a) Isoamyl acetate protocol.

(i) Odor threshold screening:

(A) Three one-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding one cc of pure IAA to eight hundred cc of odor free water in a one-liter jar and shaking for thirty seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into five hundred cc of odor free water using a clean dropper or pipette. Shake for thirty seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding five hundred cc of odor free water.

(G) The odor test and test blank jars shall be labelled one and two for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., one and two): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(I) Positioning of mask on nose.

(II) Room for eye protection.

(III) Room to talk.

(IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

(I) Chin properly placed.

(II) Strap tension.

(III) Fit across nose bridge.

(IV) Distance from nose to chin.

(V) Tendency to slip.

(VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and "rainbow passage" shall be taped to the inside of the test chamber:

Test exercises.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The

subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 2 f/cc of airborne asbestos. In atmospheres greater than 2 f/cc, and less than 20 f/cc, the subject must pass the IAA test using a full face negative pressure respirator. (The concentration of the IAA inside the test chamber must be increased by ten times for QLFT of the full facepiece.)

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with face-piece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of the test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(b) Saccharin solution aerosol protocol.

(i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.

(ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately twelve inches in diameter by fourteen inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in one hundred cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after thirty squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to one hundred cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the saccharin test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 2 f/cc of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(c) Irritant fume protocol.

(i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver two hundred milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the facepiece area of the test subject. The person conducting the test shall begin with the tube at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high

above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the irritant fume test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to 2 f/cc of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the respirator shall be equipped with a cartridge or canister approved for removal of the test agent, or with a high efficiency particulate filter. Only approved assemblies shall be tested.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed

into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed two seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, Norton M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least five minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half-mask and one percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(v) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least fifteen seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least thirty seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least thirty seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say

he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds five percent for half-masks and one percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate. (See (d)(ii) of this subsection.)

(g) Calculation of fit factors.

(i) The fit factor is determined by dividing the average challenge agent concentration in the test chamber by the average challenge agent concentration inside the respirator facepiece for the test exercise.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three fit factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of one hundred or one thousand, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

(A) Name.

(B) Date of fit test.

(C) Fit factor obtained for each manufacturer, model and approval number of respirator tested.

(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of twenty pounds or more,

(ii) Significant facial scarring in the area of the facepiece seal,

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(iv) Reconstructive or cosmetic surgery, or

(v) Any other condition that may interfere with facepiece sealing.

(k) Recordkeeping.

A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

NEW SECTION

WAC 296-62-07741 APPENDIX D—MEDICAL QUESTIONNAIRES—MANDATORY. This mandatory appendix contains the medical questionnaires that must be administered to all employees who are exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the action level, and who will therefore be included in their employer's medical surveillance program. Part 1 of the appendix contains the initial medical questionnaire, which must be obtained for all new hires who will be covered by the medical surveillance requirements. Part 2 includes the abbreviated periodical medical questionnaire, which must be administered to all employees who are provided periodic medical examinations under the medical surveillance provisions of the standard.

Part 1
INITIAL MEDICAL QUESTIONNAIRE

1. NAME _____
2. SOCIAL SECURITY # 1 2 3 4 5 6 7 8 9
3. CLOCK NUMBER 10 11 12 13 14 15
4. PRESENT OCCUPATION _____
5. PLANT _____
6. ADDRESS _____
7. _____ (Zip Code)
8. TELEPHONE NUMBER _____
9. INTERVIEWER _____

10. DATE _____ 16 17 18 19 20 21
11. Date of birth _____
Month Day Year 22 23 24 25 26 27
12. Place of birth _____
13. Sex 1. Male ___ 2. Female ___
14. What is your marital status? 1. Single ___ 4. Separated/ Divorced ___
2. Married ___ 3. Widowed ___
15. Race 1. White ___ 4. Hispanic ___
2. Black ___ 5. Indian ___
3. Asian ___ 6. Other ___
16. What is the highest grade completed in school? _____
(For example 12 years is completion of high school)

OCCUPATIONAL HISTORY

17A. Have you ever worked full time (30 hours per week or more) for 6 months or more? 1. Yes ___ 2. No ___
IF YES TO 17A:
B. Have you ever worked for a year or more in any dusty job? 1. Yes ___ 2. No ___ 3. Does not apply ___
Specify job/industry _____ Total years worked ___
Was dust exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___
C. Have you ever been exposed to gas or chemical fumes in your work? 1. Yes ___ 2. No ___
Specify job/industry _____ Total years worked ___
Was exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___
D. What has been your usual occupation or job—the one you have worked at the longest?
1. Job occupation _____
2. Number of years employed in this occupation _____
3. Position/job title _____
4. Business, field or industry _____
(Record on lines the years in which you have worked in any of these industries, e.g., 1960-1969.)

Have you ever worked:

E. In a mine? YES NO
F. In a quarry?
G. In a foundry?
H. In a pottery?
I. In a cotton, flax or hemp mill?
J. With asbestos?

18. PAST MEDICAL HISTORY

A. Do you consider yourself to be in good health? YES NO
If "NO" state reason _____
B. Have you any defect in vision? YES NO
If "YES" state nature of defect _____
C. Have you any hearing defect? YES NO
If "YES" state nature of defect _____
D. Are you suffering from or have you ever suffered from:
a. Epilepsy (or fits, seizures, convulsions)?
b. Rheumatic fever?
c. Kidney disease?
d. Bladder disease?
e. Diabetes?
f. Jaundice?

19. CHEST COLDS AND CHEST ILLNESSES

19A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time.) 1. Yes ___ 2. No ___ 3. Don't get colds ___
20A. During the past 3 years, have you had any chest illnesses that have kept you off work, indoors at home, or in bed? 1. Yes ___ 2. No ___
IF YES TO 20A:
B. Did you produce phlegm with any of these chest illnesses? 1. Yes ___ 2. No ___ 3. Does not apply ___

C. In the last 3 years, how many such illnesses with (increased) phlegm did you have which lasted a week or more? Number of illnesses ___ No such illnesses ___
21. Did you have any lung trouble before the age of 16? 1. Yes ___ 2. No ___
22. Have you ever had any of the following?
1A. Attacks of bronchitis? 1. Yes ___ 2. No ___
IF YES TO 1A:
B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. At what age was your first attack? Age in years ___ Does not apply ___
2A. Pneumonia? (include broncho-pneumonia) 1. Yes ___ 2. No ___
IF YES TO 2A:
B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. At what age did you first have it? Age in years ___ Does not apply ___
3A. Hay fever? 1. Yes ___ 2. No ___
IF YES TO 3A:
B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. At what age did it start? Age in years ___ Does not apply ___
23A. Have you ever had chronic bronchitis? 1. Yes ___ 2. No ___
IF YES TO 23A:
B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
D. At what age did it start? Age in years ___ Does not apply ___
24A. Have you ever had emphysema? 1. Yes ___ 2. No ___
IF YES TO 24A:
B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
D. At what age did it start? Age in years ___ Does not apply ___
25A. Have you ever had asthma? 1. Yes ___ 2. No ___
IF YES TO 25A:
B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does not apply ___
C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does not apply ___
D. At what age did it start? Age in years ___ Does not apply ___
E. If you no longer have it, at what age did it stop? Age stopped ___ Does not apply ___
26. Have you ever had:
A. Any other chest illness? 1. Yes ___ 2. No ___
If yes, please specify _____
B. Any chest operations? 1. Yes ___ 2. No ___
If yes, please specify _____
C. Any chest injuries? 1. Yes ___ 2. No ___
If yes, please specify _____
27A. Has a doctor ever told you that you had heart trouble? 1. Yes ___ 2. No ___
IF YES TO 27A:
B. Have you ever had treatment for heart trouble in the past 10 years? 1. Yes ___ 2. No ___ 3. Does not apply ___

28A. Has a doctor ever told you that you had high blood pressure? 1. Yes ___ 2. No ___

IF YES TO 28A:

B. Have you had any treatment for high blood pressure (hypertension) in the past 10 years? 1. Yes ___ 2. No ___ 3. Does not apply ___

29. When did you last have your chest x-rayed? (Year) 25 26 27 28

30. Where did you last have your chest x-rayed (if known)? What was the outcome?

FAMILY HISTORY

31. Were either of your natural parents ever told by a doctor that they had a chronic lung condition such as:

Table with columns for FATHER and MOTHER, and rows for Chronic Bronchitis, Emphysema, Asthma, Lung cancer, Other chest conditions, Is parent currently alive, and Please specify.

H. Please specify cause of death

COUGH

32A. Do you usually have a cough? (Count a cough with first smoke or on first going out of doors. Exclude clearing of throat.) (If no, skip to question 32C.) 1. Yes ___ 2. No ___

B. Do you usually cough as much as 4 to 6 times a day 4 or more days out of the week? 1. Yes ___ 2. No ___

C. Do you usually cough at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___

D. Do you usually cough at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF ABOVE (32A, B, C, OR D), ANSWER THE FOLLOWING. IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO NEXT PAGE

E. Do you usually cough like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___ 3. Does not apply ___

F. For how many years have you had the cough? Number of years ___ Does not apply ___

33A. Do you usually bring up phlegm from your chest? (Count phlegm with the first smoke or on first going out of doors. Exclude phlegm from the nose. Count swallowed phlegm.) (If no, skip to 33C.) 1. Yes ___ 2. No ___

B. Do you usually bring up phlegm like this as much as twice a day 4 or more days out of the week? 1. Yes ___ 2. No ___

C. Do you usually bring up phlegm at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___

D. Do you usually bring up phlegm at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF THE ABOVE (33A, B, C, OR D), ANSWER THE FOLLOWING: IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO 34A.

E. Do you bring up phlegm like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___ 3. Does not apply ___

F. For how many years have you had trouble with phlegm? Number of years ___ Does not apply ___

EPISODES OF COUGH AND PHELM

34A. Have you had periods or episodes of (increased*) cough and phlegm lasting for 3 weeks or more each year? * (For persons who usually have cough and/or phlegm.) 1. Yes ___ 2. No ___

IF YES TO 34A:

B. For how long have you had at least 1 such episode per year? Number of years ___ Does not apply ___

WHEEZING

35A. Does your chest ever sound wheezy or whistling: 1. When you have a cold? 2. Occasionally apart from colds? 3. Most days or nights? 1. Yes ___ 2. No ___

IF YES TO 1, 2, OR 3 IN 35A:

B. For how many years has this been present? Number of years ___ Does not apply ___

36A. Have you ever had an attack of wheezing that has made you feel short of breath? 1. Yes ___ 2. No ___

IF YES TO 36A:

B. How old were you when you had your first such attack? Age in years ___ Does not apply ___

C. Have you had 2 or more such episodes? 1. Yes ___ 2. No ___ 3. Does not apply ___

D. Have you ever required medicine or treatment for the(se) attack(s)? 1. Yes ___ 2. No ___ 3. Does not apply ___

BREATHLESSNESS

37. If disabled from walking by any condition other than heart or lung disease, please describe and proceed to question 39A. Nature of condition(s)

38A. Are you troubled by shortness of breath when hurrying on the level or walking up a slight hill? 1. Yes ___ 2. No ___

IF YES TO 38A:

B. Do you have to walk slower than people of your age on the level because of breathlessness? 1. Yes ___ 2. No ___ 3. Does not apply ___

C. Do you ever have to stop for breath when walking at your own pace on the level? 1. Yes ___ 2. No ___ 3. Does not apply ___

D. Do you ever have to stop for breath after walking about 100 yards (or after a few minutes) on the level? 1. Yes ___ 2. No ___ 3. Does not apply ___

E. Are you too breathless to leave the house or breathless on dressing or climbing one flight of stairs? 1. Yes ___ 2. No ___ 3. Does not apply ___

TOBACCO SMOKING

39A. Have you ever smoked cigarettes? (No means less than 20 packs of cigarettes or 12 oz. of tobacco in a lifetime or less than 1 cigarette a day for 1 year.) 1. Yes ___ 2. No ___

IF YES TO 39A:

B. Do you now smoke cigarettes (as of one month ago)? 1. Yes ___ 2. No ___ 3. Does not apply ___

C. How old were you when you first started regular cigarette smoking? Age in years ___ Does not apply ___

D. If you have stopped smoking cigarettes completely, how old were you when you stopped? Aged stopped ___ Check if still smoking ___ Does not apply ___

E. How many cigarettes do you smoke per day now? Cigarettes per day ___ Does not apply ___

F. On the average of the entire time you smoked, how many cigarettes did you smoke per day? Cigarettes per day ___ Does not apply ___

G. Do you or did you inhale the cigarette smoke?

- 1. Does not apply
2. Not at all
3. Slightly
4. Moderately
5. Deeply

- 11. What is your marital status?
1. Single
2. Married
3. Widowed
4. Separated/Divorced

40A. Have you ever smoked a pipe regularly? (Yes means more than 12 ounces of tobacco in a lifetime.)

- 1. Yes
2. No

IF YES TO 40A:

FOR PERSONS WHO HAVE EVER SMOKED A PIPE

B. 1. How old were you when you started to smoke a pipe regularly?

Age

2. If you have stopped smoking a pipe completely, how old were you when you stopped?

Age stopped
Check if still smoking pipe
Does not apply

C. On the average over the entire time you smoked a pipe, how much pipe tobacco did you smoke per week?

oz. per week (a standard pouch of tobacco contains 1-1/2 ounces)
Does not apply

D. How much pipe tobacco are you smoking now?

oz. per week
Not currently smoking a pipe

E. Do you or did you inhale the pipe smoke?

- 1. Never smoked
2. Not at all
3. Slightly
4. Moderately
5. Deeply

41A. Have you ever smoked cigars regularly? (Yes means more than 1 cigar a week for a year.)

- 1. Yes
2. No

IF YES TO 41A:

FOR PERSONS WHO HAVE EVER SMOKED CIGARS

B. 1. How old were you when you started smoking cigars regularly?

Age

2. If you have stopped smoking cigars completely, how old were you when you stopped?

Age stopped
Check if still smoking cigars
Does not apply

C. On the average over the entire time you smoked cigars, how many cigars did you smoke per week?

Cigars per week
Does not apply

D. How many cigars are you smoking per week now?

Cigars per week
Check if not smoking cigars currently

E. Do you or did you inhale the cigar smoke?

- 1. Never smoked
2. Not at all
3. Slightly
4. Moderately
5. Deeply

Signature Date

Part 2 PERIODIC MEDICAL QUESTIONNAIRE

1. NAME
2. SOCIAL SECURITY #
3. CLOCK NUMBER
4. PRESENT OCCUPATION
5. PLANT
6. ADDRESS
7. (Zip Code)
8. TELEPHONE NUMBER
9. INTERVIEWER
10. DATE

12. OCCUPATIONAL HISTORY

12A. In the past year, did you work full time (30 hours per week or more) for 6 months or more?
IF YES TO 12A:

12B. In the past year, did you work in a dusty job?
1. Yes
2. No
3. Does not apply

12C. Was dust exposure: 1. Mild 2. Moderate 3. Severe

12D. In the past year, were you exposed to gas or chemical fumes in your work?
1. Yes
2. No

12E. Was exposure: 1. Mild 2. Moderate 3. Severe

12F. In the past year, what was your:
1. Job/occupation?
2. Position/job title?

13. RECENT MEDICAL HISTORY

13A. Do you consider yourself to be in good health?
Yes No
If NO, state reason

13B. In the past year, have you developed:
Epilepsy?
Rheumatic fever?
Kidney disease?
Bladder disease?
Diabetes?
Jaundice?
Cancer?

14. CHEST COLDS AND CHEST ILLNESS

14A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time.)
1. Yes
2. No
3. Don't get colds

15A. During the past year, have you had any chest illnesses that have kept you off work, indoors at home, or in bed?
1. Yes
2. No
3. Does not apply

IF YES TO 15A:

15B. Did you produce phlegm with any of these chest illnesses?
1. Yes
2. No
3. Does not apply

15C. In the past year, how many such illnesses with (increased) phlegm did you have which lasted a week or more?
Number of illnesses
No such illnesses

16. RESPIRATORY SYSTEM

In the past year have you had:

Asthma
Bronchitis
Hay fever
Other allergies
Yes or No
Further Comment on Positive Answers

Pneumonia
Tuberculosis
Chest surgery
Other lung Problems
Heart disease
Yes or No
Further Comment on Positive Answers

Do you have:

Frequent colds
Chronic cough
Shortness of breath when walking or climbing one flight of stairs
Yes or No
Further Comment on Positive Answers

Do you:
 Wheeze _____
 Cough up phlegm _____
 Smoke cigarettes _____ Packs per day _____ How many years _____

Date _____ Signature _____

NEW SECTION

WAC 296-62-07743 APPENDIX E—INTERPRETATION AND CLASSIFICATION OF CHEST ROENTGENOGRAMS—MANDATORY. (1) Chest roentgenograms shall be interpreted and classified in accordance with a professionally accepted classification system and recorded on a roentgenographic interpretation form. *Form CSD/NIOSH (M) 2.8.

(2) Roentgenograms shall be interpreted and classified only by a B-reader, a board eligible/certified radiologist, or an experienced physician with known expertise in pneumoconioses.

(3) All interpreters, whenever interpreting chest roentgenograms made under this section, shall have immediately available for reference a complete set of the ILO-U/C International Classification of Radiographs for Pneumoconioses, 1980.

NEW SECTION

WAC 296-62-07745 APPENDIX F—WORK PRACTICES AND ENGINEERING CONTROLS FOR AUTOMOTIVE BRAKE REPAIR OPERATIONS—NONMANDATORY. This appendix is intended as guidance for employers in the automotive brake and clutch repair industry who wish to reduce their employees' asbestos exposures during repair operations to levels below the new standard's action level (0.1 f/cc). WISHA believes that employers in this industry sector are likely to be able to reduce their employees' exposures to asbestos by employing the engineering and work practice controls described in subsections (1) and (2) of this section. Those employers who choose to use these controls and who achieve exposures below the action level will thus be able to avoid any burden that might be imposed by complying with such requirements as medical surveillance, recordkeeping, training, respiratory protection, and regulated areas, which are triggered when employee exposures exceed the action level or PEL.

Asbestos exposure in the automotive brake and clutch repair industry occurs primarily during the replacement of clutch plates and brake pads, shoes, and linings. Asbestos fibers may become airborne when an automotive mechanic removes the asbestos-containing residue that has been deposited as brakes and clutches wear. Employee exposures to asbestos occur during the cleaning of the brake drum or clutch housing.

WISHA believes that employers engaged in brake repair operations who implement any of the work practices and engineering controls described in subsections (1) and (2) of this section may be able to reduce their employees' exposures to levels below the action level (0.1 fiber/cc). These control methods and the relevant record evidence on these and other methods are described in the following sections.

(1) Enclosed cylinder/HEPA vacuum system method. The enclosed cylinder-vacuum system used in one of the facilities visited by representatives of the National Institute for Occupational Safety and Health (NIOSH) during a health hazard evaluation of brake repair facilities consists of three components:

- (a) A wheel-shaped cylinder designed to cover and enclose the wheel assembly;
- (b) A compressed-air hose and nozzle that fits into a port in the cylinder; and
- (c) A HEPA-filtered vacuum used to evacuate airborne dust generated within the cylinder by the compressed air.

To operate the system, the brake assembly is enclosed in a cylinder that has viewing ports to provide visibility and cotton sleeves through which the mechanic can handle the brake assembly parts. The cylinder effectively isolates asbestos dust in the drum from the mechanic's breathing zone. The brake assembly isolation cylinder is available from the Nilfisk Company¹ and comes in two sizes to fit brake drums in the seven-to-twelve-inch size range common to automobiles and light trucks and the twelve-to-nineteen-inch size range common to large commercial vehicles. The cylinder is equipped with built-in compressed-air guns and a connection for a vacuum cleaner equipped with a high efficiency particulate air (HEPA) filter. This type of filter is capable of removing all particles greater than 0.3 microns from the air. When the vacuum cleaner's filter is full, it must be replaced according to the manufacturer's instruction, and appropriate HEPA-filtered dual cartridge respirators should be worn during the process. The filter of the vacuum cleaner is assumed to be contaminated with asbestos fibers and should be handled carefully, wetted with a fine mist of water, placed immediately in a labelled plastic bag, and disposed of properly. When the cylinder is in place around the brake assembly and the HEPA vacuum is connected, compressed air is blown into the cylinder to loosen the residue from the brake assembly parts. The vacuum then evacuates the loosened material from within the cylinder, capturing the airborne material on the HEPA filter.

The HEPA vacuum system can be disconnected from the brake assembly isolation cylinder when the cylinder is not being used. The HEPA vacuum can then be used for clutch facing work, grinding, or other routine cleaning.

(2) Compressed air/solvent system method.

A compressed-air hose fitted at the end with a bottle of solvent can be used to loosen the asbestos-containing residue and to capture the resulting airborne particles in the solvent mist. The mechanic should begin spraying the asbestos-contaminated parts with the solvent at a sufficient distance to ensure that the asbestos particles are not dislodged by the velocity of the solvent spray. After the asbestos particles are thoroughly wetted, the spray may be brought closer to the parts and the parts may be sprayed as necessary to remove grease and other material. The automotive parts sprayed with the mist are then wiped with a rag, which must then be disposed of appropriately. Rags should be placed in a labelled plastic

bag or other container while they are still wet. This ensures that the asbestos fibers will not become airborne after the brake and clutch parts have been cleaned. (If cleanup rags are laundered rather than disposed of, they must be washed using methods appropriate for the laundering of asbestos-contaminated materials.)

WISHA believes that a variant of this compressed-air/solvent mist process offers advantages over the compressed-air/solvent mist technique discussed above, both in terms of costs and employee protection. The variant involves the use of spray cans filled with any of several solvent cleaners commercially available from auto supply stores. Spray cans of solvent are inexpensive, readily available, and easy to use. These cans will also save time, because no solvent delivery system has to be assembled, i.e., no compressed-air hose/mister ensemble. OSHA believes that a spray can will deliver solvent to the parts to be cleaned with considerably less force than the alternative compressed-air delivery system described above, and will thus generate fewer airborne asbestos fibers than the compressed-air method. The agency therefore believes that the exposure levels of automotive repair mechanics using the spray can/solvent mist process will be even lower than the exposures reported by NIOSH for the compressed-air/solvent mist system (0.08 f/cc).

(3) Information on the effectiveness of various control measures.

The amount of airborne asbestos generated during brake and clutch repair operations depends on the work practices and engineering controls used during the repair or removal activity.

(a) Prohibited methods.

The use of compressed air to blow the asbestos-containing residue off the surface of the brake drum removes the residue effectively but simultaneously produces an airborne cloud of asbestos fibers. According to NIOSH, the peak exposures of mechanics using this technique were as high as fifteen fibers/cc, and eight-hour TWA exposures ranged from 0.03 to 0.19 f/cc.

Dr. William J. Nicholson of the Mount Sinai School of Medicine cited data from Knight and Hickish (1970) that indicated that the concentration of asbestos ranged from 0.84 to 5.35 f/cc over a sixty-minute sampling period when compressed air was being used to blow out the asbestos-containing residue from the brake drum. In the same study, a peak concentration of eighty-seven f/cc was measured for a few seconds during brake cleaning performed with compressed air. Rohl et al. (1976) measured area concentrations (of unspecified duration) within three to five feet of operations involving the cleaning of brakes with compressed air and obtained readings ranging from 6.6 to 29.8 f/cc. Because of the high exposure levels that result from cleaning brake and clutch parts using compressed air, WISHA has prohibited this practice in the revised standard.

(b) Ineffective methods.

When dry brushing was used to remove the asbestos-containing residue from the brake drums and wheel assemblies, peak exposures measured by NIOSH ranged from 0.61 to 0.81 f/cc, while eight-hour TWA levels were at the new standard's permissible exposure limit

(PEL) of 0.2 f/cc. Rohl and his colleagues collected area samples one to three feet from a brake cleaning operation being performed with a dry brush, and measured concentrations ranging from 1.3 to 3.6 f/cc; however, sampling times and TWA concentrations were not presented in the Rohl et al. study.

When a brush wetted with water, gasoline, or Stoddart solvent was used to clean the asbestos-containing residue from the affected parts, exposure levels (eight-hour TWAs) measured by NIOSH also exceeded the new 0.2 f/cc PEL, and peak exposures ranged as high as 2.62 f/cc.

(c) Preferred methods.

Use of an engineering control system involving a cylinder that completely encloses the brake shoe assembly and a high efficiency particulate air (HEPA) filter-equipped vacuum produced eight-hour TWA employee exposures of 0.01 f/cc and peak exposures ranging from nondetectable to 0.07 f/cc. (Because this system achieved exposure levels below the standard's action level, it is described in detail below.) Data collected by the Mount Sinai Medical Center for Nilfisk of America, Inc., the manufacturer of the brake assembly enclosure system, showed that for two of three operations sampled, the exposure of mechanics to airborne asbestos fibers was nondetectable. For the third operator sampled by Mt. Sinai researchers, the exposure was 0.5 f/cc, which the authors attributed to asbestos that had contaminated the operator's clothing in the course of previous brake repair operations performed without the enclosed cylinder/vacuum system.

Some automotive repair facilities use a compressed-air hose to apply a solvent mist to remove the asbestos-containing residue from the brake drums before repair. The NIOSH data indicated that mechanics employing this method experienced exposures (eight-hour TWAs) of 0.8 f/cc, with peaks of 0.25 to 0.68 f/cc. This technique, and a variant of it that OSHA believes is both less costly and more effective in reducing employee exposures, is described in greater detail in subsections (1) and (2) of this section.

(4) Summary.

In conclusion, WISHA believes that it is likely that employers in the brake and clutch repair industry will be able to avail themselves of the action level trigger built into the revised standard if they conscientiously employ one of the three control methods described above: The enclosed cylinder/HEPA vacuum system, the compressed air/solvent method, or the spray can/solvent mist system.

¹ Mention of tradenames or commercial products does not constitute endorsement of recommendation for use.

NEW SECTION

WAC 296-62-07747 APPENDIX G—SUBSTANCE TECHNICAL INFORMATION FOR ASBESTOS—NONMANDATORY. (1) Substance identification.

(a) Substance: "Asbestos" is the name of a class of magnesium-silicate minerals that occur in fibrous form. Minerals that are included in this group are chrysotile,

crocidolite, amosite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos.

(b) Asbestos, tremolite, anthophyllite, and actinolite are used in the manufacture of heat-resistant clothing, automotive brake and clutch linings, and a variety of building materials including floor tiles, roofing felts, ceiling tiles, asbestos-cement pipe and sheet, and fire-resistant drywall. Asbestos is also present in pipe and boiler insulation materials, and in sprayed-on materials located on beams, in crawlspaces, and between walls.

(c) The potential for a product containing asbestos, tremolite, anthophyllite, and actinolite to release breathable fibers depends on its degree of friability. Friable means that the material can be crumbled with hand pressure and is therefore likely to emit fibers. The fibrous or fluffy sprayed-on materials used for fireproofing, insulation, or sound proofing are considered to be friable, and they readily release airborne fibers if disturbed. Materials such as vinyl-asbestos floor tile or roofing felts are considered nonfriable and generally do not emit airborne fibers unless subjected to sanding or sawing operations. Asbestos-cement pipe or sheet can emit airborne fibers if the materials are cut or sawed, or if they are broken during demolition operations.

(d) Permissible exposure: Exposure to airborne asbestos, tremolite, anthophyllite, and actinolite fibers may not exceed 0.2 fibers per cubic centimeter of air (0.2 f/cc) averaged over the eight-hour workday.

(2) Health hazard data.

(a) Asbestos, tremolite, anthophyllite, and actinolite can cause disabling respiratory disease and various types of cancers if the fibers are inhaled. Inhaling or ingesting fibers from contaminated clothing or skin can also result in these diseases. The symptoms of these diseases generally do not appear for twenty or more years after initial exposure.

(b) Exposure to asbestos, tremolite, anthophyllite, and actinolite has been shown to cause lung cancer, mesothelioma, and cancer of the stomach and colon. Mesothelioma is a rear cancer of the thin membrane lining of the chest and abdomen. Symptoms of mesothelioma include shortness of breath, pain in the walls of the chest, and/or abdominal pain.

(3) Respirators and protective clothing.

(a) Respirators: You are required to wear a respirator when performing tasks that result in asbestos, tremolite, anthophyllite, and actinolite exposure that exceeds the permissible exposure limit (PEL) of 0.2 f/cc. These conditions can occur while your employer is in the process of installing engineering controls to reduce asbestos, tremolite, anthophyllite, and actinolite exposure, or where engineering controls are not feasible to reduce asbestos, tremolite, anthophyllite, and actinolite exposure. Air-purifying respirators equipped with a high-efficiency particulate air (HEPA) filter can be used where airborne asbestos, tremolite, anthophyllite, and actinolite fiber concentrations do not exceed 2 f/cc; otherwise, air-supplied, positive-pressure, full facepiece respirators must be used. Disposable respirators or dust masks are not permitted to be used for asbestos, tremolite, anthophyllite, and actinolite work. For effective protection, respirators must fit your face and head snugly.

Your employer is required to conduct fit tests when you are first assigned a respirator and every six months thereafter. Respirators should not be loosened or removed in work situations where their use is required.

(b) Protective clothing: You are required to wear protective clothing in work areas where asbestos, tremolite, anthophyllite, and actinolite fiber concentrations exceed the permissible exposure limit (PEL) of 0.2 f/cc to prevent contamination of the skin. Where protective clothing is required, your employer must provide you with clean garments. Unless you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, your employer must also provide a change room and separate lockers for your street clothes and contaminated work clothes. If you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, and where it is feasible to do so, your employer must provide a clean room, shower, and decontamination room contiguous to the work area. When leaving the work area, you must remove contaminated clothing before proceeding to the shower. If the shower is not adjacent to the work area, you must vacuum your clothing before proceeding to the change room and shower. To prevent inhaling fibers in contaminated change rooms and showers, leave your respirator on until you leave the shower and enter the clean change room.

(4) Disposal procedures and cleanup.

(a) Wastes that are generated by processes where asbestos, tremolite, anthophyllite, and actinolite is present include:

(i) Empty asbestos, tremolite, anthophyllite, and actinolite shipping containers.

(ii) Process wastes such as cuttings, trimmings, or reject material.

(iii) Housekeeping waste from sweeping or vacuuming.

(iv) Asbestos, tremolite, anthophyllite, and actinolite fireproofing or insulating material that is removed from buildings.

(v) Building products that contain asbestos, tremolite, anthophyllite, and actinolite removed during building renovation or demolition.

(vi) Contaminated disposable protective clothing.

(b) Empty shipping bags can be flattened under exhaust hoods and packed into airtight containers for disposal. Empty shipping drums are difficult to clean and should be sealed.

(c) Vacuum logs or disposable paper filters should not be cleaned, but should be sprayed with a fine water mist and placed into a labeled waste container.

(d) Process waste and housekeeping waste should be wetted with water or a mixture of water and surfactant prior to packaging in disposable containers.

(e) Material containing asbestos, tremolite, anthophyllite, and actinolite that is removed from buildings must be disposed of in leaktight 6-mil thick plastic bags, plastic-lined cardboard containers, or plastic-lined metal containers. These wastes, which are removed while wet, should be sealed in containers before they dry out to minimize the release of asbestos, tremolite, anthophyllite, and actinolite fibers during handling.

(5) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for asbestos, tremolite, anthophyllite, and actinolite. In addition, your employer must instruct you in the proper work practices for handling materials containing asbestos, tremolite, anthophyllite, and actinolite, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to asbestos, tremolite, anthophyllite, and actinolite. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure, and, if you are exposed above the permissible limit, he or she is required to inform you of the actions that are being taken to reduce your exposure to within the permissible limit.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

NEW SECTION

WAC 296-62-07749 APPENDIX H—MEDICAL SURVEILLANCE GUIDELINES FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE—NONMANDATORY. (1) Route of entry inhalation, ingestion.

(2) Toxicology.

Clinical evidence of the adverse effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite, is present in the form of several well-conducted epidemiological studies of occupationally exposed workers, family contacts of workers, and persons living near asbestos, tremolite, anthophyllite, and actinolite mines. These studies have shown a definite association between exposure to asbestos, tremolite, anthophyllite, and actinolite and an increased incidence of lung cancer, pleural and peritoneal mesothelioma, gastrointestinal cancer, and asbestosis. The latter is a disabling fibrotic lung disease that is caused only by exposure to asbestos. Exposure to asbestos, tremolite, anthophyllite, and actinolite has also been associated with an increased incidence of esophageal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. As with other known chronic occupational diseases, disease associated with asbestos, tremolite, anthophyllite, and actinolite generally appears about twenty years following the first occurrence of exposure: There are no known acute effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite.

Epidemiological studies indicate that the risk of lung cancer among exposed workers who smoke cigarettes is greatly increased over the risk of lung cancer among nonexposed smokers or exposed nonsmokers. These studies suggest that cessation of smoking will reduce the risk of lung cancer for a person exposed to asbestos,

tremolite, anthophyllite, and actinolite but will not reduce it to the same level of risk as that existing for an exposed worker who has never smoked.

(3) Signs and symptoms of exposure-related disease.

The signs and symptoms of lung cancer or gastrointestinal cancer induced by exposure to asbestos, tremolite, anthophyllite, and actinolite are not unique, except that a chest x-ray of an exposed patient with lung cancer may show pleural plaques, pleural calcification, or pleural fibrosis. Symptoms characteristic of mesothelioma include shortness of breath, pain in the walls of the chest, or abdominal pain. Mesothelioma has a much longer latency period compared with lung cancer (forty years versus fifteen to twenty years), and mesothelioma is therefore more likely to be found among workers who were first exposed to asbestos at an early age. Mesothelioma is always fatal.

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Symptoms include shortness of breath, coughing, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. The diagnosis of asbestosis is based on a history of exposure to asbestos, the presence of characteristic radiologic changes, endinspiratory crackles (rales), and other clinical features of fibrosing lung disease. Pleural plaques and thickening are observed on x-rays taken during the early stages of the disease. Asbestosis is often a progressive disease even in the absence of continued exposure, although this appears to be a highly individualized characteristic. In severe cases, death may be caused by respiratory or cardiac failure.

(4) Surveillance and preventive considerations.

As noted above, exposure to asbestos, tremolite, anthophyllite, and actinolite has been linked to an increased risk of lung cancer, mesothelioma, gastrointestinal cancer, and asbestosis among occupationally exposed workers. Adequate screening tests to determine an employee's potential for developing serious chronic diseases, such as cancer, from exposure to asbestos, tremolite, anthophyllite, and actinolite do not presently exist. However, some tests, particularly chest x-rays and pulmonary function tests, may indicate that an employee has been overexposed to asbestos, tremolite, anthophyllite, and actinolite, increasing his or her risk of developing exposure-related chronic diseases. It is important for the physician to become familiar with the operating conditions in which occupational exposure to asbestos, tremolite, anthophyllite, and actinolite is likely to occur. This is particularly important in evaluating medical and work histories and in conducting physical examinations. When an active employee has been identified as having been overexposed to asbestos, tremolite, anthophyllite, and actinolite, measures taken by the employer to eliminate or mitigate further exposure should also lower the risk of serious long-term consequences.

The employer is required to institute a medical surveillance program for all employees who are or will be exposed to asbestos, tremolite, anthophyllite, and actinolite at or above the action level (0.1 fiber per cubic centimeter of air) for thirty or more days per year and for all employees who are assigned to wear a negative-

pressure respirator. All examinations and procedures must be performed by or under the supervision of a licensed physician, at a reasonable time and place, and at no cost to the employee.

Although broad latitude is given to the physician in prescribing specific tests to be included in the medical surveillance program, OSHA requires inclusion of the following elements in the routine examination:

(a) Medical and work histories with special emphasis directed to symptoms of the respiratory system, cardiovascular system, and digestive tract.

(b) Completion of the respiratory disease questionnaire contained in WAC 296-62-07741, Appendix D.

(c) A physical examination including a chest roentgenogram and pulmonary function test that includes measurement of the employee's forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁).

(d) Any laboratory or other test that the examining physician deems by sound medical practice to be necessary.

The employer is required to make the prescribed tests available at least annually to those employees covered; more often than specified if recommended by the examining physician; and upon termination of employment.

The employer is required to provide the physician with the following information: A copy of this standard and appendices; a description of the employee's duties as they relate to asbestos exposure; the employee's representative level of exposure to asbestos, tremolite, anthophyllite, and actinolite; a description of any personal protective and respiratory equipment used; and information from previous medical examinations of the affected employee that is not otherwise available to the physician. Making this information available to the physician will aid in the evaluation of the employee's health in relation to assigned duties and fitness to wear personal protective equipment, if required.

The employer is required to obtain a written opinion from the examining physician containing the results of the medical examination; the physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of exposure-related disease; any recommended limitations on the employee or on the use of personal protective equipment; and a statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions related to asbestos, tremolite, anthophyllite, and actinolite exposure that require further explanation or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to exposure to asbestos, tremolite, anthophyllite, and actinolite, and a copy of the opinion must be provided to the affected employee.

Chapter 296-155 WAC
SAFETY STANDARDS FOR CONSTRUCTION
WORK

Subchapters

Part A General safety and health provisions.
(WAC 296-155-001 through 296-155-040)

- Part B-1 Occupational health and environmental control.
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- Part B-2 Asbestos, tremolite, anthophyllite, and actinolite.
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(WAC 296-155-725 through 296-155-74501)
- Part R Miscellaneous construction requirements.
(WAC 296-155-750 through 296-155-770)
- Part S Demolition.
(WAC 296-155-775 through 296-155-830)
- Part T Refer to chapter 296-52 WAC, Safety standards for the possession, handling and use of explosives.
- Part U Power distribution and transmission lines.
(Reserved)
- Part V Rollover protective structures and overhead protection.
(WAC 296-155-950 through 296-155-965)

Part B-2

Asbestos, tremolite, anthophyllite, and actinolite

NEW SECTION

WAC 296-155-175 SCOPE AND APPLICATION. WAC 296-155-175 through 296-155-193 applies to all construction work as defined in WAC 296-155-012(6), including but not limited to the following:

- (1) Demolition or salvage of structures where asbestos, tremolite, anthophyllite, or actinolite is present;
- (2) Removal or encapsulation of materials containing asbestos, tremolite, anthophyllite, or actinolite;
- (3) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain asbestos, tremolite, anthophyllite, or actinolite;
- (4) Installation of products containing asbestos, tremolite, anthophyllite, or actinolite;
- (5) Asbestos, tremolite, anthophyllite, and actinolite spill/emergency cleanup; and
- (6) Transportation, disposal, storage, or containment of asbestos, tremolite, anthophyllite, or actinolite or products containing asbestos, tremolite, anthophyllite, or actinolite on the site or location at which construction activities are performed.

Note: Enforcement of WAC 296-155-175 through 296-155-193 is stayed as it applies to nonasbestiform tremolite, anthophyllite, and actinolite. During the period of this stay, the provisions of WAC 296-62-07517 will remain in effect with respect to regulation of nonasbestiform tremolite, anthophyllite, and actinolite.

NEW SECTION

WAC 296-155-17505 DEFINITIONS. For the purpose of this chapter:

- (1) "Action level" means an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals of 0.1 fiber per cubic centimeter (f/cc) of air calculated as an eight-hour time-weighted average.
- (2) "Air lock" means a system for ingress or egress to minimize air movement between a contaminated area and an uncontaminated area, consisting of an enclosure with two curtained doorways at least six feet apart unless space prohibits.
- (3) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that has been chemically treated and/or altered.
- (4) "Authorized person" means any person authorized by the employer and required by work duties to be present in regulated areas.
- (5) "Clean room" means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.
- (6) "Competent person" means one who is capable of identifying existing asbestos, tremolite, anthophyllite, or actinolite hazards in the workplace and who has the authority to take prompt corrective measures to eliminate them, as specified in WAC 296-155-012(4). The duties of the competent person include at least the following:

Establishing the negative-pressure enclosure, ensuring its integrity, and controlling entry to and exit from the enclosure; supervising any employee exposure monitoring required by the standard; ensuring that all employees working within such an enclosure wear the appropriate personal protective equipment, are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in the standard; and ensuring that engineering controls in use are in proper operating condition and are functioning properly. To be designated as a competent person, the worker must satisfactorily complete a training course in accordance with WAC 296-155-17525(7)(c).

(7) "Curtained doorway" means overlapping plastic sheeting curtains, at least four mils in thickness, constructed and used at entrance and exit of regulated areas, and designed to restrict the movement of air from one area to another.

(8) "Decontamination area" means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos, tremolite, anthophyllite, or actinolite.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos, tremolite, anthophyllite, or actinolite products.

(10) "Department" means the department of labor and industries.

(11) "Director" means the director of the department of labor and industries or his/her authorized representatives.

(12) "Employee exposure" means that exposure to airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals, that would occur if the employee were not using respiratory protective equipment.

(13) "Equipment room" means a contaminated room located within the decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

(14) "Fiber" means a particulate form of asbestos, tremolite, anthophyllite, or actinolite, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

(15) "High-efficiency particulate air (HEPA) filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

(16) "Regulated area" means an area established by the employer to demarcate areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed or can reasonably be expected to exceed the permissible exposure limit. The regulated area may take the form of (a) a temporary enclosure, as required by subsection (6) of this section, or (b) an area demarcated in any manner that minimizes the number of employees exposed to asbestos, tremolite, anthophyllite, or actinolite.

(17) "Removal" means the taking out or stripping of asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite.

(18) "Renovation" means the modifying of any existing structure, or portion thereof, where exposure to airborne asbestos, tremolite, anthophyllite, or actinolite may result.

(19) "Repair" means overhauling, rebuilding, reconstructing, or reconditioning of structure or substrates where asbestos, tremolite, anthophyllite, or actinolite is present.

(20) "Small-scale, short duration operations" means tasks involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet.

(21) "Structural member" means any load-supporting or nonload-supporting member of a facility such as beams, walls, and ceilings.

(22) "Tremolite, anthophyllite and actinolite" means the nonasbestos form of these minerals, and any of these minerals that have been chemically treated and/or altered.

NEW SECTION

WAC 296-155-17510 PERMISSIBLE EXPOSURE LIMITS (PEL). (1) The employer shall ensure that no employee is exposed to an airborne concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 0.2 fiber per cubic centimeter (0.2 f/cc) of air as an eight-hour time-weighted average (TWA), as determined by the method prescribed in WAC 296-155-177, Appendix A, or by an equivalent method recognized by the department.

(2) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of 1.0 fiber per cubic centimeter (1.0 f/cc) of air during any fifteen minute period, as determined by the methods prescribed in WAC 296-155-177, Appendix A, or by an equivalent method recognized by the department.

NEW SECTION

WAC 296-155-17515 COMMUNICATION AMONG EMPLOYERS. On multi-employer worksites, an employer performing asbestos, tremolite, anthophyllite, or actinolite work requiring the establishment of a regulated area shall inform other employers on the site of the nature of the employer's work with asbestos, tremolite, anthophyllite, or actinolite and of the existence of and requirements pertaining to regulated areas.

Note: Notified employers shall ensure their employees are informed and trained as required by the hazard communication standard, WAC 296-62-054 through 296-62-05427.

NEW SECTION

WAC 296-155-17520 IDENTIFICATION. The employer shall determine if materials to be worked on or removed contain asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals. Determinations shall be documented (e.g., laboratory analysis report, manufacturer's product information), maintained on file and made available upon request to the director. A determination shall not be required when an employer assumes that the suspect material contains asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals and handles the material in accordance with WAC 296-155-175 through 296-155-193.

NEW SECTION

WAC 296-155-17525 REGULATED AREAS. (1) General. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals exceed or can reasonably be expected to exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(2) Demarcation. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by WISHA or regulations issued pursuant thereto.

(4) Respirators. All persons entering a regulated area shall be supplied with and required to wear a respirator, selected in accordance with WAC 296-155-17535.

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-155-17540.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated area.

(7) Requirements for asbestos removal, demolition, and renovation operations.

(a) Except when proper glove bag techniques are used, the employer, wherever feasible, shall establish negative-pressure enclosures having a minimum of one air exchange every fifteen minutes within the enclosure before commencing removal, demolition, and renovation operations.

(b) The employer shall designate a competent person to perform or supervise the following duties:

- (i) Set up the enclosure;
- (ii) Ensure the integrity of the enclosure;
- (iii) Control entry to and exit from the enclosure;
- (iv) Supervise all employee exposure monitoring required by this section;

(v) Ensure that employees working within the enclosure wear protective clothing and respirators as required by WAC 296-155-17535 and 296-155-17540;

(vi) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;

(vii) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-155-17545; and

(viii) Ensure that engineering controls including HEPA filters are functioning properly.

(c) In addition to the qualifications specified in WAC 296-155-17505, the competent person shall be trained in all aspects of asbestos, tremolite, anthophyllite, or actinolite abatement, the contents of this standard, the identification of asbestos, tremolite, anthophyllite, or actinolite and their removal procedures, and other practices for reducing the hazard. Such training shall be obtained in a comprehensive course conducted by an EPA asbestos training center, or an equivalent training course recognized by the department as complying with the requirements of this subsection. Every competent person shall also maintain a valid asbestos worker certificate as specified in WAC 296-65-010.

(d) Exception: For small-scale, short-duration operations, such as pipe repair, valve replacement, installing electrical conduits, installing or removing drywall, roofing, and other general building maintenance or renovation, the employer is not required to comply with the requirements of WAC 296-155-17525(7). Employers wishing to take advantage of the exemption in this subsection shall comply with WAC 296-155-189, Appendix G.

NEW SECTION

WAC 296-155-17530 EXPOSURE MONITORING. (1) General.

(a) Each employer who has a workplace or work operation covered by this standard shall perform monitoring to determine accurately the airborne concentrations of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals to which employees may be exposed.

(b) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight-hour TWA airborne concentrations and of the ceiling concentrations of each employee.

(c) Representative eight-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for employees in each work area.

(d) Representative employee ceiling exposure shall be determined on the basis of one or more samples representing the highest exposure for employees in each work area. Sampling periods for ceiling concentration evaluations shall not exceed fifteen minutes.

(2) Initial monitoring.

(a) Each employer who has a workplace or work operation covered by this standard, except as provided for in subsection (2)(b) and (c) of this section, shall perform initial monitoring at the initiation of each asbestos, tremolite, anthophyllite, actinolite job to accurately determine the airborne concentrations of asbestos, tremolite, anthophyllite, or actinolite to which employees may be exposed.

(b) The employer may demonstrate that employee exposures are below the action level by means of objective data demonstrating that product or material containing asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals cannot release airborne fibers in concentrations exceeding the action level under those work conditions having the greatest potential for releasing asbestos, tremolite, anthophyllite, or actinolite.

(c) Where the employer has monitored each asbestos, tremolite, anthophyllite, or actinolite job, and the data were obtained during work operations conducted at the same workplace and under workplace conditions closely resembling the processes, type of material including percentage of asbestos, tremolite, anthophyllite, or actinolite, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of (a) of this subsection, except for employees engaged in removal, demolition, or renovation operations using negative-pressure enclosures as required by WAC 296-155-17525(7).

(3) Daily monitoring within regulated areas: The employer shall conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area. Exception: When all employees within a regulated area are equipped with full facepiece supplied-air respirators operated in the pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter, the employer may dispense with the daily monitoring required by this subsection.

(4) Monitoring outside negative-pressure enclosures: The employer shall conduct periodic monitoring that is representative of the airborne fiber levels in areas adjacent to negative-pressure enclosures required by WAC 296-155-17525(7).

(5) Methods of monitoring.

(a) All samples taken to satisfy the monitoring requirements of subsections (2) and (3) of this section shall be personal samples collected following the procedures specified in WAC 296-155-177, Appendix A.

(b) Monitoring shall be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques.

(c) All samples taken to satisfy the monitoring requirements of this section shall be evaluated using the WISHA reference method specified in WAC 296-155-177, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA reference method is used, the employer shall ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons;

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.1 to 0.4 f/cc have an accuracy range of plus or minus twenty-five percent of the WISHA reference method results with a ninety-

five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers shall rely on the results of monitoring analysis performed by laboratories that have instituted quality assurance programs that include the elements prescribed in WAC 296-155-177, Appendix A.

(6) Employee notification of monitoring results.

(a) The employer shall notify affected employees of the monitoring results that represent that employee's exposure as soon as possible following receipt of monitoring results.

(b) The employer shall notify affected employees of the results of monitoring representing the employee's exposure in writing either individually or by posting at a centrally located place that is accessible to affected employees.

(7) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite conducted in accordance with this section.

(b) When observation of the monitoring of employee exposure to asbestos, tremolite, anthophyllite, or actinolite requires entry into an area where the use of protective clothing or equipment is required, the observer shall be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

NEW SECTION

WAC 296-155-17532 METHODS OF COMPLIANCE. (1) Engineering controls and work practices.

(a) The employer shall use one or any combination of the following control methods to achieve compliance with the permissible exposure limits prescribed by WAC 296-155-17510:

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) Vacuum cleaners equipped with HEPA filters;

(iii) Enclosure or isolation of processes producing asbestos, tremolite, anthophyllite, or actinolite dust;

(iv) Use of wet methods, wetting agents, or removal encapsulants to control employee exposures during asbestos, tremolite, anthophyllite, or actinolite handling, mixing, removal, cutting, application, and cleanup;

(v) Prompt disposal of wastes contaminated with asbestos, tremolite, anthophyllite, or actinolite in leak-tight containers; or

(vi) Use of work practices or other engineering controls that the director can show to be feasible.

(b) Wherever the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the limit prescribed in WAC 296-155-17510, the employer shall use them to reduce employee exposure to the lowest levels attainable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-155-17535.

(2) Prohibitions.

(a) High-speed abrasive disc saws that are not equipped with appropriate engineering controls shall not be used for work related to asbestos, tremolite, anthophyllite, or actinolite.

(b) Compressed air shall not be used to remove asbestos, tremolite, anthophyllite, or actinolite or materials containing asbestos, tremolite, anthophyllite, or actinolite unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air.

(c) Materials containing asbestos, tremolite, anthophyllite, or actinolite shall not be applied by spray methods, unless the materials contain less than 0.1% asbestos, tremolite, anthophyllite or actinolite by weight, the asbestos is a natural contaminant and objective data indicate employee exposure will not exceed the action level of 0.1 f/cc.

(3) Employee rotation. The employer shall not use employees rotation as a means of compliance with the exposure limit prescribed in WAC 296-155-17510.

(4) Clean-up.

(a) After completion of asbestos, tremolite, anthophyllite, or actinolite removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any asbestos, tremolite, anthophyllite, or actinolite debris.

(b) Lock-down. Where asbestos has been removed, EPA accepted encapsulant shall be applied to ensure encapsulation of remaining fibers.

(c) The employer shall demonstrate by monitoring that the airborne fiber concentration is below the action level; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.

NEW SECTION

WAC 296-155-17535 RESPIRATORY PROTECTION. (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-155-175 through 296-155-193. Respirators shall be used in the following circumstances:

(a) During interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the exposure limit;

(d) In emergencies; and

(e) Whenever employee exposures exceed the PEL.

(2) Respirator selection.

(a) Where respirators are used, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall ensure that the employee uses the respirator provided.

(b) Historical air monitoring data may be used predictively for the selection of respiratory protection except as specified in subsection (3) of this section. The predictive data shall meet the requirements of WAC 296-155-17530 and 296-155-17565 (2)(b).

(c) The employer shall select respirators from among those approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(d) The employer shall provide a powered, air-purifying respirator in lieu of any negative-pressure respirator specified in Table 1, whenever:

- (i) An employee chooses to use this type of respirator; and
- (ii) This respirator will provide adequate protection to the employee.

TABLE 1- RESPIRATORY PROTECTION FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE FIBERS

Concentration of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals	Required respirator ^a
Not in excess of 2 f/cc	1. Half-mask air-purifying respirator equipped with high-efficiency filters. ^b
Not in excess of 10 f/cc	1. Full facepiece air-purifying respirator equipped with high-efficiency filters.
Not in excess of 20 f/cc	1. Any powered air-purifying respirator equipped with high-efficiency filters. 2. Any supplied-air respirator operated in continuous flow mode.
Not in excess of 200 f/cc	1. Full facepiece supplied-air respirator operated in pressure demand mode.
Greater than 200 f/cc or unknown concentration.	1. Full facepiece supplied-air respirator operated in pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter. ^c 2. Full facepiece positive-pressure self-contained breathing apparatus (SCBA).

- Note:
- a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.
 - b. A high-efficiency filter means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.
 - c. See WAC 296-155-17535 (5)(c) for fit testing requirements.

(3) Special respiratory protection requirements. Unless specifically identified in this subsection, WAC 296-155-17535(3), respirator selection for asbestos removal, demolition, and renovation operations shall be in accordance with Table 1 of WAC 296-155-17535(2). The employer shall provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the pressure demand mode equipped with either an auxiliary positive pressure self-contained

breathing apparatus or a HEPA filter to employees engaged in the following asbestos operations:

(a) Inside negative pressure enclosures used for removal, demolition, and renovation of friable asbestos from walls, ceilings, vessels, ventilation ducts, elevator shafts, and other structural members, but does not include pipes or piping systems; or

(b) Any dry removal of asbestos.

(4) Respirator program.

(a) Where respiratory protection is used, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employees shall be assigned to tasks requiring the use of respirators if, based on his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or of other employees will be impaired by the use of a respirator. Such employees shall be assigned to another job or given the opportunity to transfer to a different position the duties of which he or she is able to perform with the same employer, in the same seniority, status, and rate of pay he or she had just prior to such transfer, if such a different position is available.

(5) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing a negative-pressure respirator. The qualitative fit tests may be used only for testing the fit of negative pressure respirators to be worn in concentrations of asbestos not in excess of 2 f/cc, and shall be conducted in accordance with WAC 296-155-181, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1.

(c) Any supplied-air respirator facepiece equipped with a back-up HEPA filter shall be fit tested as a negative pressure respirator in accordance with WAC 296-155-17535 (5)(b) with the air supply disconnected.

NEW SECTION

WAC 296-155-17540 PROTECTIVE CLOTHING. (1) General. The employer shall provide and require the use of protective clothing, such as coveralls or similar whole-body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals that exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(2) Laundering.

(a) The employer shall ensure that laundering of contaminated clothing is done so as to prevent the release of airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals that exceed the permissible exposure limit prescribed in WAC 296-155-17510.

(b) Any employer who gives contaminated clothing to another person for laundering shall inform such person of requirements in (a) of this subsection to effectively prevent the release of airborne asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the exposure limit prescribed in WAC 296-155-17510.

(3) Contaminated clothing. Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and be labeled in accordance with WAC 296-155-17550.

(4) Protective clothing for removal, demolition, and renovation operations.

(a) The competent person shall periodically examine worksuits worn by employees for rips or tears that may occur during performance of work.

(b) When rips or tears are detected while an employee is working within a negative-pressure enclosure, rips and tears shall be immediately mended, or the worksuit shall be immediately replaced.

NEW SECTION**WAC 296-155-17545 HYGIENE FACILITIES AND PRACTICES. (1) General.**

(a) The employer shall provide clean change areas for employees required to work in regulated areas or required by WAC 296-155-17540(1) to wear protective clothing. Exception: In lieu of the change area requirement specified in this subsection, the employer may permit employees in small scale, short duration operations, as described in WAC 296-155-17525 (7)(d), to clean their protective clothing with a portable HEPA-equipped vacuum before such employees leave the area where maintenance was performed.

(b) The employer shall ensure that change areas are equipped with separate storage facilities for protective clothing and street clothing, in accordance with WAC 296-24-120.

(c) Whenever food or beverages are consumed at the worksite and employees are exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the permissible exposure limit, the employer shall provide lunch areas in which the airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals are below the action level.

(2) Requirements for removal, demolition, and renovation operations.

(a) Decontamination area. Except for small scale, short duration operations, as described in WAC 296-155-17525 (7)(d), the employer shall establish a decontamination area that is adjacent and connected to the regulated area for the decontamination of employees contaminated with asbestos, tremolite, anthophyllite, or actinolite. The decontamination area shall consist of an

equipment room, shower area, and clean room in series. The employer shall ensure that employees enter and exit the regulated area through the decontamination area.

(b) Clean room. The clean room shall be equipped with a locker or appropriate storage container for each employee's use.

(c) Shower area. Where feasible, shower facilities shall be provided which comply with WAC 296-24-12009(3). The showers shall be contiguous both to the equipment room and the clean change room, unless the employer can demonstrate that this location is not feasible. Where the employer can demonstrate that it is not feasible to locate the shower between the equipment room and the clean change room, the employer shall ensure that employees:

(i) Remove asbestos, tremolite, anthophyllite, or actinolite contamination from their worksuits using a HEPA vacuum before proceeding to a shower that is not contiguous to the work area; or

(ii) Remove their contaminated worksuits, don clean worksuits, and proceed to a shower that is not contiguous to the work area.

(d) Equipment room. The equipment room shall be supplied with impermeable, labeled bags and containers for the containment and disposal of contaminated protective clothing and equipment.

(e) Decontamination area entry procedures.

(i) The employer shall ensure that employees;

(A) Enter the decontamination area through the clean room;

(B) Remove and deposit street clothing within a locker provided for their use; and

(C) Put on protective clothing and respiratory protection before leaving the clean room.

(ii) Before entering the enclosure, the employer shall ensure that employees pass through the equipment room.

(f) Decontamination area exit procedures.

(i) Before leaving the regulated area, the employer shall ensure the employees remove all gross contamination and debris from their protective clothing.

(ii) The employer shall ensure that employees remove their protective clothing in the equipment room and deposit the clothing in labeled impermeable bags or containers.

(iii) The employer shall ensure that employees do not remove their respirators in the equipment room.

(iv) The employer shall ensure that employees shower prior to entering the clean room. When taking a shower, employees shall be fully wetted, including the face and hair, prior to removing their respirators.

(v) The employer shall ensure that, after showering, employees enter the clean room before changing into street clothes.

(g) Decontamination area for personnel shall not be used for the transportation of asbestos, tremolite, anthophyllite, or actinolite debris.

(h) Waste load-out procedure. The waste load-out area as required by WAC 296-155-17555(3) shall be used as an area for final preparation and external decontamination of waste containers, as a short term storage area for bagged waste, and as a port for transporting waste.

The employer shall ensure waste containers be free of all gross contaminated material before removal from the negative pressure enclosure. Gross contamination shall be wiped, scraped off, or washed off containers before they are placed into the air lock which is adjacent to the negative pressure enclosure. The exterior of the waste container shall be decontaminated or placed within a second waste container, and moved into the second air lock for temporary storage or transferred outside of the regulated area. The second waste container shall not be reused unless thoroughly decontaminated.

NEW SECTION

WAC 296-155-17550 COMMUNICATION OF HAZARDS TO EMPLOYEES. (1) Signs.

(a) Warning signs that demarcate the regulated area shall be provided and displayed at each location where airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals may be in excess of the exposure limit prescribed in WAC 296-155-17510. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(b) The warning signs required by (a) of this subsection shall bear the following information:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED
IN THIS AREA

(c) Where minerals in the regulated area are only tremolite, anthophyllite or actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(2) Labels.

(a) Labels shall be affixed to all products containing asbestos, tremolite, anthophyllite, or actinolite and to all containers containing such products, including waste containers. Where feasible, installed asbestos, tremolite, anthophyllite, or actinolite products shall contain a visible label.

(b) Labels shall be printed in large, bold letters on a contrasting background.

(c) Labels shall be used in accordance with the requirements of WAC 296-62-05411, and shall contain the following information:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
AVOID BREATHING AIRBORNE ASBESTOS, TREMOLITE,
ANTHOPHYLLITE, OR ACTINOLITE FIBERS

(d) Where minerals to be labeled are only tremolite, anthophyllite and actinolite, the employer may replace the term "asbestos" with the appropriate mineral name.

(e) The provisions for labels required by (a) and (d) of this subsection do not apply where:

(i) Asbestos, tremolite, anthophyllite, or actinolite fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that, during any reasonable foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these mineral fibers in excess of the action level will be released, or

(ii) Asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals is present in a product in concentrations less than 0.1 percent by weight.

(3) Employee information and training.

(a) The employer shall institute a training program for all employees exposed to airborne concentrations of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals in excess of the action level and shall ensure their participation in the program.

(b) Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(c) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each such employee is informed of the following:

(i) Methods of recognizing asbestos, tremolite, anthophyllite, and actinolite;

(ii) The health effects associated with asbestos, tremolite, anthophyllite, or actinolite exposure;

(iii) The relationship between smoking and asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer;

(iv) The nature of operations that could result in exposure to asbestos, tremolite, anthophyllite, and actinolite, the importance of necessary protective controls to minimize exposure including, as applicable, engineering controls, work practices, respirators, house-keeping procedures, hygiene facilities, protective clothing, decontamination procedures, emergency procedures, and waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(v) The purpose, proper use, fitting instructions, and limitations of respirators as required by WAC 296-62-071;

(vi) The appropriate work practices for performing the asbestos, tremolite, anthophyllite, or actinolite job;

(vii) Medical surveillance program requirements; and

(viii) A review of this standard, including appendices.

(4) Access to training materials.

(a) The employer shall make readily available to all affected employees without cost all written materials relating to the employee training program, including a copy of this regulation.

(b) The employer shall provide to the director, upon request, all information and training materials relating to the employee information and training program.

(5) Certification.

(a) All individuals working on asbestos projects, as defined in WAC 296-65-003(4), shall be certified as required by WAC 296-65-010 and 296-65-030.

(b) In cases excepted under WAC 296-65-030 (1) and (2), all employees shall be trained according to subsection (3) of this section.

NEW SECTION

WAC 296-155-17555 HOUSEKEEPING. (1) Vacuuming. Where vacuuming methods are selected, HEPA filtered vacuuming equipment must be used. The equipment shall be used and emptied in a manner that minimizes the reentry of asbestos, tremolite, anthophyllite, or actinolite into the workplace.

(2) Waste disposal. Asbestos waste, scrap, debris, bags, containers, equipment, and contaminated clothing consigned for disposal shall be collected and disposed of in sealed, labeled, impermeable bags or other closed, labeled, impermeable containers. To avoid breakage, bags shall be at least six mils in thickness and shall not be dragged or slid across rough or abrasive surfaces.

(3) Waste removal. Whenever a negative-pressure enclosure is required by WAC 296-155-17525(7), the employer wherever feasible, shall establish a waste-load-out area that is adjacent and connected to the negative-pressure enclosure, constructed of a two chamber air lock, for the decontamination and removal of asbestos, tremolite, anthophyllite, or actinolite debris.

(4) Deterioration. Asbestos, tremolite, anthophyllite, or actinolite which has become damaged or deteriorated shall be repaired, enclosed, encapsulated, or removed.

NEW SECTION

WAC 296-155-17560 MEDICAL SURVEILLANCE. (1) General.

(a) Employees covered. The employer shall institute a medical surveillance program for all employees engaged in work involving levels of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals, at or above the action level for thirty or more days per year, or who are required by this section to wear negative pressure respirators.

(b) Examination by a physician.

(i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided at no cost to the employee and at a reasonable time and place.

(ii) Persons other than such licensed physicians who administer the pulmonary function testing required by this section shall complete a training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Medical examinations and consultations.

(a) Frequency. The employer shall make available medical examinations and consultations to each employee covered under subsection (1)(a) of this section on the following schedules:

(i) Prior to assignment of the employee to an area where negative-pressure respirators are worn;

(ii) When the employee is assigned to an area where exposure to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals may be at or above

the action level for thirty or more days per year, a medical examination must be given within ten working days following the thirtieth day of exposure;

(iii) And at least annually thereafter, except that no medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with WAC 296-155-17560 within the past one-year period;

(iv) If the examining physician determines that any of the examinations should be provided more frequently than specified, the employer shall provide such examinations to affected employees at the frequencies specified by the physician.

(b) Content. Medical examinations made available pursuant to (a)(i) through (iii) of this subsection shall include:

(i) A medical and work history with special emphasis directed to the pulmonary, cardiovascular, and gastrointestinal systems.

(ii) On initial examination, the standardized questionnaire contained in WAC 296-155-183, Appendix D, Part 1, and, on annual examination, the abbreviated standardized questionnaire contained in WAC 296-155-183, Appendix D, Part 2.

(iii) A physical examination directed to the pulmonary and gastrointestinal systems, including a chest roentgenogram to be administered at the discretion of the physician, and pulmonary function tests of forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁). Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-155-185, Appendix E.

(iv) Any other examinations or tests deemed necessary by the examining physician.

(3) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D, E, and I;

(b) A description of the affected employee's duties as they relate to the employee's exposure;

(c) The employee's representative exposure level or anticipated exposure level;

(d) A description of any personal protective and respiratory equipment used or to be used; and

(e) Information from previous medical examination of the affected employee that is not otherwise available to the examining physician.

(4) Physician's written opinion.

(a) The employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos, tremolite, anthophyllite, or actinolite;

(ii) Any recommended limitations on the employee or on the use of personal protective equipment such as respirators; and

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions that may result from asbestos, tremolite, anthophyllite, or actinolite exposure.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos, tremolite, anthophyllite, or actinolite.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

NEW SECTION

WAC 296-155-17565 RECORDKEEPING. (1) Objective data for exempted operations.

(a) Where the employer has relied on objective data that demonstrate that products made from or containing asbestos, tremolite, anthophyllite, or actinolite are not capable of releasing fibers of asbestos, tremolite, anthophyllite, or actinolite or a combination of these minerals, in concentrations at or above the action level under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under WAC 296-155-17530. The employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(b) The record shall include at least the following information:

- (i) The product qualifying for exemption;
- (ii) The source of the objective data;
- (iii) The testing protocol, results of testing, and/or analysis of the material for the release of asbestos, tremolite, anthophyllite, or actinolite;
- (iv) A description of the operation exempted and how the data support the exemption; and
- (v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(c) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) Exposure measurements.

(a) The employer shall keep an accurate record of all measurements taken to monitor employee exposure to asbestos, tremolite, anthophyllite, or actinolite as prescribed in WAC 296-155-17530.

Note: The employer may utilize the services of competent organizations such as industry trade associations and employee associations to maintain the records required by this section.

(b) This record shall include at least the following information:

- (i) Name of employer;
- (ii) Name of person conducting monitoring;
- (iii) The date of measurement;
- (iv) Address of operation or activity;
- (v) Description of the operation or activity involving exposure to asbestos, tremolite, anthophyllite, or actinolite that is being monitored;
- (vi) Personal or area sample;

(vii) Name, social security number, and exposure level of the employees whose exposures are represented;

(viii) Type of protective devices worn, if any;

(ix) Pump calibration date and flow rate;

(x) Total volume of air sampled;

(xi) Name and address of analytical laboratory;

(xii) Number, duration, and results (f/cc) of samples taken;

(xiii) Date of analysis; and

(xiv) Sampling and analytical methods used and evidence of their accuracy.

(c) The employer shall maintain this record for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(3) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by WAC 296-155-17560, in accordance with WAC 296-155-052.

(b) The record shall include at least the following information:

(i) The name and Social Security number of the employee;

(ii) A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physician's recommendations;

(iii) Physician's written opinions;

(iv) Any employee medical complaints related to exposure to asbestos, tremolite, anthophyllite, or actinolite; and

(v) A copy of the information provided to the physician as required by WAC 296-155-17560.

(c) The employer shall ensure that this record is maintained for the duration of employment plus thirty years, in accordance with WAC 296-62-052.

(4) Training records. The employer shall maintain all employee training records for one year beyond the last date of employment by that employer.

(5) Availability.

(a) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying.

(b) The employer, upon request, shall make any exposure records required by WAC 296-155-17530 and this section available for examination and copying to affected employees, former employees, designated representatives, and the director, in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) The employer, upon request, shall make employee medical records required by WAC 296-155-17560 and this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the director, in accordance with WAC 296-62-052.

(6) Transfer of records.

(a) The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(b) Whenever the employer ceases to do business and there is no successor employer to receive and retain the

records for the prescribed period, the employer shall notify the director at least ninety days prior to disposal and, upon request, transmit them to the director.

NEW SECTION

WAC 296-155-17570 DATES. The requirements of the asbestos standard issued in May 1973, as amended, and published in WAC 296-62-07517, remain in effect until compliance is achieved with the parallel provisions of WAC 296-155-175 through 296-155-193.

NEW SECTION

WAC 296-155-17575 APPENDICES. (1) The following appendices to WAC 296-155-175 through 296-155-193 are mandatory.

(a) WAC 296-155-177, Appendix A—WISHA reference method—Mandatory.

(b) WAC 296-155-181, Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.

(c) WAC 296-155-183, Appendix D—Medical questionnaires—Mandatory.

(d) WAC 296-155-185, Appendix E—Interpretation and classification of chest roentgenograms—Mandatory.

(2) The following appendices to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(a) WAC 296-155-179, Appendix B—Detailed procedure for asbestos, tremolite, anthophyllite, and actinolite sampling and analysis—Nonmandatory.

(b) WAC 296-155-187, Appendix F—Work practices and engineering controls for major asbestos removal, renovation, and demolition operations—Nonmandatory.

(c) WAC 296-155-189, Appendix G—Work practices and engineering controls for small-scale, short-duration asbestos renovation and maintenance activities—Nonmandatory.

(d) WAC 296-155-191, Appendix H—Substance technical information for asbestos—Nonmandatory.

(e) WAC 296-155-193, Appendix I—Medical surveillance guidelines for asbestos, tremolite, anthophyllite, and actinolite—Nonmandatory.

NEW SECTION

WAC 296-155-177 APPENDIX A—WISHA REFERENCE METHOD—MANDATORY. This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described in subsection (1) of this section represent the elements of the available monitoring methods (such as the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under WAC 296-155-17530 are required to utilize analytical laboratories that use this procedure, or an equivalent

method recognized by the department, for collecting and analyzing samples.

(1) Sampling and analytical procedure.

(a) The sampling medium for air samples shall be mixed cellulose ester filter membranes. These shall be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device shall be the 25-mm diameter cassette with an open-faced 50-mm extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record.

(c) An air flow rate between 0.5 liter/min and 4.0 liters/min shall be selected for the 25/mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min shall be selected.

(d) Where possible, a sufficient air volume for each air sample shall be collected to yield between one hundred and one thousand three hundred fibers per square millimeter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample shall be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples shall be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts shall be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope shall be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of one hundred micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope shall be about three degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets one to seven, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six and seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include ten percent blanks or a minimum of two blanks. The blank results shall be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of seven fibers/one hundred fields shall be rejected.

(l) The samples shall be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than five micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of 3:1 or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field shall receive a count of one. Fibers crossing the boundary once, having one end within the circle, shall receive the count of one-half. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) For a 25mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than ten fibers are found after counting one hundred fields and the sample air volume is less than sixty liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 6000/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 2400/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 25mm filter
V = Air volume of sample in liters
QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

Note: Filter samples (25mm) with air volumes of less than thirty liters will have decreased analytical accuracy and precision and should be avoided.

(vi) For a 37mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than one hundred fibers are found after counting one hundred fields and the sample air volume is less than one hundred thirty-three liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 13300/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 5320/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 37mm filter
V = Air volume of sample in liters
QL = Limit of reliable quantification in fibers/cc

Note: Filter samples (37mm) with air volumes of less than seventy liters will have decreased analytical accuracy and precision and should be avoided.

(n) Blind recounts shall be conducted at the rate of ten percent.

(2) Quality control procedures.

(a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting slides shall establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program shall include all laboratories, and shall also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program. Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory shall participate in round robin testing at least once every six months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory shall submit slides typical of its own workload for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope shall be evaluated and the microscope shall be replaced, as necessary.

(e) Current results of these quality assurance programs shall be posted in each laboratory to keep the microscopists informed.

NEW SECTION

WAC 296-155-179 APPENDIX B—DETAILED PROCEDURE FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE SAMPLING AND ANALYSIS—NONMANDATORY. This appendix contains a detailed procedure for sampling and analysis and includes those critical elements specified in Appendix A. Employers are not required to use this procedure, but they are required to use Appendix A. The purpose of Appendix B is to provide a detailed step-by-step sampling and analysis procedure that conforms to the elements specified in Appendix A. Since this procedure may also standardize the analysis and reduce variability, WISHA encourages employers to use this appendix.

Asbestos, Tremolite, Anthophyllite, and Actinolite Sampling and Analysis Method

Technique: Microscopy, phase contrast.

Analyte: Fibers (manual count).

Sample preparation: Acetone/triacetin method.

Calibration: Phase-shift detection limit about three degrees.

Range: One hundred to one thousand three hundred fibers/mm² filter area.

Estimated limit of detection: Seven fibers/mm² filter area.

Sampler: Filter (0.8–1.2 μm mixed cellulose ester membrane, 25–mm diameter).

Flow rate: 0.5 l/min to 4.0 l/min (25–mm cassette);
1.0 l/min to 4.0 l/min (37–mm cassette).

Sample volume: Adjust to obtain one hundred to one thousand three hundred fibers/ mm^2 .

Shipment: Routine.

Sample stability: Indefinite.

Blanks: Ten percent of samples (minimum two).

Standard analytical error: 0.25.

Applicability: The working range is 0.02 f/cc (1920–L air sample) to 1.25 f/cc (400–L air sample). The method gives an index of airborne asbestos, tremolite, anthophyllite, and actinolite fibers but may be used for other materials such as fibrous glass by inserting suitable parameters into the counting rules. The method does not differentiate between asbestos, tremolite, anthophyllite, and actinolite and other fibers. Asbestos, tremolite, anthophyllite, and actinolite fibers less than ca. 0.25 μm diameter will not be detected by this method.

Interferences: Any other airborne fiber may interfere since all particles meeting the counting criteria are counted. Chain-like particles may appear fibrous. High levels of nonfibrous dust particles may obscure fibers in the field of view and raise the detection limit.

(1) Reagents.

(a) Acetone.

(b) Triacetin (glycerol triacetate), reagent grade.

Special precautions: Acetone is an extremely flammable liquid and precautions must be taken not to ignite it. Heating of acetone must be done in a ventilated laboratory fume hood using a flameless, spark-free heat source.

(2) Equipment.

(a) Collection device: 25–mm cassette with 50–mm extension cowl with cellulose ester filter, 0.8 to 1.2 mm pore size and backup pad.

Note: Analyze representative filters for fiber background before use and discard the filter lot if more than five fibers/one hundred fields are found.

(b) Personal sampling pump, greater than or equal to 0.5 L/min. with flexible connecting tubing.

(c) Microscope, phase contrast, with green or blue filter, 8 to 10 X eyepiece, and 40 to 45 X phase objective (total magnification ca. 400 X); numerical aperture = 0.65 to 0.75.

(d) Slides, glass, single-frosted, precleaned, 25 x 75 mm.

(e) Cover slips, 25 x 25 mm, No. 1 1/2 unless otherwise specified by microscope manufacturer.

(f) Knife, No. 1 surgical steel, curved blade.

(g) Tweezers.

(h) Flask, Guth-type, insulated neck, 250 to 500 mL (with single-hole rubber stopper and elbow-jointed glass tubing, 16 to 22 cm long).

(i) Hotplate, spark-free, stirring type; heating mantle; or infrared lamp and magnetic stirrer.

(j) Syringe, hypodermic, with 22-gauge needle.

(k) Graticule, Walton-Beckett type with 100 μm diameter circular field at the specimen plane (area = 0.00785 mm^2), (Type G-22).

Note: The graticule is custom-made for each microscope.

(l) HSE/NPL phase contrast test slide, Mark II.

(m) Telescope, ocular phase-ring centering.

(n) Stage micrometer (0.01 mm divisions).

(3) Sampling.

(a) Calibrate each personal sampling pump with a representative sampler in line.

(b) Fasten the sampler to the worker's lapel as close as possible to the worker's mouth. Remove the top cover from the end of the cowl extension (open face) and orient face down. Wrap the joint between the extender and the monitor's body with shrink tape to prevent air leaks.

(c) Submit at least two blanks (or ten percent of the total samples, whichever is greater) for each set of samples. Remove the caps from the field blank cassettes and store the caps and cassettes in a clean area (bag or box) during the sampling period. Replace the caps in the cassettes when sampling is completed.

(d) Sample at 0.5 L/min or greater. Do not exceed 1 mg total dust loading on the filter. Adjust sampling flow rate, Q (L/min), and time to produce a fiber density, E (fibers/ mm^2), of one hundred to one thousand three hundred fibers/ mm^2 (3.85×10^4 to 5×10^5 fibers per 25–mm filter with effective collection area ($A_c=385 \text{ mm}^2$)) for optimum counting precision (see subsection (7)(a) of this section). Calculate the minimum sampling time, T (minutes) at the action level (one-half of the current standard), L (f/cc) of the fibrous aerosol being sampled:

$$T = \frac{(A_c)(E)}{(Q)(L)10^3}$$

(e) Remove the field monitor at the end of sampling, replace the plastic top cover and small end caps, and store the monitor.

(f) Ship the samples in a rigid container with sufficient packing material to prevent jostling or damage.

Note: Do not use polystyrene foam in the shipping container because of electrostatic forces which may cause fiber loss from the sampler filter.

(4) Sample preparation.

Note: The object is to produce samples with a smooth (nongrainy) background in a medium with a refractive index equal to or less than 1.46. The method below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. Other mounting techniques meeting the above criteria may also be used, e.g., the nonpermanent field mounting technique used in P & CAM 239.

(a) Ensure that the glass slides and cover slips are free of dust and fibers.

(b) Place 40 to 60 ml of acetone into a Guth-type flask. Stopper the flask with a single-hole rubber stopper through which a glass tube extends 5 to 8 cm into the flask. The portion of the glass tube that exits the top of the stopper (8 to 10 cm) is bent downward in an elbow that makes an angle of twenty to thirty degrees with the horizontal.

(c) Place the flask in a stirring hotplate or wrap in a heating mantle. Heat the acetone gradually to its boiling temperature (ca. 58°C).

Caution: The acetone vapor must be generated in a ventilated fume hood away from all open flames and spark sources. Alternate heating methods can be used, providing no open flame or sparks are present.

(d) Mount either the whole sample filter or a wedge cut from the sample filter on a clean glass slide.

(i) Cut wedges of ca. twenty-five percent of the filter area with a curved-blade steel surgical knife using a rocking motion to prevent tearing.

(ii) Place the filter or wedge, dust slide up, on the slide. Static electricity will usually keep the filter on the slide until it is cleared.

(iii) Hold the glass slide supporting the filter approximately 1 to 2 cm from the glass tube port where the acetone vapor is escaping from the heated flask. The acetone vapor stream should cause a condensation spot on the glass slide ca. 2 to 3 cm in diameter. Move the glass slide gently in the vapor stream. The filter should clear in two to five seconds. If the filter curls, distorts, or is otherwise rendered unusable, the vapor stream is probably not strong enough. Periodically wipe the outlet port with tissue to prevent liquid acetone dripping onto the filter.

(iv) Using the hypodermic syringe with a 22-gauge needle, place one to two drops of triacetin on the filter. Gently lower a clean 25-mm square cover slip down onto the filter at a slight angle to reduce the possibility of forming bubbles. If too many bubbles form or the amount of triacetin is insufficient, the cover slip may become detached within a few hours.

(v) Glue the edges of the cover slip to the glass slide using a lacquer or nail polish.

Note: If clearing is slow, the slide preparation may be heated on a hotplate (surface temperature 50°C) for fifteen minutes to hasten clearing. Counting may proceed immediately after clearing and mounting are completed.

(5) Calibration and quality control.

(a) Calibration of the Walton-Beckett graticule. The diameter, d_c (mm), of the circular counting area and the disc diameter must be specified when ordering the graticule.

(i) Insert any available graticule into the eyepiece and focus so that the graticule lines are sharp and clear.

(ii) Set the appropriate interpupillary distance and, if applicable, reset the binocular head adjustment so that the magnification remains constant.

(iii) Install the 40 to 45 X phase objective.

(iv) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(v) Measure the magnified grid length, L_o (um) using the stage micrometer.

(vi) Remove the graticule from the microscope and measure its actual grid length, L_a (mm). This can best be accomplished by using a stage fitted with verniers.

(vii) Calculate the circle diameter, d_c (mm), for the Walton-Beckett graticule:

$$d_c = \frac{L_a \times D}{L_o}$$

Example: If $L_o = 108$ um, $L_a = 2.93$ mm and $D = 100$ um, then $d_c = 2.71$ mm.

(viii) Check the field diameter, D (acceptable range 100 mm \pm 2 mm) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine field area (mm²).

(b) Microscope adjustments. Follow the manufacturer's instructions and also the following:

(i) Adjust the light source for even illumination across the field of view at the condenser iris.

Note: Kohler illumination is preferred, where available.

(ii) Focus on the particulate material to be examined.

(iii) Make sure that the field iris is in focus, centered on the sample, and open only enough to fully illuminate the field of view.

(iv) Use the telescope ocular supplied by the manufacturer to ensure that the phase rings (annular diaphragm and phase-shifting elements) are concentric.

(c) Check the phase-shift detection limit of the microscope periodically.

(i) Remove the HSE/NPL phase-contrast test slide from its shipping container and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooves (ca. 20 grooves to each block) in descending order of visibility from sets one to seven. The requirements for counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six to seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope which fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image quality deteriorates, clean the microscope optics and, if the problem persists, consult the microscope manufacturer.

(d) Quality control of fiber counts.

(i) Prepare and count field blanks along with the field samples. Report the counts on each blank. Calculate the mean of the field blank counts and subtract this value from each sample count before reporting the results.

Note 1: The identity of the blank filters should be unknown to the counter until all counts have been completed.

Note 2: If a field blank yields fiber counts greater than seven fibers/one hundred fields, report possible contamination of the samples.

(ii) Perform blind recounts by the same counter on ten percent of filters counted (slides relabeled by a person other than the counter).

(e) Use the following test to determine whether a pair of counts on the same filter should be rejected because of possible bias. This statistic estimates the counting repeatability at the ninety-five percent confidence level. Discard the sample if the difference between the two

counts exceeds $2.77(F)S_r$, where F = average of the two fiber counts and S_r = relative standard deviation, which should be derived by each laboratory based on historical in-house data.

Note: If a pair of counts is rejected as a result of this test, recount the remaining samples in the set and test the new counts against the first counts. Discard all rejected paired counts.

(f) Enroll each new counter in a training course that compares performance of counters on a variety of samples using this procedure.

Note: To ensure good reproducibility, all laboratories engaged in asbestos, tremolite, anthophyllite, and actinolite counting are required to participate in the proficiency analytical testing (PAT) program and should routinely participate with other asbestos, tremolite, anthophyllite, and actinolite fiber counting laboratories in the exchange of field samples to compare performance of counters.

(6) Measurement.

(a) Place the slide on the mechanical stage of the calibrated microscope with the center of the filter under the objective lens. Focus the microscope on the plane of the filter.

(b) Regularly check phase-ring alignment and Kohler illumination.

(c) The following are the counting rules:

(i) Count only fibers longer than 5 μm . Measure the length of curved fibers along the curve.

(ii) Count only fibers with a length-to-width ratio equal to or greater than 3:1.

(iii) For fibers that cross the boundary of the graticule field, do the following:

(A) Count any fiber longer than 5 μm that lies entirely within the graticule area.

(B) Count as one-half fiber any fiber with only one end lying within the graticule area.

(C) Do not count any fiber that crosses the graticule boundary more than once.

(D) Reject and do not count all other fibers.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of a fiber.

(v) For a 25mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than ten fibers are found after counting one hundred fields and the sample air volume is less than sixty liters, count a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 6000/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 2400/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 25mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc for the NIOSH 7400 method

Note: Filter samples (25mm) with air volumes of less than thirty liters will have decreased analytical accuracy and precision and should be avoided.

(vi) For a 37mm filter, count enough graticule fields to yield one hundred fibers by counting a minimum of twenty fields. If less than one hundred fibers are found after counting one hundred fields and the sample air volume is less than one hundred thirty-three liters, count

a total number of fields calculated from the following formulas:

$$\begin{aligned} N &= 13300/V && \text{For TWA Determination (QL = 0.085)} \\ N &= 5320/V && \text{For Ceiling Determinations (QL = 0.21)} \end{aligned}$$

Where N = Number of fields counted on a 37mm filter
 V = Air volume of sample in liters
 QL = Limit of reliable quantification in fibers/cc

Note: Filter samples (37mm) with air volumes of less than seventy liters will have decreased analytical accuracy and precision and should be avoided.

(d) Start counting from one end of the filter and progress along a radial line to the other end, shift either up or down on the filter, and continue in the reverse direction. Select fields randomly by looking away from the eyepiece briefly while advancing the mechanical stage. When an agglomerate covers ca. 1/6 or more of the field of view, reject the field and select another. Do not report rejected fields in the number of total fields counted.

Note: When counting a field, continuously scan a range of focal planes by moving the fine focus knob to detect very fine fibers which have become embedded in the filter. The small-diameter fibers will be very faint but are an important contribution to the total count.

(7) Calculations.

(a) Calculate and report fiber density on the filter, E (fibers/ mm^2); by dividing the total fiber count, F ; minus the mean field blank count, B , by the number of fields, n ; and the field area, A_f (0.00785 mm^2 for a properly calibrated Walton-Beckett graticule):

$$E = \frac{F - B}{(n)(A_f)} \text{ fibers}/\text{mm}^2$$

(b) Calculate the concentration, C (f/cc), of fibers in the air volume sampled, V (L), using the effective collection area of the filter, A_c (385 mm^2 for a 25-mm filter):

$$C = \frac{(E)(A_c)}{V(10^3)}$$

Note: Periodically check and adjust the value of A_c , if necessary.

Bulk sample collection and analysis.

Bulk samples should be collected as specified in Appendix G, Section 1 of the United States Environmental Protection Agency (EPA) Publication No. 560/5-85-024 (June 1985) entitled Guidance for Controlling Asbestos-Containing Materials in Buildings.

Analysis of the samples should be conducted by polarizing light microscopy in a qualified laboratory. In certain cases, x-ray diffraction may be required to confirm the presence of asbestos. Qualified laboratories must be participants in the EPA bulk asbestos quality assurance program or other bulk asbestos quality assurance program recognized by the department.

NEW SECTION

WAC 296-155-181 APPENDIX C—QUALITATIVE AND QUANTITATIVE FIT TESTING PROCEDURES—MANDATORY. (1) Qualitative fit test protocols.

(a) Isoamyl acetate protocol.

(i) Odor threshold screening:

(A) Three one-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one-liter jar and shaking for thirty seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. Shake for thirty seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labelled one and two for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., one and two): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (I) Positioning of mask on nose.
- (II) Room for eye protection.
- (III) Room to talk.
- (IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (I) Chin properly placed.
- (II) Strap tension.
- (III) Fit across nose bridge.
- (IV) Distance from nose to chin.
- (V) Tendency to slip.
- (VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and rainbow passage shall be taped to the inside of the test chamber:
Test exercises.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(IV) Nod head up-and-down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 2 f/cc of airborne asbestos. In atmospheres greater than 2 f/cc, and less than 20 f/cc, the subject must pass the IAA test using a full face negative pressure respirator. (The concentration of the IAA inside the test chamber must be increased by ten times for QLFT of the full facepiece.)

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or
 (V) Any other condition that may interfere with face-piece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of the test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(b) Saccharin solution aerosol protocol.

(i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.

(ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately twelve inches in diameter by fourteen inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin, USP in water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in 100 cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after thirty squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to 100 cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high

above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the saccharin test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 2 f/cc of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

- (I) Weight change of twenty pounds or more,
- (II) Significant facial scarring in the area of the facepiece seal,
- (III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,
- (IV) Reconstructive or cosmetic surgery, or
- (V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

- (A) Name of test subject.
- (B) Date of testing.
- (C) Name of test conductor.
- (D) Respirators selected (indicate manufacturer, model, size and approval number).
- (E) Testing agent.
- (c) Irritant fume protocol.

(i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a combination of high-efficiency and acid-gas cartridges.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver two hundred milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the faceseal area of the test subject. The person conducting the test shall begin with the tube at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends

say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the irritant fume test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to 2 f/cc of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the respirator shall be equipped with a cartridge or canister approved for removal of the test agent, or with a high efficiency particulate filter. Only approved assemblies shall be tested.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed two seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, Norton M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least five minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half-mask and one percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(v) Reading (R). The subject shall read out slowly and loud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least fifteen seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least thirty seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least thirty seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

Rainbow Passage.

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds five percent for half-masks and one percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests

are terminated, the fit shall be deemed inadequate. (See (d)(ii) of this subsection.)

(g) Calculation of fit factors.

(i) The fit factor is determined by dividing the average challenge agent concentration in the test chamber by the average challenge agent concentration inside the respirator facepiece for the test exercises.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three protection factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of one hundred or one thousand, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

(A) Name.

(B) Date of fit test.

(C) Fit factor obtained for each manufacturer, model and approval number of respirator tested.

(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of twenty pounds or more,

(ii) Significant facial scarring in the area of the facepiece seal,

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(iv) Reconstructive or cosmetic surgery, or

(v) Any other condition that may interfere with facepiece sealing.

(k) Recordkeeping.

A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

NEW SECTION

WAC 296-155-183 APPENDIX D—MEDICAL QUESTIONNAIRES—MANDATORY. This mandatory appendix contains the medical questionnaires that must be administered to all employees who are exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the action level, and who will therefore be included in their employer's medical surveillance program. Part 1 of the appendix contains the initial medical questionnaire, which must be obtained for all new hires who will be covered by the medical surveillance requirements. Part 2 includes the abbreviated periodical medical questionnaire, which must be administered to all employees who are provided periodic medical examinations under the medical surveillance provisions of the standard.

Part 1
INITIAL MEDICAL QUESTIONNAIRE

1. NAME _____

2. SOCIAL SECURITY #

3. CLOCK NUMBER

4. PRESENT OCCUPATION _____

5. PLANT _____

6. ADDRESS _____

7. _____
(Zip Code)

8. TELEPHONE NUMBER _____

9. INTERVIEWER _____

10. DATE _____

11. Date of Birth
 Month Day Year

12. Place of Birth _____

13. Sex 1. Male _____
 2. Female _____

14. What is your marital status? 1. Single _____ 4. Separated/
 2. Married _____ Divorced _____
 3. Widowed _____

15. Race
- | | | | |
|----------|-----|-------------|-----|
| 1. White | ___ | 4. Hispanic | ___ |
| 2. Black | ___ | 5. Indian | ___ |
| 3. Asian | ___ | 6. Other | ___ |

16. What is the highest grade completed in school? _____
 (For example 12 years is completion of high school)

OCCUPATIONAL HISTORY

17A. Have you ever worked full-time (30 hours per week or more) for 6 months or more? 1. Yes ___ 2. No ___

IF YES TO 17A:

B. Have you ever worked for a year or more in any dusty job? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
 Specify job/industry _____ Total Years Worked ___
 Was dust exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

C. Have you ever been exposed to gas or chemical fumes in your work? 1. Yes ___ 2. No ___
 Specify job/industry _____ Total Years Worked ___
 Was exposure: 1. Mild ___ 2. Moderate ___ 3. Severe ___

D. What has been your usual occupation or job—the one you have worked at the longest?
 1. Job occupation _____
 2. Number of years employed in this occupation _____
 3. Position/job title _____
 4. Business, field or industry _____

(Record on lines the years in which you have worked in any of these industries, e.g., 1960-1969)

Have you ever worked:

- | | YES | NO |
|--|--------------------------|--------------------------|
| E. In a mine? | <input type="checkbox"/> | <input type="checkbox"/> |
| F. In a quarry? | <input type="checkbox"/> | <input type="checkbox"/> |
| G. In a foundry? | <input type="checkbox"/> | <input type="checkbox"/> |
| H. In a pottery? | <input type="checkbox"/> | <input type="checkbox"/> |
| I. In a cotton, flax or hemp mill? | <input type="checkbox"/> | <input type="checkbox"/> |
| J. With asbestos? | <input type="checkbox"/> | <input type="checkbox"/> |

18. PAST MEDICAL HISTORY

- | | YES | NO |
|---|--------------------------|--------------------------|
| A. Do you consider yourself to be in good health? | <input type="checkbox"/> | <input type="checkbox"/> |
| If "NO" state reason _____ | | |
| B. Have you any defect in vision? | <input type="checkbox"/> | <input type="checkbox"/> |
| If "YES" state nature of defect _____ | | |
| C. Have you any hearing defect? | <input type="checkbox"/> | <input type="checkbox"/> |
| If "YES" state nature of defect _____ | | |
| D. Are you suffering from or have you ever suffered from: | | |
| a. Epilepsy (or fits, seizures, convulsions)? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Rheumatic fever? | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Kidney disease? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Bladder disease? | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Diabetes? | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Jaundice? | <input type="checkbox"/> | <input type="checkbox"/> |

19. CHEST COLDS AND CHEST ILLNESSES

19A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time) 1. Yes ___ 2. No ___ 3. Don't get colds ___

20A. During the past 3 years, have you had any chest illnesses that have kept you off work, indoors at home, or in bed? 1. Yes ___ 2. No ___

IF YES TO 20A:

B. Did you produce phlegm with any of these chest illnesses? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
 C. In the last 3 years, how many such illnesses with (increased) phlegm did you have which lasted a week or more? Number of illnesses ___ No such illnesses ___

21. Did you have any lung trouble before the age of 16? 1. Yes ___ 2. No ___

22. Have you ever had any of the following?
 1A. Attacks of bronchitis? 1. Yes ___ 2. No ___

IF YES TO 1A:

B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. At what age was your first attack? Age in Years ___ Does Not Apply ___

2A. Pneumonia (include broncho-pneumonia)? 1. Yes ___ 2. No ___

IF YES TO 2A:

B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. At what age did you first have it? Age in Years ___ Does Not Apply ___

3A. Hay Fever? 1. Yes ___ 2. No ___

IF YES TO 3A:

B. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. At what age did it start? Age in Years ___ Does Not Apply ___

23A. Have you ever had chronic bronchitis? 1. Yes ___ 2. No ___

IF YES TO 23A:

B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

D. At what age did it start? Age in years ___ Does Not Apply ___

24A. Have you ever had emphysema? 1. Yes ___ 2. No ___

IF YES TO 24A:

B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

D. At what age did it start? Age in years ___ Does Not Apply ___

25A. Have you ever had asthma? 1. Yes ___ 2. No ___

IF YES TO 25A:

B. Do you still have it? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

C. Was it confirmed by a doctor? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

D. At what age did it start? Age in years ___ Does Not Apply ___

E. If you no longer have it, at what age did it stop? Age stopped ___ Does Not Apply ___

26. Have you ever had:

A. Any other chest illness? 1. Yes ___ 2. No ___
 If yes, please specify _____

B. Any chest operations? 1. Yes ___ 2. No ___
 If yes, please specify _____

C. Any chest injuries? 1. Yes ___ 2. No ___
 If yes, please specify _____

27A. Has a doctor ever told you that you had heart trouble? 1. Yes ___ 2. No ___

IF YES TO 27A:

B. Have you ever had treatment for heart trouble in the past 10 years? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

28A. Has a doctor ever told you that you had high blood pressure? 1. Yes ___ 2. No ___

IF YES TO 28A:

B. Have you had any treatment for high blood pressure (hypertension) in the past 10 years? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

29. When did you last have your chest x-rayed? (Year) _____

25 26 27 28

30. Where did you last have your chest x-rayed (if known)? _____
What was the outcome? _____

FAMILY HISTORY

31. Were either of your natural parents ever told by a doctor that they had a chronic lung condition such as:

Table with columns for FATHER (1. Yes, 2. No, 3. Don't Know) and MOTHER (1. Yes, 2. No, 3. Don't Know). Rows include: A. Chronic Bronchitis?, B. Emphysema?, C. Asthma?, D. Lung cancer?, E. Other chest conditions?, F. Is parent currently alive?, G. Please specify (Age if living, Age at death, Don't know), H. Please specify cause of death.

COUGH

- 32A. Do you usually have a cough? (Count a cough with first smoke or on first going out of doors. Exclude clearing of throat.) (If no, skip to question 32C.) 1. Yes ___ 2. No ___
- B. Do you usually cough as much as 4 to 6 times a day 4 or more days out of the week? 1. Yes ___ 2. No ___
- C. Do you usually cough at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___
- D. Do you usually cough at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF ABOVE (32A, B, C, OR D), ANSWER THE FOLLOWING. IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO NEXT PAGE

- E. Do you usually cough like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
- F. For how many years have you had the cough? Number of years ___ Does Not Apply ___

- 33A. Do you usually bring up phlegm from your chest? (Count phlegm with the first smoke or on first going out of doors. Exclude phlegm from the nose. Count swallowed phlegm.) (If no, skip to 33C) 1. Yes ___ 2. No ___
- B. Do you usually bring up phlegm like this as much as twice a day 4 or more days out of the week? 1. Yes ___ 2. No ___
- C. Do you usually bring up phlegm at all on getting up or first thing in the morning? 1. Yes ___ 2. No ___
- D. Do you usually bring up phlegm at all during the rest of the day or at night? 1. Yes ___ 2. No ___

IF YES TO ANY OF THE ABOVE (33A, B, C, OR D), ANSWER THE FOLLOWING: IF NO TO ALL, CHECK DOES NOT APPLY AND SKIP TO 34A.

- E. Do you bring up phlegm like this on most days for 3 consecutive months or more during the year? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
- F. For how many years have you had trouble with phlegm? Number of years ___ Does Not Apply ___

EPISODES OF COUGH AND PHLEGM

34A. Have you had periods or episodes of (increased*) cough and phlegm lasting for 3 weeks or more each year? 1. Yes ___ 2. No ___
*(For persons who usually have cough and/or phlegm)

IF YES TO 34A:

B. For how long have you had at least 1 such episode per year? Number of years ___ Does Not Apply ___

WHEEZING

35A. Does your chest ever sound wheezy or whistling: 1. Yes ___ 2. No ___
1. When you have a cold? 1. Yes ___ 2. No ___
2. Occasionally apart from colds? 1. Yes ___ 2. No ___
3. Most days or nights? 1. Yes ___ 2. No ___

IF YES TO 1, 2, OR 3 IN 35A:

B. For how many years has this been present? Number of years ___ Does Not Apply ___
36A. Have you ever had an attack of wheezing that has made you feel short of breath? 1. Yes ___ 2. No ___

IF YES TO 36A:

B. How old were you when you had your first such attack? Age in Years ___ Does Not Apply ___
C. Have you had 2 or more such episodes? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
D. Have you ever required medicine or treatment for the(se) attack(s)? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

BREATHLESSNESS

37. If disabled from walking by any condition other than heart or lung disease, please describe and proceed to question 39A. Nature of condition(s) _____

38A. Are you troubled by shortness of breath when hurrying on the level or walking up a slight hill? 1. Yes ___ 2. No ___

IF YES TO 38A:

- B. Do you have to walk slower than people of your age on the level because of breathlessness? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
- C. Do you ever have to stop for breath when walking at your own pace on the level? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
- D. Do you ever have to stop for breath after walking about 100 yards (or after a few minutes) on the level? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
- E. Are you too breathless to leave the house or breathless on dressing or climbing one flight of stairs? 1. Yes ___ 2. No ___ 3. Does Not Apply ___

TOBACCO SMOKING

39A. Have you ever smoked cigarettes? (No means less than 20 packs of cigarettes or 12 oz. of tobacco in a lifetime or less than 1 cigarette a day for 1 year.) 1. Yes ___ 2. No ___

IF YES TO 39A:

- B. Do you now smoke cigarettes (as of one month ago)? 1. Yes ___ 2. No ___ 3. Does Not Apply ___
 - C. How old were you when you first started regular cigarette smoking? Age in Years ___ Does Not Apply ___
 - D. If you have stopped smoking cigarettes completely, how old were you when you stopped? Aged stopped ___ Check if still smoking ___ Does Not Apply ___
 - E. How many cigarettes do you smoke per day now? Cigarettes per day ___ Does Not Apply ___
 - F. On the average of the entire time you smoked, how many cigarettes did you smoke per day? Cigarettes per day ___ Does Not Apply ___
 - G. Do or did you inhale the cigarette smoke? 1. Does Not Apply ___ 2. Not at all ___ 3. Slightly ___ 4. Moderately ___ 5. Deeply ___
- 40A. Have you ever smoked a pipe regularly? (Yes means more than 12 oz. of tobacco in a lifetime.) 1. Yes ___ 2. No ___

IF YES TO 40A:

FOR PERSONS WHO HAVE EVER SMOKED A PIPE

- B. 1. How old were you when you started to smoke a pipe regularly? Age
- 2. If you have stopped smoking a pipe completely, how old were you when you stopped? Age stopped
Check if still smoking pipe
Does Not Apply
- C. On the average over the entire time you smoked a pipe, how much pipe tobacco did you smoke per week? oz. per week (a standard pouch of tobacco contains 1 1/2 oz.)
Does Not Apply
- D. How much pipe tobacco are you smoking now? oz. per week
Not currently
Smoking a pipe
- E. Do you or did you inhale the pipe smoke?
1. Never smoked
2. Not at all
3. Slightly
4. Moderately
5. Deeply
- 41A. Have you ever smoked cigars regularly? (Yes means more than 1 cigar a week for a year) 1. Yes 2. No

IF YES TO 41A:

FOR PERSONS WHO HAVE EVER SMOKED CIGARS

- B. 1. How old were you when you started smoking cigars regularly? Age
 - 2. If you have stopped smoking cigars completely, how old were you when you stopped? Age stopped
Check if still smoking cigars
Does Not Apply
 - C. On the average over the entire time you smoked cigars, how many cigars did you smoke per week? Cigars per week
Does Not Apply
 - D. How many cigars are you smoking per week now? Cigars per week
Check if not smoking cigars currently
 - E. Do or did you inhale the cigar smoke?
1. Never smoked
2. Not at all
3. Slightly
4. Moderately
5. Deeply
- Signature _____ Date _____

Part 2 PERIODIC MEDICAL QUESTIONNAIRE

- 1. NAME _____
- 2. SOCIAL SECURITY #
- 3. CLOCK NUMBER
- 4. PRESENT OCCUPATION _____
- 5. PLANT _____
- 6. ADDRESS _____
- 7. _____ (Zip Code) _____
- 8. TELEPHONE NUMBER _____
- 9. INTERVIEWER _____
- 10. DATE
- 11. What is your marital status? 1. Single 4. Separated/
2. Married Divorced
3. Widowed

12. OCCUPATIONAL HISTORY

- 12A. In the past year, did you work full time (30 hours per week or more) for 6 months or more? 1. Yes 2. No
- IF YES TO 12A:
- 12B. In the past year, did you work in a dusty job? 1. Yes 2. No
3. Does Not Apply
- 12C. Was dust exposure: 1. Mild 2. Moderate 3. Severe
- 12D. In the past year, were you exposed to gas or chemical fumes in your work? 1. Yes 2. No
- 12E. Was exposure: 1. Mild 2. Moderate 3. Severe
- 12F. In the past year, what was your: 1. Job/occupation? _____
2. Position/job title? _____

13. RECENT MEDICAL HISTORY

- 13A. Do you consider yourself to be in good health? Yes No
- If NO, state reason _____
- 13B. In the past year, have you developed:

	<u>Yes</u>	<u>No</u>
Epilepsy?	<input type="checkbox"/>	<input type="checkbox"/>
Rheumatic fever?	<input type="checkbox"/>	<input type="checkbox"/>
Kidney disease?	<input type="checkbox"/>	<input type="checkbox"/>
Bladder disease?	<input type="checkbox"/>	<input type="checkbox"/>
Diabetes?	<input type="checkbox"/>	<input type="checkbox"/>
Jaundice?	<input type="checkbox"/>	<input type="checkbox"/>
Cancer?	<input type="checkbox"/>	<input type="checkbox"/>

14. CHEST COLDS AND CHEST ILLNESS

- 14A. If you get a cold, does it usually go to your chest? (Usually means more than 1/2 the time) 1. Yes 2. No
3. Don't get colds
- 15A. During the past year, have you had any chest illnesses that have kept you off work, indoors at home, or in bed? 1. Yes 2. No
3. Does Not Apply
- IF YES TO 15A:
- 15B. Did you produce phlegm with any of these chest illnesses? 1. Yes 2. No
3. Does Not Apply
- 15C. In the past year, how many such illnesses with (increased) phlegm did you have which lasted a week or more? Number of illnesses
No such illnesses

16. RESPIRATORY SYSTEM

- In the past year have you had:
- | | | | | |
|---|--------------------------|--------------------------|--|--|
| | <u>Yes</u> | <u>No</u> | | <u>Further Comment on Positive Answers</u> |
| Asthma | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Bronchitis | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Hay Fever | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Other Allergies | <input type="checkbox"/> | <input type="checkbox"/> | | |
| | <u>Yes</u> | <u>No</u> | | <u>Further Comment on Positive Answers</u> |
| Pneumonia | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Tuberculosis | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Chest Surgery | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Other Lung Problems | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Heart Disease | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Do you have: | <u>Yes</u> | <u>No</u> | | <u>Further Comment on Positive Answers</u> |
| Frequent colds | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Chronic cough | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Shortness of breath when walking or climbing one flight of stairs | <input type="checkbox"/> | <input type="checkbox"/> | | |

Do you:
 Wheeze _____
 Cough up phlegm _____
 Smoke cigarettes _____ Packs per day _____ How many years _____

Date _____ Signature _____

NEW SECTION

WAC 296-155-185 APPENDIX E—INTERPRETATION AND CLASSIFICATION OF CHEST ROENTGENOGRAMS—MANDATORY. (1) Chest roentgenograms shall be interpreted and classified in accordance with a professionally accepted classification system and recorded on a roentgenographic interpretation form. *Form CSD/NIOSH (M) 2.8.

(2) Roentgenograms shall be interpreted and classified only by a B-reader, a board eligible/certified radiologist, or an experienced physician with known expertise in pneumoconioses.

(3) All interpreters, whenever interpreting chest roentgenograms made under this section, shall have immediately available for reference a complete set of the ILO-U/C International Classification of Radiographs for Pneumoconioses, 1980.

*Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

NEW SECTION

WAC 296-155-187 APPENDIX F—WORK PRACTICES AND ENGINEERING CONTROLS FOR MAJOR ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION OPERATIONS—NONMANDATORY. This is a nonmandatory appendix designed to provide guidelines to assist employers in complying with the requirements of WAC 296-155-175 through 296-155-193. Specifically, this appendix describes the equipment, methods, and procedures that should be used in major asbestos removal projects conducted to abate a recognized asbestos hazard or in preparation for building renovation or demolition. These projects require the construction of negative-pressure temporary enclosures to contain the asbestos material and to prevent the exposure of bystanders and other employees at the worksite. WAC 296-155-17525(7) of the standard requires that " Whenever feasible, the employer shall establish negative-pressure enclosures before commencing asbestos removal, demolition, or renovation operations." Employers should also be aware that, when conducting asbestos removal projects, they may be required under the National Emissions Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Part 61, Subpart M, or EPA regulations under the Clean Water Act.

(1) Introduction. Construction of a negative-pressure enclosure is a simple but time-consuming process that requires careful preparation and execution; however, if the procedures below are followed, contractors should be assured of achieving a temporary barricade that will protect employees and others outside the enclosure from exposure to asbestos and minimize to the extent possible the exposure of asbestos workers inside the barrier as well.

The equipment and materials required to construct these barriers are readily available and easily installed and used. In addition to an enclosure around the removal site, the standard requires employers to provide hygiene facilities that ensure that their asbestos contaminated employees do not leave the worksite with asbestos on their persons or clothing; the construction of these facilities is also described below. The steps in the process of preparing the asbestos removal site, building the enclosure, constructing hygiene facilities, removing the asbestos-containing material, and restoring the site include:

- (a) Planning the removal project;
- (b) Procuring the necessary materials and equipment;
- (c) Preparing the work area;
- (d) Removing the asbestos-containing material;
- (e) Cleaning the work area; and
- (f) Disposing of the asbestos-containing waste.

(2) Planning the removal project. The planning of an asbestos removal project is critical to completing the project safely and cost-effectively. A written asbestos removal plan should be prepared that describes the equipment and procedures that will be used throughout the project. The asbestos abatement plan will aid not only in executing the project but also in complying with the reporting requirements of the USEPA asbestos regulations (40 CFR 61, Subpart M), which call for specific information such as a description of control methods and control equipment to be used and the disposal sites the contractor proposes to use to dispose of the asbestos-containing materials.

The asbestos abatement plan should contain the following information:

- (a) A physical description of the work area;
- (b) A description of the approximate amount of material to be removed;
- (c) A schedule for turning off and sealing existing ventilation systems;
- (d) Personnel hygiene procedures;
- (e) Labeling procedures;
- (f) A description of personal protective equipment and clothing to be worn by employees;
- (g) A description of the local exhaust ventilation systems to be used;
- (h) A description of work practices to be observed by employees;
- (i) A description of the methods to be used to remove the asbestos-containing material;
- (j) The wetting agent to be used;
- (k) A description of the sealant to be used at the end of the project;
- (l) An air monitoring plan;
- (m) A description of the method to be used to transport waste material; and
- (n) The location of the dump site.

(3) Materials and equipment necessary for asbestos removal. Although individual asbestos removal projects vary in terms of the equipment required to accomplish the removal of the material, some equipment and materials are common to most asbestos removal operations. Equipment and materials that should be available at the beginning of each project are: (a) Rolls of polyethylene

sheeting; (b) rolls of gray duct tape or clear plastic tape; (c) HEPA-filtered vacuum(s); (d) HEPA-filtered portable ventilation system(s); (e) a wetting agent; (f) an airless sprayer; (g) a portable shower unit; (h) appropriate respirators; (i) disposable coveralls; (j) signs and labels; (k) preprinted disposal bags; and (l) a manometer or pressure gauge.

(a) and (b) Rolls of polyethylene plastic and tape. Rolls of polyethylene plastic (6 mil in thickness) should be available to construct the asbestos removal enclosure and to seal windows, doors, ventilation systems, wall penetrations, and ceilings and floors in the work area. Gray duct tape or clear plastic tape should be used to seal the edges of the plastic and to seal any holes in the plastic enclosure. Polyethylene plastic sheeting can be purchased in rolls up to twelve to twenty feet in width and up to one hundred feet in length.

(c) HEPA-filtered vacuum. A HEPA-filtered vacuum is essential for cleaning the work area after the asbestos has been removed. Such vacuums are designed to be used with a HEPA (high-efficiency particulate air) filter, which is capable of removing 99.97 percent of the asbestos particles from the air. Various sizes and capacities of HEPA vacuums are available. One manufacturer, Nilfisk of America, Inc.*, produces three models that range in capacity from five and one-quarter gallons to seventeen gallons (see Figure F-1). All of these models are portable, and all have long hoses capable of reaching out-of-the-way places, such as areas above ceiling tiles, behind pipes, etc.

(d) Exhaust air filtration system. A portable ventilation system is necessary to create a negative-pressure within the asbestos removal enclosure. Such units are equipped with a HEPA filter and are designed to exhaust and clean the air inside the enclosure before exhausting it to the outside of the enclosure (see Figure F-2). Systems are available from several manufacturers. One supplier, Micro-Trap, Inc.* has two ventilation units that range in capacity from six hundred cubic feet per minute (CFM) to one thousand seven hundred CFM. According to the manufacturer's literature, Micro-Trap* units filter particles of 0.3 micron in size with an efficiency of 99.99 percent. The number and capacity of units required to ventilate an enclosure depend on the size of the area to be ventilated.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

Figure F-1. HEPA-filtered vacuums

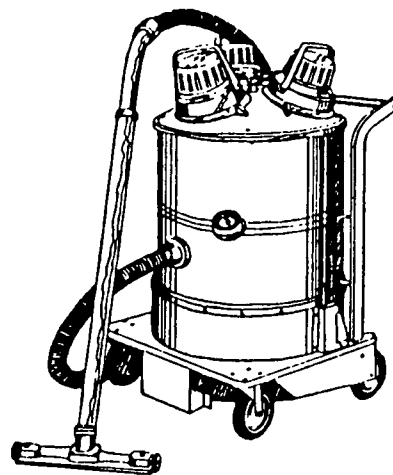
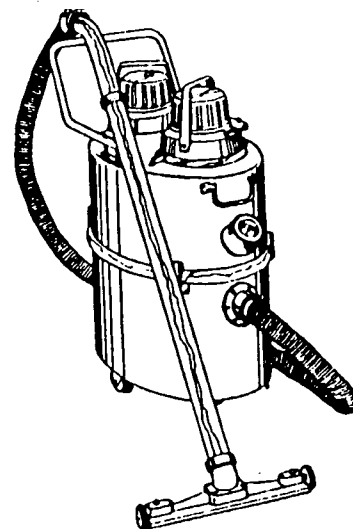
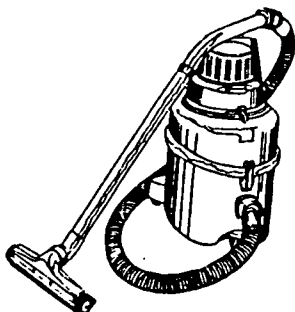
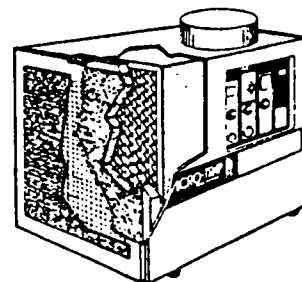


Figure F-2. Portable exhaust ventilation system with HEPA filter



Source: Product Catalog, Asbestos Control Technologies, Inc., Maple Shade, N.J., 1985

(e) Wetting agents. Wetting agents (surfactants) are added to water (which is then called amended water) and used to soak asbestos-containing materials; amended water penetrates more effectively than plain water and permits more thorough soaking of the asbestos-containing materials. Wetting the asbestos-containing material reduces the number of fibers that will break free and become airborne when the asbestos-containing

material is handled or otherwise disturbed. Asbestos-containing materials should be thoroughly soaked before removal is attempted; the dislodged material should feel spongy to the touch. Wetting agents are generally prepared by mixing one to three ounces of wetting agent to five gallons of water.

One type of asbestos, amosite, is relatively resistant to soaking, either with plain or amended water. The work practices of choice when working with amosite-containing material are to soak the material as much as possible and then to bag it for disposal immediately after removal, so that the material has no time to dry and be ground into smaller particles that are more likely to liberate airborne asbestos.

In a very limited number of situations, it may not be possible to wet the asbestos-containing material before removing it. Examples of such rare situations are: (i) Removal of asbestos material from a "live" electrical box that was oversprayed with the material when the rest of the area was sprayed with asbestos-containing coating; and (ii) removing asbestos-containing insulation from a live steam pipe. In both of these situations, the preferred approach would be to turn off the electricity or steam, respectively, to permit wet removal methods to be used. However, where removal work must be performed during working hours, i.e., when normal operations cannot be disrupted, the asbestos-containing material must be removed dry. Immediate bagging is then the only method of minimizing the amount of airborne asbestos generated.

(f) Airless sprayer. Airless sprayers are used to apply amended water to asbestos-containing materials. Airless sprayers allow the amended water to be applied in a fine spray that minimizes the release of asbestos fibers by reducing the impact of the spray on the material to be removed. Airless sprayers are inexpensive and readily available.

(g) Portable shower. Unless the site has available a permanent shower facility that is contiguous to the removal area, a portable shower system is necessary to permit employees to clean themselves after exposure to asbestos and to remove any asbestos contamination from their hair and bodies. Taking a shower prevents employees from leaving the work area with asbestos on their clothes and thus prevents the spread of asbestos contamination to areas outside the asbestos removal area. This measure also protects members of the families of asbestos workers from possible exposure to asbestos. Showers should be supplied with warm water and a drain. A shower water filtration system to filter asbestos fibers from the shower water is recommended. Portable shower units are readily available, inexpensive, and easy to install and transport.

(h) Respirators. Employees involved in asbestos removal projects should be provided with appropriate NIOSH-approved respirators. Selection of the appropriate respirator should be based on the concentration of asbestos fibers in the work area. If the concentration of asbestos fibers is unknown, employees should be provided with respirators that will provide protection against the highest concentration of asbestos fibers that can reasonably be expected to exist in the work area. For all work

within an enclosure, employees should wear supplied air respirators (see WAC 296-155-17535(3)).

(i) Disposable coveralls. Employees involved in asbestos removal operations should be provided with disposable impervious coveralls that are equipped with head and foot covers. Such coveralls are typically made of Tyvek.¹ The coverall has a zipper front and elastic wrists and ankles.

(j) Signs and labels. Before work begins, a supply of signs to demarcate the entrance to the work area should be obtained. Signs are available that have the wording required by the final OSHA standard. The required labels are also commercially available as press-on labels and preprinted on the 6-mil polyethylene plastic bags used to dispose of asbestos-containing waste material.

(4) Preparing the work area. Preparation for constructing negative-pressure enclosures should begin with the removal of all movable objects from the work area, e.g., desks, chairs, rugs, and light fixtures, to ensure that these objects do not become contaminated with asbestos. When objects or surfaces are contaminated or are suspected of being contaminated, they should be vacuumed with a HEPA vacuum and cleaned with amended water, unless they are made of material that will be damaged by the wetting agent; wiping with plain water is recommended in those cases where amended water will damage the object. Before the asbestos removal work begins, objects that cannot be removed from the work area should be covered with a 6-mil-thick polyethylene plastic sheeting that is securely taped with duct tape or plastic tape to achieve an air-tight seal around the object.

(5) Constructing the enclosure. When all objects have either been removed from the work area or covered with plastic, all penetrations of the floor, walls, and ceiling should be sealed with 6-mil polyethylene plastic and tape to prevent airborne asbestos from escaping into areas outside the work area or from lodging in cracks around the penetrations. Penetrations that require sealing are typically found around electrical conduits, telephone wires, and water supply and drain pipes. A single entrance to be used for access and egress to the work area should be selected, and all other doors and windows should be sealed with tape or be covered with 6-mil polyethylene plastic sheeting and securely taped. Covering windows and unnecessary doors with a layer of polyethylene before covering the walls provides a second layer of protection and saves time in installation because it reduces the number of edges that must be cut and taped. All other surfaces such as support columns, ledges, pipes, and other surfaces should also be covered with polyethylene plastic sheeting and taped before the walls themselves are completely covered with sheeting.

Next a thin layer of spray adhesive should be sprayed along the top of all walls surrounding the enclosed work area, close to the wall-ceiling interface, and a layer of polyethylene plastic sheeting should be stuck to this adhesive and taped. The entire inside surfaces of all wall areas are covered in this manner, and the sheeting over the walls is extended across the floor area until it meets in the center of the area, where it is taped to form a single layer of material encasing the entire room except

for the ceiling. A final layer of plastic sheeting is then laid across the plastic-covered floor area and up the walls to a level of two feet or so; this layer provides a second protective layer of plastic sheeting over the floor, which can then be removed and disposed of easily after the asbestos-containing material that has dropped to the floor has been bagged and removed.

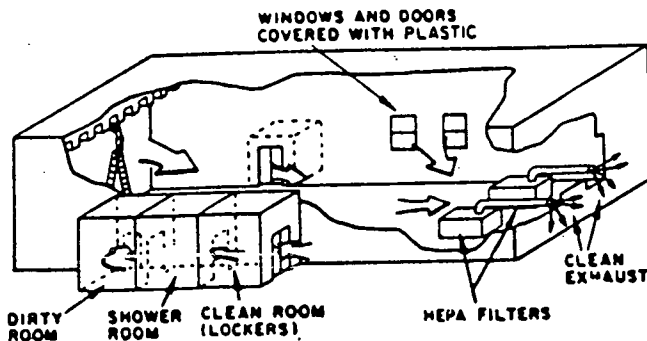
(6) Building hygiene facilities. Paragraph (i) of the final standard mandates that employers involved in asbestos removal, demolition, or renovation operations provide their employees with hygiene facilities to be used to decontaminate asbestos-exposed workers, equipment, and clothing before such employees leave the work area. These decontamination facilities consist of:

- (a) A clean change room;
- (b) A shower; and
- (c) An equipment room.

The clean change room is an area in which employees remove their street clothes and don their respirators and disposable protective clothing. The clean room should have hooks on the wall or be equipped with lockers for the storage of workers' clothing and personal articles. Extra disposable coveralls and towels can also be stored in the clean change room.

The shower should be contiguous with both the clean and dirty change room (see Figure F-3) and should be used by all workers leaving the work area. The shower should also be used to clean asbestos-contaminated equipment and materials, such as the outsides of asbestos waste bags and hand tools used in the removal process.

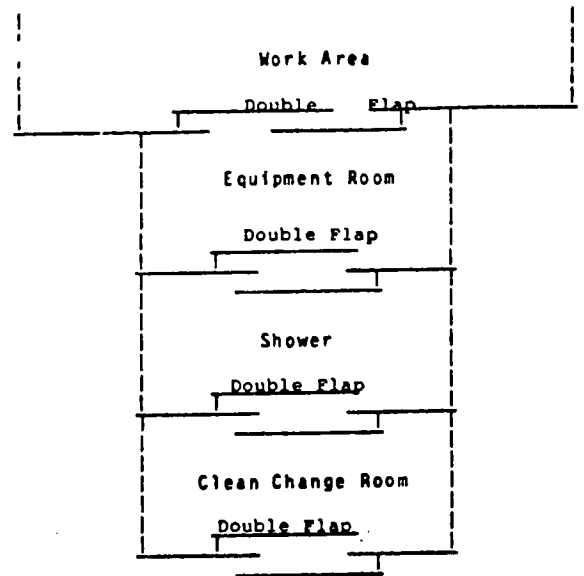
Figure F-3. Cutaway view of enclosure and hygiene facilities



Source: EPA 1985. Asbestos Waste Management Guidance (EPA/530 SW-85-007)

The equipment room (also called the dirty change room) is the area where workers remove their protective coveralls and where equipment that is to be used in the work area can be stored. The equipment room should be lined with 6-mil-thick polyethylene plastic sheeting in the same way as was done in the work area enclosure. Two layers of 6-mil polyethylene plastic sheeting that are not taped together from a double flap or barrier between the equipment room and the work area and between the shower and the clean change room (see Figure F-4).

Figure F-4. Typical hygiene facility layout



When feasible, the clean change room, shower, and equipment room should be contiguous and adjacent to the negative-pressure enclosure surrounding the removal area. In the overwhelming number of cases, hygiene facilities can be built contiguous to the negative-pressure enclosure. In some cases, however, hygiene facilities may have to be located on another floor of the building where removal of asbestos-containing materials is taking place. In these instances, the hygiene facilities can in effect be made to be contiguous to the work area by constructing a polyethylene plastic "tunnel" from the work area to the hygiene facilities. Such a tunnel can be made even in cases where the hygiene facilities are located several floors above or below the work area; the tunnel begins with a double flap door at the enclosure, extends through the exit from the floor, continues down the necessary number of flights of stairs and goes through a double flap entrance to the hygiene facilities, which have been prepared as described above. The tunnel is constructed of two-inch by four-inch lumber or aluminum struts and covered with 6-mil-thick polyethylene plastic sheeting.

In the rare instances when there is not enough space to permit any hygiene facilities to be built at the work-site, employees should be directed to change into a clean disposable worksuit immediately after exiting the enclosure (without removing their respirators) and to proceed immediately to the shower. Alternatively, employees could be directed to vacuum their disposable coveralls with a HEPA-filtered vacuum before proceeding to a shower located a distance from the enclosure.

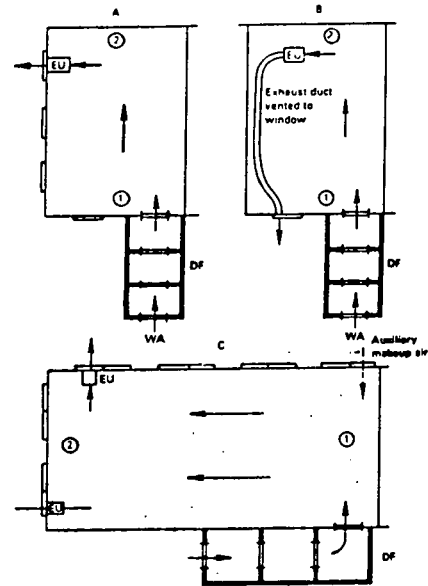
The clean room, shower, and equipment room must be sealed completely to ensure that the sole source of air flow through these areas originates from uncontaminated areas outside the asbestos removal, demolition, or renovation enclosure. The shower must be drained properly

after each use to ensure that contaminated water is not released to uncontaminated areas. If waste water is inadvertently released, it should be cleaned up as soon as possible to prevent any asbestos in the water from drying and becoming airborne in areas outside the work area.

(7) Establishing negative-pressure within the enclosure. After construction of the enclosure is completed, a ventilation system(s) should be installed to create a negative-pressure within the enclosure with respect to the area outside the enclosure. Such ventilation systems must be equipped with HEPA filters to prevent the release of asbestos fibers to the environment outside the enclosure and should be operated twenty-four hours per day during the entire project until the final cleanup is completed and the results of final air samples are received from the laboratory. A sufficient amount of air should be exhausted to create a pressure of -0.02 inches of water within the enclosure with respect to the area outside the enclosure.

These ventilation systems should exhaust the HEPA-filtered clean air outside the building in which the asbestos removal, demolition, or renovation is taking place (see Figure F-5). If access to the outside is not available, the ventilation system can exhaust the HEPA-filtered asbestos-free air to an area within the building that is as far away as possible from the enclosure. Care should be taken to ensure that the clean air is released either to an asbestos-free area or in such a way as not to disturb any asbestos-containing materials.

Figure F-5. Examples of negative pressure systems. DF, decontamination facility; EU, exhaust unit; WA, worker access; A, single-room work area with multiple windows; B, single-room work area with single window near entrance; C, large single-room work area with windows and auxiliary makeup air source (dotted arrow). Arrows denote direction of air flow. Circled numbers indicate progression of removal sequence.



Source: EPA 1985. Guidance for Controlling Asbestos-Containing Materials in Buildings (EPA 560/5-85-024)

A manometer or pressure gauge for measuring the negative pressure within the enclosure should be installed and should be monitored frequently throughout all work shifts during which asbestos removal, demolition, or renovation takes place. Several types of manometers and pressure gauges are available for this purpose.

All asbestos removal, renovation, and demolition operations should have a program for monitoring the concentration of airborne asbestos and employee exposures to asbestos. Area samples should be collected inside the enclosure (approximately four samples for five thousand square feet of enclosure area). At least two samples should be collected outside the work area, one at the entrance to the clean change room and one at the exhaust of the portable ventilation system. In addition, several breathing zone samples should be collected from those workers who can reasonably be expected to have the highest potential exposure to asbestos.

(8) Removing asbestos materials. Employers involved in asbestos removal, demolition, or renovation operations designate a competent person to:

- (a) Set up the enclosure;
- (b) Ensure the integrity of the enclosure;
- (c) Control entry to and exit from the enclosure;
- (d) Supervise all employee exposure monitoring required by this section;

(e) Ensure the use of protective clothing and equipment;

(f) Ensure that employees are trained in the use of engineering controls, work practices, and personal protective equipment;

(g) Ensure the use of hygiene facilities and the observance of proper decontamination procedures; and

(h) Ensure that engineering controls are functioning properly.

The competent person will generally be a certified industrial hygienist, an industrial hygienist with training and experience in the handling of asbestos, or a person who has such training and experience as a result of on-the-job training and experience.

Ensuring the integrity of the enclosure is accomplished by inspecting the enclosure before asbestos removal work begins and prior to each work shift throughout the entire period work is being conducted in the enclosure. The inspection should be conducted by locating all areas where air might escape from the enclosure; this is best accomplished by running a hand over all seams in the plastic enclosure to ensure that no seams are ripped and the tape is securely in place.

The competent person should also ensure that all unauthorized personnel do not enter the enclosure and that all employees and other personnel who enter the enclosure have the proper protective clothing and equipment. He or she should also ensure that all employees and other personnel who enter the enclosure use the hygiene facilities and observe the proper decontamination procedures (described below).

Proper work practices are necessary during asbestos removal, demolition, and renovation to ensure that the concentration of asbestos fibers inside the enclosure remains as low as possible. One of the most important work practices is to wet the asbestos-containing material before it is disturbed. After the asbestos-containing material is thoroughly wetted, it should be removed by scraping (as in the case of sprayed-on or troweled-on ceiling material) or removed by cutting the metal bands or wire mesh that support the asbestos-containing material on boilers or pipes. Any residue that remains on the surface of the object from which asbestos is being removed should be wire brushed and wet wiped.

Bagging asbestos waste material promptly after its removal is another work practice control that is effective in reducing the airborne concentration of asbestos within the enclosure. Whenever possible, the asbestos should be removed and placed directly into bags for disposal rather than dropping the material to the floor and picking up all of the material when the removal is complete. If a significant amount of time elapses between the time that the material is removed and the time it is bagged, the asbestos material is likely to dry out and generate asbestos-laden dust when it is disturbed by people working within the enclosure. Any asbestos-contaminated supplies and equipment that cannot be decontaminated should be disposed of in pre-labeled bags; items in this category include plastic sheeting, disposable work clothing, respirator cartridges, and contaminated wash water.

A checklist is one of the most effective methods of ensuring adequate surveillance of the integrity of the asbestos removal enclosure. Such a checklist is shown in Figure F-6. Filling out the checklist at the beginning of each shift in which asbestos removal is being performed will serve to document that all the necessary precautions will be taken during the asbestos removal work. The checklist contains entries for ensuring that:

- The work area enclosure is complete;
- The negative-pressure system is in operation;
- Necessary signs and labels are used;

Asbestos Removal, Renovation, and Demolition Checklist

Date _____	Location _____		
Supervisor _____	Project # _____		
	Work Area (sq. ft.) _____		
		Yes	No
I. Work site barrier			
	Floor covered	___	___
	Walls covered	___	___
	Area ventilation off	___	___
	All edges sealed	___	___
	Penetrations sealed	___	___
	Entry curtains	___	___
II. Negative air pressure			
	HEPA Vac ___ Ventilation system ___		
	Constant operation	___	___
	Negative pressure achieved	___	___
III. Signs			
	Work area entrance	___	___
	Bags labeled	___	___
IV. Work practices			
	Removed material promptly bagged	___	___
	Material worked wet	___	___
	HEPA vacuum used	___	___
	No smoking	___	___
	No eating, drinking	___	___
	Work area cleaned after completion	___	___
	Personnel decontaminated each departure	___	___
V. Protective equipment			
	Disposable clothing used one time	___	___
	Proper NIOSH-approved respirators	___	___
VII. Showers			
	On site	___	___
	Functioning	___	___
	Soap and towels	___	___
	Used by all personnel	___	___

Figure F-6. Checklist

Appropriate work practices are used;
 Necessary protective clothing and equipment are used;
 and

Appropriate decontamination procedures are being followed.

(9) Cleaning the work area. After all of the asbestos-containing material is removed and bagged, the entire work area should be cleaned until it is free of all visible asbestos dust. All surfaces from which asbestos has been removed should be cleaned by wire brushing the surfaces, HEPA vacuuming these surfaces, and wiping them with amended water. The inside of the plastic enclosure should be vacuumed with a HEPA vacuum and wet

wiped until there is no visible dust in the enclosure. Particular attention should be given to small horizontal surfaces such as pipes, electrical conduits, lights, and support tracks for drop ceilings. All such surfaces should be free of visible dust before the final air samples are collected.

Additional sampling should be conducted inside the enclosure after the cleanup of the work area has been completed. Approximately four area samples should be collected for each five thousand square feet of enclosure area. The enclosure should not be dismantled unless the final samples show asbestos concentrations of less than the action level.

A clearance checklist is an effective method of ensuring that all surfaces are adequately cleaned and the enclosure is ready to be dismantled. Figure F-7 shows a checklist that can be used during the final inspection phase of asbestos abatement, removal, or renovation operations.

Final Inspection of Asbestos Removal, Renovation, and Demolition Projects

Date: _____
Project: _____
Location: _____
Building: _____

CHECKLIST:

Table with 2 columns: Residual dust on: and Yes No. Rows include: a. Floor, b. Horizontal surfaces, c. Pipes, d. Ventilation equipment, e. Horizontal surfaces, f. Pipes, g. Ducts, h. Register, i. Lights.

FIELD NOTES:

Record any problems encountered here.

Blank lines for field notes.

FINAL AIR SAMPLE RESULTS:

Blank lines for final air sample results.

Figure F-7. Clearance Checklist

1 Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

NEW SECTION

WAC 296-155-189 APPENDIX G—WORK PRACTICES AND ENGINEERING CONTROLS FOR SMALL-SCALE, SHORT-DURATION ASBESTOS RENOVATION AND MAINTENANCE OPERATIONS—NONMANDATORY. This appendix

is not mandatory, in that employers may choose to comply with all of the requirements of WISHA's standard for occupational exposure to asbestos during construction activities, WAC 296-155-175 through 296-155-193. However, employers wishing to be exempted from the requirements of WAC 296-155-17525(7) shall comply with the provisions of this appendix when performing small-scale, short-duration renovation or maintenance operations. WISHA anticipates that employers in the electrical, carpentry, utility, plumbing, and interior construction trades may wish to avail themselves of the final standard's exemptions for small-scale, short-duration renovation and maintenance operations.

(1) Definition of small-scale, short-duration operations. For the purposes of this appendix, small-scale, short-duration renovation and maintenance activities are tasks involving less than ten linear feet and less than eleven square feet of material. This means a total of eleven square feet of material whether on flat surfaces or not and includes pipes. Regardless of pipe diameter, runs cannot exceed ten linear feet. The tasks include but are not limited to:

- Removal of asbestos-containing insulation on pipes;
Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
Replacement of an asbestos-containing gasket on a valve;
Installation or removal of a small section of drywall;
Installation of electrical conduits through or proximate to asbestos-containing materials.

Evidence in the record suggests that the use of certain engineering and work practice controls is capable of reducing employee exposures to asbestos to levels below the action level (0.1 f/cc). Several controls and work practices, used either singly or in combination, can be employed effectively to reduce asbestos exposures during small maintenance and renovation operations. These include:

- Wet methods;
Removal methods;
Use of glove bags;
Removal of entire asbestos insulated pipes or structures;
Use of mini-enclosures;
Enclosure of asbestos materials; and
Maintenance programs.

This appendix describes these controls and work practices in detail.

(2) Preparation of the area before renovation or maintenance activities. The first step in preparing to perform a small-scale, short-duration asbestos renovation or maintenance task, regardless of the abatement method that will be used, is the removal from the work area of all objects that are movable to protect them from asbestos contamination. Objects that cannot be removed must be covered completely with a 6-mil-thick polyethylene plastic sheeting before the task begins. If objects have already been contaminated, they should be thoroughly cleaned with a high-efficiency particulate air (HEPA) filtered vacuum or be wet wiped before they are removed from the work area or completely encased in the plastic.

(3) Wet methods. Whenever feasible, and regardless of the abatement method to be used (e.g., removal, enclosure, use of glove bags), wet methods must be used during small-scale, short-duration maintenance and renovation activities that involve disturbing asbestos-containing materials. Handling asbestos materials wet is one of the most reliable methods of ensuring that asbestos fibers do not become airborne, and this practice should therefore be used whenever feasible. Wet methods can be used in the great majority of workplace situations. Only in cases where asbestos work must be performed on live electrical equipment, on live steam lines, or in other areas where water will seriously damage materials or equipment may dry removal be performed. Amended water or another wetting agent should be applied by means of an airless sprayer to minimize the extent to which the asbestos-containing material is disturbed.

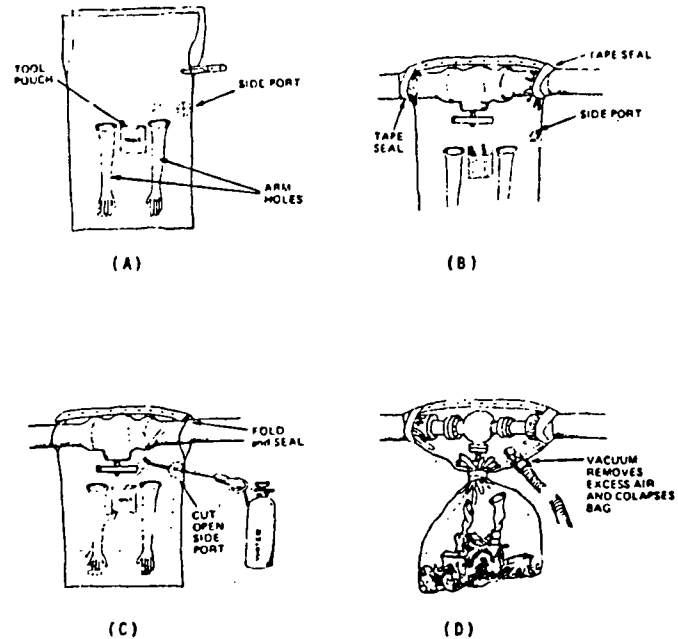
Asbestos-containing materials should be wetted from the initiation of the maintenance or renovation operation and wetting agents should be used continually throughout the work period to ensure that any dry asbestos-containing material exposed in the course of the work is wet and remains wet until final disposal.

(4) Removal of small amount of asbestos-containing materials. Several methods can be used to remove small amounts of asbestos-containing materials during small-scale, short-duration renovation or maintenance tasks. These include the use of glove bags, the removal of an entire asbestos-covered pipe or structure, and the construction of mini-enclosures. The procedures that employers must use for each of these operations if they wish to avail themselves of the final rule's exemptions are described in the following subsections.

(5) Glove bags. The use of glove bags to enclose the work area during small-scale, short-duration maintenance or renovation activities will result in employee exposures to asbestos that are below the action level of 0.1 f/cc. This appendix provides requirements for glove bag procedures to be followed by employers wishing to avail themselves of the standard's exemptions for each activities. WISHA has determined that the use of these procedures will reduce the eight-hour time-weighted average (TWA) exposures of employees involved in these work operations to levels below the action level and will thus provide a degree of employee protection equivalent to that provided by compliance with all provisions of the final rule.

(a) Glove bag installation. Glove bags are approximately forty-inch-wide times sixty-four-inch-long bags fitted with arms through which the work can be performed (see Figure G-1(A)). When properly installed and used, they permit workers to remain completely isolated from the asbestos material removed or replaced inside the bag. Glove bags can thus provide a flexible, easily installed, and quickly dismantled temporary small work area enclosure that is ideal for small-scale asbestos renovation or maintenance jobs.

Figure G-1. Diagrams showing proper use of glove bags in small-scale, short-duration maintenance and renovation operations



These bags are single use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with arms of Tyvek* material (the same material used to make the disposable protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bags come pre-labeled with the asbestos warning label prescribed by WISHA and EPA for bags used to dispose of asbestos waste.

(b) Glove bag equipment and supplies. Supplies and materials that are necessary to use glove bags effectively include:

- (i) Tape to seal the glove bag to the area from which asbestos is to be removed;
- (ii) Amended water or other wetting agents;
- (iii) An airless sprayer for the application of the wetting agent;
- (iv) Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed;
- (v) Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wire, etc.);
- (vi) A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag; and
- (vii) HEPA-equipped dust cartridge respirators for use by the employees involved in the removal of asbestos with the glove bag.

(c) Glove bag work practices. The proper use of glove bags requires the following steps:

(i) Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from the bag that may result from a defect in the bottom seam (Figure G-1(B)).

(ii) The employee who is performing the asbestos removal with the glove bag must don a half-mask dual-cartridge HEPA-equipped respirator; respirators and protective clothing should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.

(iii) The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most glove bags or applied through a small hole cut in the bag) (Figure G-1(C)).

(iv) Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and removed.

A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

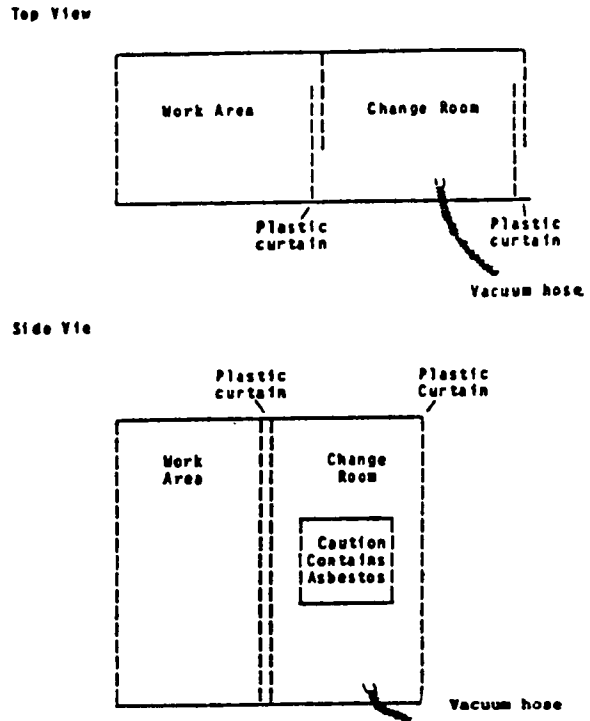
(v) After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wet wiped with a wetting agent until no traces of the asbestos-containing material can be seen.

(vi) Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.

(vii) When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA-filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may

contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly (Figure G-1(D)).

Figure G-2. Schematic of mini-enclosure



(6) Mini-enclosures. In some instances, such as removal of asbestos from a small ventilation system or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a mini-enclosure can be built around the area where small-scale, short-duration asbestos maintenance or renovation work is to be performed (Figure G-2). Such an enclosure should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a mini-enclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

(a) Affixing plastic sheeting to the walls with spray adhesive and tape;

(b) Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls;

(c) Sealing any penetrations such as pipes or electrical conduits with tape; and

(d) Constructing a small change room (approximately three feet square) made of 6-mil-thick polyethylene plastic supported by two-inch by four-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the mini enclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear Tyvek¹ disposable coveralls and use the appropriate HEPA filtered dual cartridge respiratory protection.

The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(7) Removal of entire structures. When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

(8) Enclosure. The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (airtight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or

rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be reopened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

(9) Maintenance program. An asbestos maintenance program must be initiated in all facilities that have asbestos-containing materials. Such a program should include:

- Development of an inventory of all asbestos-containing materials in the facility;

- Periodic examination of all asbestos-containing materials to detect deterioration;

- Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities;

- Written procedures for asbestos disposal; and

- Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

- Information regarding types of asbestos and its various uses and forms;

- Information on the health effects associated with asbestos exposure;

- Descriptions of the proper methods of handling asbestos-containing materials; and

- Information on the use of HEPA-equipped dual cartridge respiratory and other personal protection during maintenance activities.

(10) Prohibited activities. The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

- Not to drill holes in asbestos-containing materials;

- Not to hang plants or pictures on structures covered with asbestos-containing materials;

- Not to sand asbestos-containing floor tile;

- Not to damage asbestos-containing materials while moving furniture or other objects;

- Not to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials;

- Not to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom;

- Not to use an ordinary vacuum to clean up asbestos-containing debris;

- Not to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures;

Not to remove ventilation system filters dry; and
Not to shake ventilation system filters.

* Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

† Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

NEW SECTION

WAC 296-155-191 APPENDIX H—SUBSTANCE TECHNICAL INFORMATION FOR ASBESTOS—NONMANDATORY. (1) Substance identification.

(a) Substance: "Asbestos" is the name of a class of magnesium-silicate minerals that occur in fibrous form. Minerals that are included in this group are chrysotile, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, and actinolite asbestos.

(b) Asbestos, tremolite, anthophyllite, and actinolite are used in the manufacture of heat-resistant clothing, automotive brake and clutch linings, and a variety of building materials including floor tiles, roofing felts, ceiling tiles, asbestos-cement pipe and sheet, and fire-resistant drywall. Asbestos, tremolite, anthophyllite and actinolite are also present in pipe and boiler insulation materials, and in sprayed-on materials located on beams, in crawlspaces, and between walls.

(c) The potential for an asbestos-containing product to release breathable fibers depends on its degree of friability. Friable means that the material can be crumbled with hand pressure and is therefore likely to emit fibers. The fibrous or fluffy sprayed-on materials used for fireproofing, insulation, or sound proofing are considered to be friable, and they readily release airborne fibers if disturbed. Materials such as vinyl-asbestos floor tile or roofing felts are considered nonfriable and generally do not emit airborne fibers unless subjected to sanding or sawing operations. Asbestos-cement pipe or sheet can emit airborne fibers if the materials are cut or sawed, or if they are broken during demolition operations.

(d) Permissible exposure: Exposure to airborne asbestos, tremolite, anthophyllite, and actinolite fibers may not exceed 0.2 fibers per cubic centimeter of air (0.2 f/cc) averaged over the eight-hour workday.

(2) Health hazard data.

(a) Asbestos, tremolite, anthophyllite, and actinolite can cause disabling respiratory disease and various types of cancers if the fibers are inhaled. Inhaling or ingesting fibers from contaminated clothing or skin can also result in these diseases. The symptoms of these diseases generally do not appear for twenty or more years after initial exposure.

(b) Exposure to asbestos, tremolite, anthophyllite and actinolite has been shown to cause lung cancer, mesothelioma, and cancer of the stomach and colon. Mesothelioma is a rare cancer of the thin membrane lining of the chest and abdomen. Symptoms of mesothelioma include shortness of breath, pain in the walls of the chest, and/or abdominal pain.

(3) Respirators and protective clothing.

(a) Respirators: You are required to wear a respirator when performing tasks that result in asbestos, tremolite, anthophyllite, and actinolite exposure that exceeds the permissible exposure limit (PEL) of 0.2 f/cc. These conditions can occur while your employer is in the process of installing engineering controls to reduce asbestos, tremolite, anthophyllite, and actinolite exposure, or where engineering controls are not feasible to reduce asbestos, tremolite, anthophyllite, and actinolite exposure. Air-purifying respirators equipped with a high-efficiency particulate air (HEPA) filter can be used where airborne asbestos, tremolite, anthophyllite and actinolite fiber concentrations do not exceed 0.2 f/cc; otherwise, air-supplied, positive-pressure, full facepiece respirators must be used. Disposable respirators or dust masks are not permitted to be used for asbestos, tremolite, anthophyllite, and actinolite work. For effective protection, respirators must fit your face and head snugly. Your employer is required to conduct fit tests when you are first assigned a respirator and every six months thereafter. Respirators should not be loosened or removed in work situations where their use is required.

(b) Protective clothing: You are required to wear protective clothing in work areas where asbestos, tremolite, anthophyllite, and actinolite fiber concentrations exceed the permissible exposure limit (PEL) of 0.2 f/cc to prevent contamination of the skin. Where protective clothing is required, your employer must provide you with clean garments. Unless you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, your employer must also provide a change room and separate lockers for your street clothes and contaminated work clothes. If you are working on a large asbestos, tremolite, anthophyllite, and actinolite removal or demolition project, and where it is feasible to do so, your employer must provide a clean room, shower, and decontamination room contiguous to the work area. When leaving the work area, you must remove contaminated clothing before proceeding to the shower. If the shower is not adjacent to the work area, you must vacuum your clothing before proceeding to the change room and shower. To prevent inhaling fibers in contaminated change rooms and showers, leave your respirator on until you leave the shower and enter the clean change room.

(4) Disposal procedures and cleanup.

(a) Wastes that are generated by processes where asbestos, tremolite, anthophyllite, and actinolite is present include:

(i) Empty asbestos, tremolite, anthophyllite, and actinolite shipping containers.

(ii) Process wastes such as cuttings, trimmings, or reject materials.

(iii) Housekeeping waste from sweeping or vacuuming.

(iv) Asbestos fireproofing or insulating material that is removed from buildings.

(v) Asbestos-containing building products removed during building renovation or demolition.

(vi) Contaminated disposable protective clothing.

(b) Empty shipping bags can be flattened under exhaust hoods and packed into airtight containers for disposal. Empty shipping drums are difficult to clean and should be sealed.

(c) Vacuum logs or disposable paper filters should not be cleaned, but should be sprayed with a fine water mist and placed into a labeled waste container.

(d) Process waste and housekeeping waste should be wetted with water or a mixture of water and surfactant prior to packaging in disposable containers.

(e) Asbestos-containing material that is removed from buildings must be disposed of in leak-tight 6-mil-thick plastic bags, plastic-lined cardboard containers, or plastic-lined metal containers. These wastes, which are removed while wet, should be sealed in containers before they dry out to minimize the release of asbestos, tremolite, anthophyllite, and actinolite fibers during handling.

(5) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for asbestos. In addition, your employer must instruct you in the proper work practices for handling asbestos-containing materials, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to asbestos. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure, and, if you are exposed above the permissible limit, he or she is required to inform you of the actions that are being taken to reduce your exposure to within the permissible limit.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

NEW SECTION

WAC 296-155-193 APPENDIX I—MEDICAL SURVEILLANCE GUIDELINES FOR ASBESTOS, TREMOLITE, ANTHOPHYLLITE, AND ACTINOLITE—NONMANDATORY. (1) Route of entry. Inhalation, ingestion.

(2) Toxicology. Clinical evidence of the adverse effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite, is present in the form of several well-conducted epidemiological studies of occupationally exposed workers, family contacts of workers, and persons living near asbestos, tremolite, anthophyllite, and actinolite mines. These studies have shown a definite association between exposure to asbestos, tremolite, anthophyllite, and actinolite and an increased incidence of lung cancer, pleural and peritoneal mesothelioma, gastrointestinal cancer, and asbestosis. The latter is a disabling fibrotic lung disease that is caused only by exposure to asbestos. Exposure to asbestos, tremolite, anthophyllite, and actinolite has also been

associated with an increased incidence of esophageal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. As with other known chronic occupational diseases, disease associated with asbestos, tremolite, anthophyllite, and actinolite generally appears about twenty years following the first occurrence of exposure: There are no known acute effects associated with exposure to asbestos, tremolite, anthophyllite, and actinolite.

Epidemiological studies indicate that the risk of lung cancer among exposed workers who smoke cigarettes is greatly increased over the risk of lung cancer among nonexposed smokers or exposed nonsmokers. These studies suggest that cessation of smoking will reduce the risk of lung cancer for a person exposed to asbestos, tremolite, anthophyllite, and actinolite but will not reduce it to the same level of risk as that existing for an exposed worker who has never smoked.

(3) Signs and symptoms of exposure-related disease. The signs and symptoms of lung cancer or gastrointestinal cancer induced by exposure to asbestos, tremolite, anthophyllite, and actinolite are not unique, except that a chest x-ray of an exposed patient with lung cancer may show pleural plaques, pleural calcification, or pleural fibrosis. Symptoms characteristic of mesothelioma include shortness of breath, pain in the walls of the chest, or abdominal pain. Mesothelioma has a much longer latency period compared with lung cancer (forty years versus fifteen to twenty years), and mesothelioma is therefore more likely to be found among workers who were first exposed to asbestos at an early age. Mesothelioma is always fatal.

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Symptoms include shortness of breath, coughing, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. The diagnosis of asbestosis is based on a history of exposure to asbestos, the presence of characteristic radiologic changes, endinspiratory crackles (rales), and other clinical features of fibrosing lung disease. Pleural plaques and thickening are observed on x-rays taken during the early stages of the disease. Asbestosis is often a progressive disease even in the absence of continued exposure, although this appears to be a highly individualized characteristic. In severe cases, death may be caused by respiratory or cardiac failure.

(4) Surveillance and preventive considerations. As noted above, exposure to asbestos, tremolite, anthophyllite, and actinolite has been linked to an increased risk of lung cancer, mesothelioma, gastrointestinal cancer, and asbestosis among occupationally exposed workers. Adequate screening tests to determine an employee's potential for developing serious chronic diseases, such as a cancer, from exposure to asbestos, tremolite, anthophyllite, and actinolite do not presently exist. However, some tests, particularly chest x-rays and pulmonary function tests, may indicate that an employee has been overexposed to asbestos, tremolite, anthophyllite, and actinolite, increasing his or her risk of developing exposure-related chronic diseases. It is important for the physician to become familiar with the operating conditions in which occupational exposure to

asbestos, tremolite, anthophyllite, and actinolite is likely to occur. This is particularly important in evaluating medical and work histories and in conducting physical examinations. When an active employee has been identified as having been overexposed to asbestos, tremolite, anthophyllite, and actinolite, measures taken by the employer to eliminate or mitigate further exposure should also lower the risk of serious long-term consequences.

The employer is required to institute a medical surveillance program for all employees who are or will be exposed to asbestos, tremolite, anthophyllite, and actinolite at or above the action level (0.1 fiber per cubic centimeter of air) for thirty or more days per year and for all employees who are assigned to wear a negative-pressure respirator. All examinations and procedures must be performed by or under the supervision of a licensed physician, at a reasonable time and place, and at no cost to the employee.

Although broad latitude is given to the physician in prescribing specific tests to be included in the medical surveillance program, OSHA requires inclusion of the following elements in the routine examination:

(a) Medical and work histories with special emphasis directed to symptoms of the respiratory system, cardiovascular system, and digestive tract.

(b) Completion of the respiratory disease questionnaire contained in WAC 296-62-07741, Appendix D.

(c) A physical examination including a chest roentgenogram and pulmonary function test that includes measurement of the employee's forced vital capacity (FVC) and forced expiratory volume at one second (FEV₁).

(d) Any laboratory or other test that the examining physician deems by sound medical practice to be necessary.

The employer is required to make the prescribed tests available at least annually to those employees covered; more often than specified if recommended by the examining physician; and upon termination of employment.

The employer is required to provide the physician with the following information: A copy of this standard and appendices; a description of the employee's duties as they relate to asbestos exposure; the employee's representative level of exposure to asbestos, tremolite, anthophyllite, and actinolite; a description of any personal protective and respiratory equipment used; and information from previous medical examinations of the affected employee that is not otherwise available to the physician. Making this information available to the physician will aid in the evaluation of the employee's health in relation to assigned duties and fitness to wear personal protective equipment, if required.

The employer is required to obtain a written opinion from the examining physician containing the results of the medical examination; the physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of exposure-related disease; any recommended limitations on the employee or on the use of personal protective equipment; and a statement that the employee has been informed by the physician of the results of the

medical examination and of any medical conditions related to asbestos, tremolite, anthophyllite, and actinolite exposure that require further explanation or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to exposure to asbestos, tremolite, anthophyllite, and actinolite, and a copy of the opinion must be provided to the affected employee.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-005 TRAINING COURSE CONTENT. An approved basic asbestos course shall consist of at least ~~((30))~~ thirty hours of training. The initial training course shall provide, at a minimum, information on the following topics:

(1) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(2) Examples of different types of asbestos and asbestos containing materials. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(3) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(4) Employee personal protective equipment including the classes and characteristics of respirator types, limitations of respirators, proper selection, inspection, donning, use, maintenance and storage procedure, methods for field checking of the facepiece-to-face seal (positive and negative pressure checks), qualitative and quantitative fit testing procedures, variability between field and laboratory protection factors, factors that alter respirator fit (e.g., eye glasses and facial hair), the components of a proper respiratory protection program, respirator program administrator, requirements on oil lubricated reciprocating piston compressors for breathing air, and selection and use of personal protective clothing.

(5) Use, storage and handling of launderable clothing, nonslip footwear, gloves, eye protection and hard hats.

(6) Medical monitoring procedures and requirements, including the provisions of WAC 296-62-071 through 296-62-07121 and 296-62-07517, any additional recommended procedures and tests, benefits of medical monitoring and employee access to records.

(7) Air monitoring procedures and requirements ~~((including the requirements of WAC 296-62-07517))~~ specified in WAC 296-62-07709 and 296-155-17530, including a description of equipment, sampling methods and strategies, reasons for air monitoring, types of samples, including area, personal and clearance samples, current standards with proposed changes if any, employee observation and notification, recordkeeping and employee access to records, interpretation of air monitoring results, and analytical methods for bulk and air samples.

(8) State-of-the-art work practices for asbestos removal and encapsulation activities including purpose, proper construction and maintenance of barriers and decontamination enclosure systems, posting of warning

signs, electrical and ventilation system lock-out, proper working techniques and tools with vacuum attachments for minimizing fiber release, use of wet methods and surfactants, use of negative pressure ventilation equipment for minimizing employee exposure to asbestos fibers and contamination prevention, scoring and breaking techniques for rigid asbestos products, glove bag techniques, use of HEPA vacuums and proper clean-up and disposal procedures. Work practice requirements for removal, encapsulation, enclosure and repair shall be discussed individually. Appropriate work practices for both indoor and outdoor asbestos projects shall be included.

(9) Personal hygiene including entry and exit procedures for the work area, use of showers and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

(10) Additional safety hazards that may be encountered during asbestos removal and encapsulation activities and hazard abatement; including electrical hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces, noise, and heat stress.

(11) The requirements, procedures and standards established by:

(a) The Environmental Protection Agency, 40 CFR Part 61, Subparts A and M.

(b) Washington state department of ecology.

(c) Local air pollution control agencies.

(d) Washington state department of labor and industries, division of industrial safety and health, chapter 49.17 RCW (Washington Industrial Safety and Health Act), chapter ~~((387, Laws of 1985 (Asbestos removal and encapsulation))~~ 49.17 RCW (Health and safety—Asbestos), and ensuing regulations.

(12) Actual worksite considerations.

(13) The instruction required by this section shall include, at a minimum, hands-on training for the following:

(a) Glove bag techniques;

(b) The opportunity to don respirators including half facepiece and full facepiece air purifying respirators, powered air purifying respirators (PAPR), and Type-C supplied-air respirators. Qualitative or quantitative fit testing shall be performed on each student in accordance with WAC 296-62-071 through 296-62-07121;

(c) Removal and repair of sprayed-on material, troweled-on material and pipe lagging;

(d) Basic construction of a decontamination unit, and proper entry and exit;

(e) Suit-up in protective clothing consisting of coveralls, foot coverings and head coverings.

(14) Asbestos containing materials shall not be used for hands-on training.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-015 TRAINING COURSE CERTIFICATION. Basic and refresher asbestos training courses may be provided by any person, environmental health consulting firm, union, trade association, educational institution, public health organization, individual, governmental agency, or other entity.

(1) Each course shall be evaluated by the department for the breadth of knowledge and experience required to properly train asbestos workers. Course content shall be carefully scrutinized for adequacy and accuracy. Training techniques will be evaluated by the department.

(2) Sponsors of basic and refresher training courses proposed for approval must submit:

(a) Background information about course sponsors;

(b) Course locations and fees;

(c) Copies of course handouts;

(d) A detailed description of course content and the amount of time allotted to each major topic;

(e) A description of teaching methods to be utilized and a list of all audio-visual materials; the department may, in its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the department will be returned to the applicant;

(f) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualifications of each;

(g) A description of student evaluation methods and a copy of the required written examination including the scoring methodology to be used in grading the examination;

(h) A description of course evaluation methods; and

(i) Any restrictions on attendance (language, class size, affiliation, etc.).

(3) Application for training course approval and course materials shall be submitted to the department at least ~~((45))~~ forty-five days prior to the requested approval date. Materials may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, ~~((AX-311))~~ HC-412
~~((814 E. 4th Avenue))~~
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504

(4) Upon approval of a basic or refresher asbestos training course, the department will issue the course sponsor a certificate. The certificate is valid for one year from the date of issuance. Application for renewal must follow the procedures described in subsections (2) and (3) of this section.

(5) To be considered timely, the training course certificate renewal must be received by the department no later than ~~((60))~~ sixty days after the certificate expiration date.

(6) Any changes to a training course must be approved by the department in advance.

(7) The course sponsor shall provide the department with a list of all persons who have completed a basic or refresher training course. The list must be provided no later than ten days after a course is completed and must include the name and address of each trainee.

(8) The course sponsor must notify the department at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(9) A representative of the department may, at the department's discretion, attend a training course as an observer to verify that the training course is conducted in accordance with the program approved by the department.

(10) The department may suspend or revoke the certification of a training course if its sponsor fails to maintain the course content and quality as initially approved.

(11) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the department. To apply for an exception allowing class size to exceed thirty, the course sponsor must submit the following information in writing to the department for evaluation and approval prior to expanding class size beyond thirty participants.

- (a) The class attendance limit;
- (b) The teaching methods and techniques for training the proposed larger class; and
- (c) The protocol for conducting the written examination.

(12) The instructor to student ratio shall not exceed one-to-ten for any of the training required by WAC 296-65-005(13).

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-020 NOTIFICATION REQUIREMENTS. A copy of any notice of intention to demolish or renovate a facility required to be filed with an air pollution control agency in accordance with NESHAP (40 CFR Part 61) shall be sent directly to the department by each person whose employees, if any, are renovating or demolishing any structure. Notices must be received within the same time periods required under NESHAP and may be mailed to:

Asbestos Certification Program
Department of Labor and
Industries, ((~~AX-31th~~)) HC-412
((~~814 E. 4th Avenue~~))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-030 METHODS OF COMPLIANCE. (1) No contractor, employee, or other individual is eligible to work on an asbestos project unless properly issued a certificate by the department, except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.

Note: This exception does not apply to the state of Washington or its political subdivisions.

(2) No person may assign any employee, contract with or permit any individual or person to remove or encapsulate asbestos in any facility unless performed by

a certified asbestos worker except in the case of an asbestos project undertaken by any partnership, firm, corporation or sole proprietorship in its own facility and by its own employees under the direct on-site supervision of a certified asbestos worker.

Note: This exception does not apply to the state of Washington or its political subdivisions.

(3)(a) In cases excepted under subsections (1) and (2) of this section, the partnership, firm, corporation or sole proprietorship shall annually submit a written description to the department which includes at least the following information:

(i) The kinds of asbestos projects expected to be undertaken during a period of time not to exceed one year from the date of submission;

(ii) The procedures to be used in undertaking asbestos projects;

(iii) Methods of compliance with chapters 296-62, 296-65, and ((~~296-62~~)) 296-155 WAC;

(iv) Methods of compliance with any additional procedures required by law for the safe demolition, removal, encapsulation, salvage, and disposal of asbestos; and

(v) The name, address and certification number of the supervising certified asbestos worker.

(b) The written description required by this section shall be submitted to the department prior to commencement of work.

(4) A further written description must be submitted to the department prior to commencing a project, if during the one year period covered by the written description submitted to the department in accordance with WAC 296-65-030(3), previously unidentified or new asbestos projects are proposed.

(5) Written descriptions, shall be mailed to:

Asbestos Certification Program,
Department of Labor and
Industries, ((~~AX-31th~~)) HC-412
((~~814 E. 4th Avenue~~))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 85-30, filed 10/22/85)

WAC 296-65-040 APPEALS—NOTICE AND FILING. (1) Any final correction order issued by the department citing a violation of the provisions of chapter ((~~387, Laws of 1985~~)) 49.26 RCW or this chapter shall only be appealed to the department. Any appeal from such an order shall be communicated in writing to the department within ((~~30~~)) thirty calendar days of receipt of such order by the appealing party.

(2) The written notice of appeal shall indicate:

(a) The specific correction order being appealed;

(b) The name and address of the appealing party;

(c) The grounds upon which the appealing party considers the correction order to be unjust or unlawful;

(d) A statement of the facts asserted in support of each of the grounds for the appeal;

(e) The specific relief sought; and

(f) A statement that the person signing the notice of appeal has read it and to the best of his or her knowledge, information and belief there are good grounds to support the appeal.

(3) The written notice of appeal shall be delivered to:

Asbestos Certification Program
Department of Labor and
Industries, ((AX-31ty)) HC-412
((814 E. 4th Avenue))
805 Plum Street S.E.
P.O. Box 207
Olympia, Washington 98504.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-160 GASES, VAPORS, FUMES, DUSTS, AND MISTS. (1) Exposure of employees to inhalation, ingestion, skin absorption, or contact with any material or substance at a concentration above those specified in the general occupational health standards, WAC 296-62-07515 shall be avoided.

(2) To achieve compliance with subsection (1) of this section, administrative or engineering controls must first be implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in WAC 296-62-07515. Any equipment and technical measures used for this purpose must first be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with WAC 296-155-220.

(3) ~~((Subsections (1) and (2) of this section do not apply to the exposure of employees to airborne asbestos dust. Whenever any employee is exposed to airborne asbestos dust, the requirements of the general occupational health standards, WAC 296-62-07517 shall apply.~~

(4)) Whenever internal combustion equipment exhausts in enclosed spaces, tests shall be made and recorded to ensure that employees are not exposed to unsafe concentrations of toxic gases or oxygen deficient atmospheres. See chapter 296-62 WAC, the general occupational health standards.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-775 PREPARATORY OPERATIONS. (1) Prior to permitting employees to start demolition operations, an engineering survey shall be made, by a competent person, of the structure to determine structural integrity and the possibility of unplanned collapse of any portion of the structure. Any adjacent structure where employees may be exposed shall also be similarly checked. The employer shall have in writing, evidence that such a survey has been performed.

(2) A copy of the survey report and of the plans and/or methods of operations shall be maintained at the job site for the duration of the demolition operation.

(3) Any device or equipment such as scaffolds, ladders, derricks, hoists, etc., used in connection with demolition work shall be constructed, installed, inspected, maintained and operated in accordance with the regulations governing the construction, installation, inspection, maintenance and operation of such device or equipment as specified in other parts of this chapter.

(4) Federal and state codes, safety standards, rules, regulations, and ordinances governing any and all phases of demolition work shall be observed at all times.

(5) Demolition of all buildings and structures shall be conducted under competent supervision, and safe working conditions shall be afforded the employees.

(6) When employees are required to work within a structure to be demolished which has been damaged by fire, flood, explosion, or other cause, the walls or floor shall be shored or braced.

(7) All electric, gas, water, steam, sewer, and other service lines shall be shut off, capped, or otherwise controlled, outside the building line before demolition work is started. In each case, any utility company which is involved shall be notified in advance.

(8) If it is necessary to maintain any power, water or other utilities during demolition, such lines shall be temporarily relocated, as necessary, and protected.

(9) It shall be determined whether asbestos, hazardous materials, hazardous chemicals, gases, explosives, flammable materials, or similarly dangerous substances are present at the work site. When the presence of any such substance is apparent or suspected, testing and removal or purging shall be performed and the hazard eliminated before demolition is started. Removal of such substances shall be in accordance with the requirements of WAC 296-155-175 through 296-155-193 and chapters 296-62 and 296-65 WAC.

(10) Where a hazard exists from fragmentation of glass, such hazards shall be removed.

(11) Where a hazard exists to employees falling through wall openings, the opening shall be protected to a height of between ((36)) thirty-six and ((42)) forty-two inches.

(12) When debris is dropped without the use of chutes, the area onto which the material is dropped shall be completely enclosed with barricades not less than ((42)) forty-two inches high and not less than ((20)) twenty feet back from the projected edge of the opening above. Signs, warning of the hazard of falling materials, shall be posted at each level. Removal shall not be permitted in this lower area until debris handling ceases above.

(13) All floor openings, not used as material drops, shall be covered over with material substantial enough to support the weight of any load which may be imposed. Such material shall be properly secured to prevent its accidental movement.

(14) Except for the cutting of holes in floors for chutes, holes through which to drop materials, preparation of storage space, and similar necessary preparatory work, the demolition of exterior walls and floor construction shall begin at the top of the structure and proceed downward. Each story of exterior wall and floor

construction shall be removed and dropped into the storage space before commencing the removal of exterior walls and floors in the story next below.

(15) Workmen shall not be permitted to carry on a demolition operation which will expose men working on a lower level to danger.

(16) Employee entrances to multistory structures being demolished shall be completely protected by sidewalk sheds or canopies, or both, providing protection from the face of the building for a minimum of ~~((8))~~ eight feet. All such canopies shall be at least ~~((2))~~ two feet wider than the building entrances or openings ~~((1))~~ one foot wider on each side thereof, and shall be capable of sustaining a load of ~~((150))~~ one hundred fifty pounds per square foot.

(17) Protruding nails in boards, planks and timber shall be withdrawn, driven in or bent over as soon as the same is removed from the structure being demolished.

(18) Any material to be removed which will cause dust to be formed, shall be sprinkled with water to lay the dust incidental to its removal.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-62-07517 ASBESTOS.

Note: This standard applies to occupational exposure to nonasbestiform tremolite, anthophyllite, and actinolite during the stay of the revised standards (WAC 296-62-077 through 296-62-07749 and 296-155-175 through 296-155-193).

This standard also applies whenever all or part of the revised standards are rendered unenforceable because of a stay or judicial action. In such a case, to preclude a gap in coverage, parallel provisions of this standard will take effect. The department will publish an appropriate notice announcing each such application of this standard. This standard also applies pursuant to the requirements of WAC 296-62-07701 and 296-155-175.

(1) Definitions. For the purpose of this section, (a) "Asbestos" means chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(b) "Asbestos fibers" means asbestos fibers longer than ~~((5))~~ five micrometers.

(2) Permissible exposure to airborne concentrations of asbestos fibers. (a) The ~~((8-hour))~~ eight-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than ~~((5))~~ five micrometers, per cubic centimeter of air, as determined by the method prescribed in (5) of this section.

(b) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of ~~((10))~~ ten fibers, longer than ~~((5))~~ five micrometers, per cubic centimeter of air, as determined by the method prescribed in (5) of this section.

(3) Methods of compliance. (a) Engineering methods. (i) Engineering controls. Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in (2) of this section.

(ii) Local exhaust ventilation. Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with

the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1971, which is incorporated by reference herein.

(iii) Particular tools. All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in (2) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with ~~((3))~~ (a)(ii) of this ~~((section))~~ subsection.

(b) Work practices. (i) Wet methods. Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in (2) of this section, unless the usefulness of the product would be diminished thereby.

(ii) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in (2) of this section.

(iii) Spraying, demolition, or removal. Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with (4)(b)(iii) of this section and with special clothing in accordance with (4)(c) of this section.

(4) Personal protective equipment. (a) Compliance with the exposure limits prescribed by (2) of this section may not be achieved by the use of respirators or shift rotation of employees except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by (3) of this section.

(ii) In work situations in which the methods prescribed in (3) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by (2) of this section; or

(iii) In emergencies.

(iv) Where both respirators and personnel rotation are allowed by ~~((4))~~ (a)(i), (ii), or (iii) of this ~~((section))~~ subsection, and both are practicable, personnel rotation shall be preferred and used.

(b) Where a respirator is permitted by ~~((4))~~ (a)(i), (ii), or (iii) of this ~~((section))~~ subsection, it shall comply with the applicable provisions of WAC 296-62-071.

(i) Air purifying respirators. A reusable or single use air purifying respirator, or a respirator described in ~~((4))~~ (b)(ii) or (iii) of this ~~((section))~~ subsection shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ~~((ceiling or the 8-hour))~~ eight-hour time-weighted average airborne

concentrations of asbestos fibers are reasonably expected to exceed no more than ~~((+0))~~ ten times those limits.

(ii) Powered air purifying respirators. A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in ~~((+4))~~ (b)(iii) of this ~~((section))~~ subsection, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ~~((ceiling or the 8-hour))~~ eight-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed ~~((+0))~~ ten times, but not ~~((+00))~~ one hundred times, those limits.

(iii) Type "C" supplied-air respirators, continuous flow or pressure-demand class. A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in (2)(a) of this section, when the ~~((ceiling or the 8-hour))~~ eight-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed ~~((+00))~~ one hundred times those limits.

(iv) Establishment of a respirator program. (A) The employer shall establish a respirator program in accordance with the requirements of chapter 296-62 WAC and shall include the respirator protection factors listed in Table 1 of this section.

(B) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such a different position is available.

(c) Special clothing: The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed ~~((the ceiling level))~~ eight-hour time-weighted average airborne concentrations of asbestos fibers prescribed in (2)~~((+b))~~ (a) of this section.

(d) Change rooms: (i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in (2) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) Clothes lockers: The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent contamination of the employee's street clothes from his work clothes.

(iii) Laundering: (A) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in (2) of this section.

(B) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform

such person of the requirement in ~~((+4))~~ (d) of this ~~((section))~~ subsection to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in (2) of this section.

(C) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with (7)(b) of this section.

(5) Method of measurement. All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400-450 X (magnification) ~~((+4))~~ four millimeter objective) with phase contrast illumination.

(6) Monitoring. (a) Initial determinations. Every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in (2) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with (3) of this section.

(b) Personal monitoring. (i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the ~~((8-hour))~~ eight-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by ~~((+6))~~ (a) of this ~~((section))~~ subsection, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than ~~((6))~~ six months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by (2) of this section.

(c) Environmental monitoring. (i) Samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the ~~((8-hour))~~ eight-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by ~~((+6))~~ (a) of this ~~((section))~~ subsection, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than ~~((6))~~ six months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in (2) of this section.

(d) Employee observation of monitoring. Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this ~~((paragraph))~~ subsection and shall have access to the records thereof.

(7) Caution signs and labels. (a) Caution signs. (i) Posting. Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers are reasonably expected to be released or where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in (2) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing airborne asbestos fibers.

(ii) Sign specifications. The warning signs required by ((7)) (a)(i) of this ((section)) subsection shall conform to the requirements of 20" X 14" vertical format signs specified in WAC 296-24-14007(4) and to this subsection. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this subdivision.

Legend	Notation
Asbestos _____	1" Sans Serif, Gothic or Block.
Dust hazard _____	3/4" Sans Serif, Gothic or Block.
Avoid breathing dust _____	1/4" Gothic.
Wear assigned protective equipment _____	1/4" Gothic.
Do not remain in area unless your work requires it _____	1/4" Gothic.
Breathing asbestos dust may be hazardous to your health _____	14 point Gothic.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(b) Caution labels. (i) Labeling. Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers will be released.

(ii) Label specifications. The caution labels required by ((7)) (b)(i) of this ((section)) subsection shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

CAUTION
 Contains Asbestos Fibers
 Avoid Creating Dust
 Breathing Asbestos Dust May Cause
 Serious Bodily Harm

(8) Housekeeping. (a) Cleaning. All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers.

(b) Waste disposal. Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(c) Deterioration. Friable asbestos or friable asbestos containing material which has become damaged or deteriorated shall be contained, treated, or replaced.

(9) Recordkeeping. (a) Exposure records. Every employer shall maintain records of any personal or environmental monitoring required by (6) of this section. Records shall be maintained for a period of at least ((20)) twenty years and shall be made available upon request to the director of the department of labor and industries.

(b) Access. Employee exposure records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(c) Employee notification. Any employee found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in (2) of this section shall be notified in writing of the exposure as soon as practicable but not later than ((5)) five days of the finding. The employee shall also be timely notified of the corrective action being taken.

(10) Medical examinations. (a) General. The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this section.

(b) Preplacement. The employer shall provide or make available to each of his employees, within ((30)) thirty calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination, which shall include, as a minimum, a chest roentgenogram (posterior-anterior ((14 x 17)) fourteen by seventeen inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at ((+) one second (FEV_{1.0})).

(c) Annual examinations. Every employer shall provide or make available on an annual basis, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior-anterior ((14 x 17)) fourteen by seventeen inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at ((+) one second (FEV_{1.0})).

(d) Termination of employment. The employer shall provide, or make available, within ((30)) thirty calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior ((14 x 17)) fourteen by seventeen inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at ((+) one second (FEV_{1.0})).

(e) Recent examinations. No medical examination is required of any employee, if adequate records show that

the employee has been examined in accordance with this subsection within the past (~~(1=year)~~) one-year period.

(f) Medical records. (i) Maintenance. Employers of employees examined pursuant to this subsection shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least (~~(20)~~) twenty years.

(ii) Access. Records of the medical examinations required by this subsection shall be provided upon request to employees, designated representative and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. These records shall also be provided upon request to the director of the department of labor and industries. Any physician who conducts a medical examination required by this subsection shall furnish to the employer of the examined employee all the information specifically required by this subsection, and any other medical information related to occupational exposure to asbestos fibers.

TABLE 1

RESPIRATOR PROTECTION FOR AIRBORNE CONCENTRATIONS OF ASBESTOS

<u>Airborne concentration of asbestos</u>	<u>Required respirator¹</u>
Not in excess of 20 f/cc	Reusable or single use air purifying respirator.
Not in excess of 100 f/cc	Full facepiece air purifying respirator.
Not in excess of 200 f/cc	Powered air purifying respirator.
Greater than 200 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

¹Respirators specified for high concentrations may be used at lower concentrations of asbestos.

WSR 87-10-009
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
 [Memorandum—April 23, 1987]

On March 27, 1987, the board of regents of Washington State University set a schedule for their meetings from July 1, 1987, through June 30, 1988. Listed below are the dates, places, and times for these meetings:

- July 27, 1987 Western Washington Research and Extension Center Puyallup, 8:00 a.m.
- September 10, 1987 Tri-Cities University Center Richland, 8:00 a.m.
- September 11, 1987 Wilson Compton Union Building Pullman, 8:00 a.m.
- October 8, 1987 Wilson Compton Union Building Pullman, 8:00 a.m.
- November 20, 1987 Seattle, at a place to be determined, 8:00 a.m.
- January 22, 1988 Spokane, at a place to be determined, 8:00 a.m.
- March 25, 1988 Wilson Compton Union Building Pullman, 8:00 a.m.
- May 6, 1988 Wilson Compton Union Building Pullman, 8:00 a.m.

June 24, 1988

Wilson Compton Union Building Pullman, 8:00 a.m.

WSR 87-10-010
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed April 27, 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 consolidation of assistance units, amending WAC 388-24-050;

that the agency will at 10:00 a.m., Tuesday, June 9, 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 10, 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 74.12 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 28, 1987. The meeting site is in a location which is barrier free.

Dated: April 27, 1987
 By: Leslie F. James, Director
 Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.
 Re: WAC 388-24-050.

Purpose of the Rule Change: To consolidate assistance units for the aid to families with dependent children (AFDC) program.

Reason These Rules are Necessary: This is a state option, not a federal requirement in accordance with the filing unit provision of the Deficit Reduction Act (DEFRA) of 1984. Current procedures result in inequitable treatment between groups of public assistance recipients.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: All eligible children, sibling and nonsibling, living with one caretaker relative

or married couple are consolidated into a single assistance unit. Reference to work incentive or employment and training programs has been deleted as these are now incorporated into the Washington employment opportunities program.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Sjoerd Kiers, Division of Income Assistance, mailstop OB-31J, phone 753-4915, 234-4915 scan.

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

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. Effective September 1, 1985, AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of certain individuals residing together.

(1) Certain individuals, if living in the family home, must be included in a single assistance unit for determination of eligibility and payment amount; such individuals, except as provided in WAC 388-28-590, shall be included in the assistance unit regardless of their income or resources, and shall be excluded only if ineligible due to factors not related to need. Such ineligible individuals include, but are not limited to:

- (a) Recipients of SSI benefits;
- (b) Aliens not meeting the citizenship and alienage requirements as specified in WAC 388-26-120; and
- (c) Individuals under sanction for noncooperation with the work incentive or Washington employment ~~((and training))~~ opportunities program~~((s))~~ as provided in WAC 388-24-107, or with child support enforcement as provided in WAC 388-24-108 and 388-24-109.

(2) The following individuals, under the conditions specified in subsection (1) of this section, if living in the home, ~~((must))~~ shall be included in a single assistance unit:

- (a) The child or children, including all natural or adoptive full or half brothers or half sisters of such child or children; and
- (b) The natural or adoptive parent or parents, or stepparent or stepparents ~~((with whom the child or children live; or))~~. A minor parent ~~((must))~~ shall be included in the same assistance unit as such minor parent's eligible child or children.

(3) The following individuals, if living in the family home, may be included in a single assistance unit with the eligible child or children at the option of the family:

(a) One needy relative caretaker of specified degree whose eligibility depends solely on caring for the child or children, if a parent or parents do not reside in the family home;

(b) The stepbrothers or stepsisters of a child or children included in the assistance unit; except a stepbrother or stepsister ~~((must))~~ shall be included in the assistance unit as specified in subsection (1) of this section if the assistance unit includes such stepchild's natural or adoptive full or half brother or half sister.

(c) The natural or adoptive parent or parents or stepparent or stepparents of a minor parent, including a parent eighteen years of age and under nineteen years of age as specified in WAC 388-24-040(9), shall have the option of not being included in the assistance unit of the minor parent and minor parent's eligible child; except a minor parent's parent or stepparent shall be included in a single assistance unit with the minor parent and the minor parent's child when the following conditions are met:

(i) The minor parent's parent or stepparent requests assistance as the needy caretaker relative of the minor parent, or the minor parent's child, or the minor parent's full or half brother or half sister; and

(ii) The minor parent is not legally married or has been married and the marriage has been annulled. If a minor parent is legally married, including a minor parent whose marriage has been dissolved due to legal action other than annulment, a separate assistance unit shall be established to include the minor parent, such minor's child, and such minor's spouse if living in the home; and

(iii) The other parent of the minor parent's child does not live in the home. If the other parent lives in the home, a separate assistance unit shall be established to include the minor parent, the other parent, and their child. If the separate assistance unit is ineligible due to factors

not related to need, and the minor parent is not married, the minor parent ~~((must))~~ shall be included as a needy child in the assistance unit of his or her parent or stepparent requesting assistance as specified in subsection (3)(c)(i) of this section.

(4) A single assistance unit shall also be established for:

(a) Only the eligible child or children, including siblings and half-siblings, when:

- (i) The child or children's parent or parents are not eligible; or
- (ii) The child or children live with a nonneedy relative of specified degree not legally responsible for the support of the child or children; or
- (iii) The child or children live with a needy relative of specified degree receiving SSI; or
- (iv) The child or children are recipients of AFDC-FC.

(b) Only the eligible parent or parents, or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI.

(c) Only the woman who is in her third trimester of pregnancy and has no other child or children.

(5) One assistance unit is established for all eligible children, sibling and nonsibling, living with a relative of specified degree, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (2) and (3) of this section.

(6) Two assistance units are necessary when~~((:~~
~~((a)))~~ the responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125~~((:))~~:

~~((+))~~ (a) One assistance unit is maintained for the family members in the home; and

~~((+))~~ (b) A separate assistance unit is established for the relative in training.

~~((b))~~ ~~The child or children live with a nonresponsible relative of specified degree who is a member of another assistance unit.~~

~~((6))~~ (7) Two or more assistance units are necessary when two or more persons not married to each other each has his or her own child or children, and there is no child in common; a separate assistance unit is established for each parent and his or her eligible child or children.

~~((7))~~ ~~When a relative of specified degree is eligible to receive assistance for two or more children for whom he or she is not legally responsible:~~

~~((a))~~ ~~One assistance unit is established for each group of children who are siblings; and~~

~~((b))~~ ~~A separate assistance unit or units is established for each of the other nonsibling children, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (2) and (3) of this section.~~

WSR 87-10-011

ATTORNEY GENERAL OPINION

Cite as: AGO 1987 No. 13

[April 24, 1987]

LEGISLATURE—DEPARTMENT OF GENERAL ADMINISTRATION—ART—ABILITY AND AUTHORITY FOR REMOVAL OF ART IN THE WASHINGTON STATE SENATE CHAMBER

(1) While the Washington State Senate may request removal of artwork in the Senate Chamber, the actual removal is subject to the approval and cooperation of the Department of General Administration.

(2) Minimal risk of financial exposure would exist if the artwork in the Senate Chamber is removed in accordance with the applicable statutory provision.

(3) It is the responsibility of the Department of General Administration to determine whether and where the artwork can be hung following removal from the Senate Chamber.

(4) We find no basis to support the granting of injunctive relief to prevent removal of the artwork in the Senate Chamber under the contract between the Department of General Administration and the artist.

Requested by:

Honorable Jim McDermott
State Senator, 43rd District
105 John A. Cherberg Building
Olympia, Washington 98504

Honorable Phil Talmadge
State Senator, 34th District
432 John A. Cherberg Building
Olympia, Washington 98504

WSR 87-10-012

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 87-4—Filed April 28, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to general definitions and rules of construction, chapter 392-100 WAC.

This action is taken pursuant to Notice No. WSR 87-07-027 filed with the code reviser on March 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 28A.03-.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 27, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

NEW SECTION

WAC 392-100-050 AGENCY ABBREVIATIONS. As used in Title 392 WAC, the abbreviation:

- (1) "SPI" means the superintendent of public instruction;
- (2) "SBE" means the state board of education;
- (3) "ESD" means an educational service district;
- (4) "DSHS" means the department of social and health services.

NEW SECTION

WAC 392-100-060 OTHER ABBREVIATIONS. As used in Title 392 WAC, the abbreviation:

- (1) "FTE" means full time equivalent;
- (2) "RAP" means remediation assistance program.

WSR 87-10-013

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 87-5—Filed April 28, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Superintendent of Public Instruction—Administrative practices and procedures, chapter 392-101 WAC.

This action is taken pursuant to Notice No. WSR 87-07-026 filed with the code reviser on March 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 28A.03-.500 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 27, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

NEW SECTION

WAC 392-101-010 CONDUCT OF ADMINISTRATIVE HEARINGS. The superintendent of public instruction hereby assigns the following administrative hearings to the office of administrative hearings and hereby delegates to the administrative law judge conducting any such hearing the authority to render the final decision by the superintendent of public instruction:

- (1) Nonresident transfer appeals pursuant to WAC 392-137-055(2).
- (2) Special education hearings pursuant to WAC 392-171-531.
- (3) Equal educational opportunity complaints pursuant to WAC 392-190-075.
- (4) Professional certification appeals pursuant to WAC 180-75-030.

WSR 87-10-014

ADOPTED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 87-6—Filed April 28, 1987]

I, Frank B. Brouillet, Superintendent of Public Instruction, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Finance—Nonresidence attendance, chapter 392-137 WAC.

This action is taken pursuant to Notice No. WSR 87-07-028 filed with the code reviser on March 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 28A.03-.500 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 27, 1987.

By Frank B. Brouillet
Superintendent of Public Instruction

AMENDATORY SECTION (Amending Order 83-11, filed 8/18/83)

WAC 392-137-060 HEARING. The hearing provided for in WAC 392-137-055(2) shall be conducted in compliance with chapter 392-101 WAC ((and the state Administrative Procedure Act, chapter 34.04 RCW. In the event the appeal (i.e., hearing) is conducted before the superintendent's designee, the entire record as required by RCW 34.04.090 (4) and (5), together with the proposed findings of fact, proposed conclusions of law, and proposed order of the designee, shall be presented to and reviewed by the superintendent of public instruction. The provisions of RCW 34.04.110 shall be applicable to review by the superintendent of public instruction and shall be so noted within the designee's written opinion. The superintendent of public instruction may reject, modify, or accept any portion or all of the proposed findings of fact, proposed conclusions of law, and proposed order following his or her review of the entire record. The decision of the superintendent, in such cases, shall be final and shall terminate the proceeding)).

WSR 87-10-015
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
[Filed April 28, 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 licensing program fees, amending chapter 440-44 WAC;

that the agency will at 10:00 a.m., Tuesday, June 9, 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 10, 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 June 9, 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 28, 1987. The meeting site is in a location which is barrier free.

Dated: April 27, 1987
By: Leslie F. James, Director
Administrative Services

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amending WAC 440-44-040, 440-44-045, 440-44-048, 440-44-070, 440-44-075, 440-44-076 and 440-44-100.

Purpose of the Rule Changes: To update the license fees based on the annual cost study.

Reason the Changes are Necessary: To generate revenue to cover the costs incurred in issuing the licenses.

Statutory Authority: RCW 43.20A.055.

Summary of Rule Changes: Adjust medical facilities and boarding homes licensing fees; revise the fees for wastewater disposal systems; add a water system compliance report fee; revise the swimming pool projects title to water recreational facility projects and add fees for certain projects/facilities; adjust transient accommodation license fees, add a prorated license fee schedule, and add a fee for feasibility studies; revise the fees for health and sanitation surveys of Washington state institutions and facilities; and revise the labor camp certificate of occupancy fees.

Person Responsible for Drafting, Implementation and Enforcement of the Rules: Richard Jones, Program Fiscal Manager, Division of Health, mailstop ET-38, phone 753-3934.

Rule changes proposed by DSHS.

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

The fees established by these regulations are assessed based on the dollar value of the application being reviewed. Since the fees are determined by the dollar value of the project rather than the size of the organization making the application, there is not a disproportionate impact between small and large businesses. In addition, it is anticipated that review activity will be minimal to nonexistent for those businesses with less than 50 employees.

AMENDATORY SECTION (Amending Order 2384, filed 6/3/86)

WAC 440-44-040 MEDICAL FACILITIES AND BOARDING HOMES LICENSING FEES. (1) Hospitals: The annual fee shall be ((sixteen)) nineteen dollars ((and fifty cents)) for each bed space within the licensed bed capacity of the hospital. The licensed bed capacity of a hospital shall include all bed spaces in rooms in compliance

with the physical plant and movable equipment requirements of chapter 248-18 WAC for twenty-four hour assigned patient rooms including neonatal intensive care bassinets spaces. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirements of chapter 248-18 WAC but not containing the required movable equipment, ~~((with))~~ shall be included in the licensed bed capacity: PROVIDED, That the hospital certifies to the department the hospital currently possesses the required movable equipment. The licensed bed capacity shall exclude all normal infant bassinets. The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a hospital shall not exceed the hospital's licensed bed capacity.

(2) Private psychiatric hospitals: The annual fee shall be twenty-seven dollars for each bed space within the licensed bed capacity of the private psychiatric hospital. The licensed bed capacity of a private psychiatric hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. Bed spaces not used for twenty-four hour assigned patient use, in compliance with the physical plant requirement of chapter 248-22 WAC but not containing the required movable equipment, will be included in the licensed bed capacity: PROVIDED, That the private psychiatric hospital certifies to the department the private psychiatric hospital currently possesses the required movable equipment.

The number of licensed bed spaces shall be limited in accordance with decisions made under chapter 70.38 RCW, and bed additions subsequent to the establishment of each private psychiatric hospital's licensed bed capacity by the department shall be subject to review under chapter 70.38 RCW. The number of twenty-four hour assigned patient beds set up in a private psychiatric hospital shall not exceed the private psychiatric hospital's licensed bed capacity.

(3) Alcoholism hospitals: The annual fee shall be ~~((fifteen))~~ twenty dollars for each bed space within the licensed bed capacity of the alcoholism hospital. The licensed bed capacity of an alcoholism hospital shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism hospital shall not exceed the alcoholism hospital's licensed bed capacity.

(4) Alcoholism treatment facilities: The annual fee shall be ~~((eleven))~~ twelve dollars and fifty cents for each bed space within the licensed bed capacity of the alcoholism treatment facility. The licensed bed capacity of an alcoholism treatment facility shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-22 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in an alcoholism treatment facility shall not exceed the alcoholism treatment facility's licensed bed capacity.

(5) Boarding homes: The annual fee shall be ~~((twelve))~~ thirteen dollars times the licensed resident capacity of the boarding home. The licensed resident capacity is the capacity determined by the boarding home and approved by the department. The licensed resident capacity shall be consistent with the physical plant and movable equipment requirements of chapter 248-16 WAC for resident sleeping rooms. The number of residents in a boarding home shall not exceed the licensed resident capacity of the boarding home. The term "resident" as used herein is defined in WAC 248-16-001.

(6) Residential treatment facilities for psychiatrically impaired children and youth: The annual fee shall be fifty-two dollars for each bed space within the licensed bed capacity of the residential treatment facility for psychiatrically impaired children and youth. The licensed bed capacity of a residential treatment facility for psychiatrically impaired children and youth shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-23 WAC for client sleeping rooms. The number of beds set up in a residential treatment facility for psychiatrically impaired children

and youth shall not exceed the residential treatment facility for psychiatrically impaired children and youth licensed bed capacity.

(7) Pregnancy termination facilities: The annual fee for licensing and certification of facilities for induction or termination of pregnancy in the second trimester shall be two hundred fifty dollars.

(8) Child birth centers: The annual fee shall be ~~((four))~~ five hundred dollars: PROVIDED, That no fee shall be required of charitable, nonprofit or government-operated institutions (as required by RCW 18.46.030).

(9) Residential treatment and rehabilitation facilities for psychiatrically impaired adults: The annual fee shall be ~~((thirty-five))~~ fifty dollars for each bed space within the licensed bed capacity of the residential treatment and rehabilitation facility for psychiatrically impaired adults. The licensed bed capacity of a residential treatment and rehabilitation facility for psychiatrically impaired adults shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-25 WAC for client sleeping rooms. The number of beds set up in a residential treatment and rehabilitation facility for psychiatrically impaired adults shall not exceed the residential treatment and rehabilitation facility for psychiatrically impaired adults licensed bed capacity.

(10) Hospice care centers: Each application for a license shall be accompanied by a license fee of ~~((fifteen))~~ three hundred dollars ~~((and fifty cents for each bed space within the licensed bed capacity of the hospice care center. The licensed bed capacity shall include all bed spaces in rooms in compliance with the physical plant and movable equipment requirements of chapter 248-21 WAC for twenty-four hour assigned patient rooms. The number of twenty-four hour assigned patient beds set up in a hospice care center shall not exceed the hospice care center's licensed bed capacity)).~~

(11) Hospice agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be three hundred dollars.

(12) Home health agencies: The annual fee for each facility certified under chapter 70.126 RCW shall be three hundred dollars.

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-045 ~~((LARGE ON-SITE SEWAGE))~~ WASTE-WATER DISPOSAL SYSTEM PROJECT AND RELATED REVIEW FEES. (1) The minimum fee for required review of ~~((a new system preliminary))~~ larger on-site system's engineering reports and plans and specifications shall be ~~((three))~~ four hundred dollars. If review time exceeds eight hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee. The fee for pre-site inspections for larger on-site systems shall be one hundred dollars per visit. The fee for final inspection of larger on-site systems shall be one hundred dollars per site visit.

(2) The minimum fee for required review of ((new system plans and specifications)) proprietary devices shall be ((five)) two hundred dollars. If review time exceeds four hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee.

(3) The minimum fee for required review of ((repair or replacement of an existing)) experimental systems shall be ((one)) four hundred ((fifty)) dollars ((for the engineering report and two hundred fifty dollars for plans and specifications)). If review time exceeds eight hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee.

(4) The minimum fee for required review of land application of municipal wastewater shall be two hundred dollars. If review time exceeds four hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee.

(5) The minimum fee for required review of comprehensive sewer plans shall be two hundred dollars. If review time exceeds four hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee.

(6) The minimum fee for required written approval and certification of necessity shall be two hundred dollars. If review time exceeds four hours, fifty dollars for each additional hour or part of an hour shall be added to the minimum fee.

AMENDATORY SECTION (Amending Order 1980, filed 6/30/83)

WAC 440-44-048 WATER SYSTEM PROJECT REVIEW AND APPROVAL FEES. (1) The review and approval fees for planning, engineering, and construction documents required under chapters 248-54 and 248-56 WAC shall be as follows:

(a) Water system plans

Project Type	Class 4	Class 2 & 3	Class 1	
			100 To 999 Services	1,000 or More Services
Water system plan	No Plan Required	No Plan Required	500.00	1,000.00
Water system plan letter update or coordinated water system plan or water system planning questionnaire	No Fee	No Fee	No Fee	No Fee

(b) Project engineering reports

Project Type	Class 4	Class 2 & 3	Class 1	
			100 To 999 Services	1,000 or More Services
All types of filtration or other complex treatment processes	250.00	500.00	1,000.00	1,500.00
Chemical addition for corrosion control, or Fe and Mn control	No Report Required	No Report Required	300.00	500.00
Disinfection or fluoridation when no other process is involved	No Report Required	No Report Required	100.00	200.00
Complete water system which requires a detailed report to show how it will meet standards and regulations and operate properly	No Report Required	No Report Required	400.00	700.00
Major system modifications such as source, storage, or transmission, which change the system enough to require a detailed report to show how it will meet the regulations	100.00	200.00	300.00	500.00

(c) Project plans and specifications

Project Type	Class 4	Class 2 & 3	Class 1	
			100 To 999 Services	1,000 or More Services
All types of filtration or other complex treatment processes	250.00	500.00	1,000.00	1,500.00
Chemical addition for corrosion control or Fe and Mn control or disinfection or fluoridation when no other treatment process is involved	100.00	150.00	300.00	400.00
Complete water system which has not and will not be constructed prior to approval	200.00	400.00	600.00	800.00
New source of supply for an existing water system	150.00	200.00	300.00	400.00

Project Type	Class 1			
	Class 4	Class 2 & 3	100 To 999 Services	1,000 or More Services
Standard plans and specifications for water line installation, or booster pump station, or storage reservoir, or transmission/distribution water lines	100.00	150.00	200.00	300.00
Well-site approval including the site inspection and hydro-geologic information review	100.00	100.00	100.00	100.00
Water system compliance report	75.00	75.00	75.00	75.00

(2) Additional review and approval fees may be assessed as follows:
 (a) The basic fee covers services through the second review letter. If additional services or submittals are required for an approval to be made, an additional twenty-five percent of the original fee will be assessed for each subsequent service or review.
 (b) Fees for approval of as-built plans and specifications for water system projects which were constructed without written approval, shall be twice the amount shown in subsection (1)(c) of this section.

AMENDATORY SECTION (Amending Order 1825, filed 6/4/82)

WAC 440-44-070 ((~~SWIMMING POOL~~)) WATER RECREATIONAL FACILITY PROJECTS((~~, PUBLIC AND SEMIPUBLIC PLAN REVIEW FEES~~)). (1) The fee for a review of plans for a new public swimming pool((s)) with a volume equal to or greater than one hundred twenty-five thousand gallons at overflow shall be five hundred dollars.

(2) The fee for review of ((plans for)) a new public swimming pool((s)) with a volume of less than one hundred twenty-five thousand gallons at overflow shall be three hundred dollars.

(3) The fee for review of plans for a new semipublic ((pools)) swimming pool with a volume equal to or greater than seventy-five thousand gallons at overflow shall be ((one)) two hundred ((fifty)) dollars.

(4) The fee for review of plans for ((repair or modification of existing pools in accordance with subsection (1), (2), or (3) of this section)) a new semipublic swimming pool with a volume of less than seventy-five thousand gallons at overflow shall be ((one-half of the fee for review of new projects)) one hundred fifty dollars.

(5) The fee for review of plans for a wading pool shall be one hundred dollars.

(6) The fee for review of plans for a spray pool shall be seventy-five dollars.

(7) The fee for review of plans for alteration or modification of an existing swimming, wading, or spray pool in accordance with subsection (1), (2), (3), (4), (5), or (6) of this section shall be the total of actual direct and indirect costs, not to exceed one-half of the fee for review of a new project.

(8) In water recreational facilities with any combination of more than one swimming pool and/or wading pool and/or spray pool, the review fee shall be the highest applicable fee specified in subsection (1), (2), (3), (4), (5), or (6) of this section plus one-half of each lowest applicable fee or fees specified for each attraction in the facility.

(9) The fee for plan review of a new recreational water contact facility containing a single attraction shall be two hundred dollars plus the safety engineer reviewer's cost as billed.

(10) The fee for plan review of a new recreational water contact facility containing more than one attraction shall be two hundred dollars plus the cost of the safety engineer reviewer's cost as billed plus seventy-five dollars for each attraction.

(11) The fee for review of plans for alterations or modifications of an existing recreational water contact facility shall be the total of direct and indirect costs, not to exceed one-half of the fee for review of a new project.

(12) The annual fee for an operating permit for a recreational water contact facility containing one attraction shall be one hundred seventy-five dollars.

(13) The annual fee for an operating permit for a recreational water contact facility containing more than one attraction shall be one hundred seventy-five dollars for the first attraction plus fifty dollars for each additional attraction up to a maximum fee of three hundred twenty-five dollars.

(14) The department may charge an additional fee of fifty dollars plus associated laboratory costs for inspections beyond those provided under the annual operating permit when necessary due to violations of such items as:

- (a) Noncompliance with water quality standards, and
- (b) Failure to comply with operational requirements for health and safety.

AMENDATORY SECTION (Amending Order 2236, filed 5/31/85)

WAC 440-44-075 TRANSIENT ACCOMMODATIONS LICENSING AND INSPECTION FEES. (1) For licensing periods starting on or after ((July 1, 1985)) July 1, 1987, the annual license and survey fee ((including the cost of inspections)) shall be:

Size of Facility (No. of Rooms)	License Fee
3-((24))14	\$ 80
((25-49))15-29	\$((+30))140
30-49	\$170
50-74	\$((+80))220
75-99	\$((240))290
100-199	\$370
((+100))200 or more	\$((305))420

(2) The fee for new facilities constructed during the year shall be prorated as shown below based upon the date of application.

(3) The fee for a change in ownership of a facility shall be prorated as shown below based upon the effective date of the ownership change.

Size of Facility (No. of Rooms)	Prorated License Fee											
	J	F	M	A	M	J	J	A	S	O	N	D
3 - 14	80	71	65	58	52	45	39	32	26	19	13	6
15 - 29	140	132	120	108	96	84	72	60	48	36	24	12
30 - 49	170	154	140	126	112	98	84	70	56	42	28	14
50 - 74	220	198	180	162	144	126	108	90	72	54	36	18
75 - 99	290	264	240	216	192	168	144	120	96	72	48	24
100 - 199	370	341	310	279	248	217	186	155	124	93	62	31
200 or more	420	385	350	315	280	245	210	175	140	105	70	35

(4) Persons planning to convert an existing structure to a transient accommodation shall:

- (a) Request a feasibility survey by the department to determine modifications required to meet chapter 248-144 WAC, and
- (b) Pay a nonrefundable fee of twenty-five dollars for the department conducted feasibility survey.

AMENDATORY SECTION (Amending Order 2238, filed 6/7/85)

WAC 440-44-076 ((ENVIRONMENTAL)) HEALTH ((INSPECTION)) AND SANITATION SURVEY FEE ((OF STATE))

FOR ((INSTITUTIONS;)) COMMUNITY COLLEGES, FERRIES, AND OTHER STATE OF WASHINGTON INSTITUTIONS AND FACILITIES. Starting ((July 1, 1985)) July 1, 1987, an annual ((environmental)) health ((inspection)) and sanitation survey fee shall be assessed as follows:

Annual Fee Per Facility

- (1) Food Service
 - (a) ((Food service establishments)) As defined in WAC 248-84-002(11) food service establishments or concessions in community colleges, ferries, or any other state of Washington facility preparing potentially hazardous foods. This shall ((also)) include dockside food establishments directly providing food for the Washington state ferry system. Annual Fee Per Facility \$ ((170))200
 - (b) ((State park)) Food service establishments or concessions ((which)) that do not prepare potentially hazardous foods ((shall be charged seventy-five dollars)). Annual Fee Per Facility \$ 100
 - (c) The ((environmental)) health ((inspection)) and sanitation survey fee referenced in subsection (a) and (b) of this ((subsection fee)) section may be waived provided there is an agreement between the department of social and health services and the local jurisdictional ((local)) health agency for ((it)) the local health agency to conduct the food service establishments ((inspections)) surveys.
- (2) State institutions or facilities.
 - (a) ((400 or more rated bed capacity)) ~~Washington Corrections Center Washington State Penitentiary Washington State Reformatory McNeil Island Corrections Center Twin Rivers Corrections Center Chatham Bay Corrections Center~~ Institutions or facilities operating a food service: The annual fee shall be three dollars and fifty cents times the rated capacity plus two hundred dollars. Rated bed capacity shall mean the recommended maximum number of beds in an institution or facility. Annual Fee Per Facility \$2,100
 - (b) ((399-190 rated bed capacity)) ~~Purdy Treatment Center for Women State School for Deaf Washington Soldiers Home Washington Veterans Home Olympic Corrections Center~~ Institutions or facilities that do not operate a food service: The annual fee shall be three dollars and fifty cents times the rated bed capacity. Annual Fee Per Facility \$1,000
 - ((c)) ~~189-90 rated bed capacity~~ Echo Glen Childrens Center Special Offenders Center (Monroc) Larch Corrections Center Cedar Creek Corrections Maple Lane School Green Hill School Indian Ridge Treatment Center Tacoma Work/Training Release Geiger Work/Training Release (Spokane) Annual Fee Per Facility \$ 500

- Naselle Youth Camp
- (d) ~~89 or less rated bed capacity~~ State School for the Blind Washington State Patrol Academy Mission Creek Youth Camp Firland Corrections Center Pine Lodge Corrections Center Canyon View Group Home Woodinville Group Home Ridgeview Group Home Oakridge Group Home Park Creek Group Home Sunrise Group Home Twin Rivers Group Home Annual Fee Per Facility \$ 300
- (e) Any new institution of the Washington department of corrections, department of social and health services, division of developmental disabilities not inspected by the bureau of nursing home affairs, department of social and health services, or division of juvenile rehabilitation, or department of veterans affairs shall be assessed an appropriate annual fee based on the rated bed capacity:)

AMENDATORY SECTION (Amending Order 2342, filed 2/19/86)

WAC 440-44-100 LABOR CAMP CERTIFICATE OF OCCUPANCY FEES. ((A labor camp regulated by the department pursuant to chapter 248-63 WAC shall be assessed a fee on an annual basis. Upon payment of said fee, an annual labor camp certificate of occupancy shall be issued by the department provided all other requirements of chapter 248-63 WAC are met. The annual fee is due with application for initial certification or renewal. The annual fee for a certificate of occupancy for a labor camp shall be a flat fee of fifty-five dollars plus two dollars per each dwelling unit of six through one hundred units and one dollar per each dwelling unit in excess of one hundred units, provided that for fee purposes only, a space provided exclusively to accommodate a temporary worker supplied shelter shall not be considered a dwelling unit. A building or a part of a building intended for occupancy by one family or one tenant shall constitute a separate dwelling unit. Each seventy square feet of gross floor space in a dormitory shall constitute one dwelling unit. A labor camp with dwelling units or clusters of units at separate locations, each location having its own support facilities, shall be assessed a fee of fifty-five dollars per location plus two dollars per dwelling unit in excess of a cumulative total of five units when any two locations are located greater than five miles apart. The labor camp having less than five dwelling units at each and every location, regardless of the distance between the locations, shall be subject to only the flat fee of fifty-five dollars plus two dollars per dwelling unit in excess of five:))

Starting July 1, 1987, an annual survey and certificate of occupancy fee shall be assessed as follows:

- (1) The fee for a labor camp as defined in WAC 248-63-010(7) shall be ten dollars times the number of dwelling units intended for occupancy by seasonal farmworkers up to forty units. Camps with more than forty units shall pay a flat fee of five hundred dollars.
 - (a) Units occupied by permanent workers shall not be included in the fee.
 - (b) Space provided exclusively for worker supplied housing shall not be considered a dwelling unit. A labor camp consisting of worker supplied housing shall be assessed only the minimum fee allowed under subsection (1) of this section.
 - (c) The fee is due with the initial application for a certificate of occupancy or upon receipt of a renewal notice.
- (2) For the purposes of these fees, a single dwelling unit shall be:
 - (a) A building or part of a building intended for occupancy by one family; or

(b) A building or part of a building intended for occupancy by one individual; or

(c) A building or part of a building intended for occupancy by four unrelated individual's, provided a minimum of two hundred ten square feet of gross floor space is available for the occupant's use.

(3) Each seventy square feet of gross floor space in a dormitory shall constitute one dwelling unit.

(a) As provided for in WAC 248-63-010(7), a dormitory building housing five or more individuals shall be considered a labor camp, regardless of the gross floor space.

(4) Labor camps located less than two miles apart under the same ownership or management shall be considered one camp.

(5) This section ((does)) shall not apply to labor camps regulated by local health officers in accordance with WAC 248-63-020.

WSR 87-10-016
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-36—Filed April 29, 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 chinook 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 29, 1987.

By Judith Merchant
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-57-29000I ICICLE RIVER. Notwithstanding the provisions of WAC 220-57-290, effective May 4, through June 30, 1987, Bag Limit A in those waters of the Icicle River downstream from a point 400 feet below the Leavenworth National Fish Hatchery to the mouth of the Icicle River.

WSR 87-10-017
ADOPTED RULES
GAMBLING COMMISSION
 [Order 167A—Filed April 30, 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 230-04-020 Application procedure—Mandatory training, this amendment would require mandatory training for the applicant and the person in charge of the activity as a condition of licensing.

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, non-profit 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.

WSR 87-10-018
PROPOSED RULES
FOREST PRACTICES BOARD
 [Filed May 1, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Forest Practices Board intends to adopt, amend, or repeal rules concerning Title 222 WAC, with proposed rules to increase public resource protection and increase landowner freedom in meeting requirements. Performance standards are state [stated], a riparian management zone is established with leave trees for wildlife and fish habitat. A reduced number of leave trees is allowed for small operations. Chemical treatments are regulated to protect water and the riparian management zone. Practices causing erosion and sedimentation are further regulated. Applications for forest practices, alternate plans (in lieu of rule provisions) and water typing are more open to comment and Indian tribes are included in review processes. Forest practices are to be monitored and impacts reported to the Washington Forest Practices Board. Up to ten years may be approved for natural regeneration of forest land;

that the agency will at 7:00 p.m., Tuesday, June 9, 1987, in the Capital High School Cafetorium, 2707 Conger West, Olympia, WA, conduct a public hearing on the proposed rules.

OTHER MEETINGS

7:00 p.m. Wednesday June 10, 1987 Port Angeles High School
 304 East Park
 Port Angeles, WA

7:00 p.m.	Tuesday	June 16, 1987	Colville High School 985 South Elm Colville, WA
7:00 p.m.	Wednesday	June 17, 1987	Omak Middle School Stevens Gym 320 West 2nd Omak, WA
7:00 p.m.	Thursday	June 18, 1987	Yakima Valley College Anton Hall, Room 102 16th and Nob Hill Boulevard Yakima, WA
7:00 p.m.	Tuesday	June 23, 1987	Mark Morris High School Cafeteria 1602 Mark Morris Court Longview, WA
7:00 p.m.	Wednesday	June 24, 1987	Cascade High School 801 Casino Road Everett, WA
7:00 p.m.	Thursday	June 25, 1987	Blodel - Donovan City Park 2214 Electric Avenue Bellingham, WA
7:00 p.m.	Tuesday	June 30, 1987	Miller Jr. High School 100 East Lindstrom Aberdeen, WA

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 8, 1987.

The authority under which these rules are proposed is RCW 76.09.040.

The specific statute these rules are intended to implement is chapter 76.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 8, 1987.

Written comments on the proposed rules may be submitted at the public meetings or mailed to arrive no later than June 4, 1987, at the address below.

The Washington Forest Practices Board may modify the proposed rules or amendments in response to written or oral statements prior to adoption.

Meeting dates and locations may need to be changed on short notice. For information and correspondence contact:

Thomas E. Robinson
 Executive Secretary
 Washington Forest Practices Board
 120 East Union Avenue
 Room 109, EK-12
 Olympia, WA 98504
 (206) 753-5315

Dated: May 1, 1987
 By: Thomas E. Robinson
 Executive Secretary

STATEMENT OF PURPOSE

Title and Number: Title 222 WAC, Forest practices, rules and regulations.

Statutory Authority: RCW 76.09.040.

Specific Statute that Rule is Intended to Implement: Chapter 76.09 RCW, Forest Practices Act.

Summary of the Rules: The proposed amendments to Title 222 WAC increase the flexibility of the rules to protect public resources and increase operator and landowner freedom in meeting requirements. Several rules are clarified, there are performance standards and alternative plans may be approved that provide equal or greater protection of public resources than specific rule provisions. Riparian management zones are established where habitat protection is required for fish and wildlife. A specified number, size and species of trees are required as leave trees in the zones. There are fewer leave trees required in small operations. Chemical applications

are regulated to protect the zone and water from contamination. Greater care is required in harvesting the zone and road construction is further regulated. Application and alternate plan approvals and water typing are open to review and comment by interested parties, Indian tribes and state agencies. Administration, implementation and effects of the proposed rules are to be monitored and reported to the Forest Practices Board.

Reasons Supporting the Proposed Rules: There is concern about forest practices impacts on the environment, particularly the harvest of riparian areas and the remaining stands of old growth timber on state and private forest lands. Fish and wildlife habitat have been reduced and sedimentation of stream and lake beds has occurred. Greater protection of public resources is indicated and there is a need to minimize impacts on the forest industry. The proposed rules have been developed by representatives of the various interests in an ad hoc organization, the timber, fish and wildlife group. The group is composed of interested citizens and environmental, fisheries and wildlife organizations, Indian tribes, state agencies, small and large forest industry. The group has many participants, held numerous meetings and has been well publicized. The group presented the rule proposals to the Forest Practices Board which accepted them in concept. The rules will open to public review and comment at nine hearings to be held throughout the state.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: Tom Robinson, Executive Secretary, Washington Forest Practices Board, 120 East Union Avenue Building, #109, Mailstop EK-12, Olympia, WA 98504, phone (206) 753-5315.

Name of the Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Forest Practices Board.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: Proposed rules increase protection of public resources, provide for alternatives that meet the intent and purposes of the Forest Practices Act and allow reasonable operational freedom for forest operator and landowner. There are increased logging and opportunity costs from erosion control measures, leave tree requirements and habitat protection measures.

The rule is not necessary to comply with a federal law or a federal or state court decision. The Forest Practices Act, rules and regulations were adopted, in part, as the state's response to the Federal Clean Water Act, P.L. 95-217, section 208, regulating silvicultural nonpoint pollution. The Department of Ecology secured Environmental Protection Agency certification of the Forest Practices rules and regulations as providing "best management practices" for silvicultural nonpoint pollution. The proposed rules further regulate nonpoint pollution of forest practices.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

REGULATORY FAIRNESS ACT STATEMENT

Summary of Rules: Title 222 WAC is proposed for extensive amendment to better protect public resources and increase operator and landowner freedom in meeting requirements. Rules have been clarified and there are alternatives to specific rule provisions when an alternate plan is filed and approved. WAC 222-08-035 provides for continuing review of the forest practices regulations by a broad group of interests representatives, including Indian tribes. Informal reviews of an application prior to filing and assistance in preparation of an alternate plan for riparian areas is provided. Small operations and eastside operations within the riparian area may leave fewer trees than required of large operations.

Filing Date and List of Changes: The proposed rules and the notice of hearing will be filed with the code reviser on, or before, May 6, 1987, for regular rules adoption. There are partial revisions of chapters 222-08, 222-12, 222-16, 222-20, 222-24, 222-30, 222-34 and 222-38. New sections are WAC 222-08-035, 222-12-045, 222-20-090 and 222-20-120. WAC 222-16-040 is repealed as too difficult to understand and apply and an alternative rule is provided and a riparian management zone is established.

Economic Analysis: An economic analysis was commissioned by the Forest Practices Board and contract awarded to Eco Northwest of Eugene, Oregon. The study indicated proposed rules would increase operation and lost opportunity costs but there would be increased benefits to fisheries, other public resources and their dependent businesses. Actual costs were not determined, but approximations used from data supplied by Washington Forest Protection Association with partially supporting documentation from an Oregon state study. The Eco Northwest study indicated the possibility of additional impacts on small business if new equipment or technology were required for compliance with the proposed rules. Neither evidence nor costs were provided to support the statements on possible small business impacts. Copies of the economic analysis are available from the Washington State Library System and may be purchased at cost from the Department of Natural Resources. Directly impacted are the SIC, code 241 businesses of "logging camps and contractors," and large and small landowners, SIC code 081, "timber tracts." Some of the increased costs from the regulations may be passed through to manufacturers and consumers, but only to the extent that competitive product prices and availability allow. Some, perhaps all costs will be absorbed by operators and landowners.

Mitigation of Increased Costs: The proposed rules are more stringent to protect public resources, but there are provisions for site specific alternatives that may reduce costs to operator and landowner. One cost reduction is for small operations to leave fewer trees in the riparian management zone. Another cost reduction is provision for small aerial chemical treatments to be consolidated with existing treatments without the need for a separately approved application, an important savings in time. Some erosion prevention rules have performance requirements rather than detailed language with specific rule provisions. Alternate plans may be filed and assistance provided by state agencies in devising riparian management plans, fewer leave trees may be required for small operations, and for operations in northeast Washington or small partial-cut operations in eastern Washington. These measures recognize regional differences in economic and silvicultural conditions.

Small Business Exemption: Establishing different time tables and exemption for small business is not consistent with chapter 76.09 RCW, the Forest Practices Act. However, increased flexibility has been incorporated in the proposed rules. The act and the rules require prompt action by the Department of Natural Resources in processing application forms. There are provisions for administrative hearings and civil appeals to the Forest Practices Appeals Board for the operator, landowner or others dissatisfied with Department of Natural Resources actions. There are few reporting requirements of industry. Small business interests had a voice in the proposed rules and have been active in modifying rules to meet their needs.

Actual Costs: The actual costs of the proposed rules would vary with site specific conditions, and operator and landowner capabilities. Costs per \$100 of product could increase unless there are compensating improvements in efficiency or productivity.

NEW SECTION

WAC 222-08-035 CONTINUING REVIEW OF FOREST PRACTICES REGULATIONS. *(1) Annual evaluations. The department, after consulting with affected state agencies, Indian tribes, forest landowners, fisheries, wildlife, natural resources, and environmental interest groups, shall beginning July 1, 1988, report annually to the forest practices board an assessment of how regulations and voluntary processes are working.

(2) Adaptive management. The department is directed to report to the board on opportunities to modify these regulations when baseline data, monitoring, evaluation or the use of interdisciplinary teams show that such adaptive management will better meet the purposes and policies of the Forest Practices Act.

(3) Resource management plans. The department is directed to develop a method for cooperative voluntary resource management planning among forest landowners, governmental agencies, affected Indian tribes, and environmental groups which would result in the development of plans which might be used as an alternative to the forest practice regulations in achieving the purposes and policies set forth in the act. This should be done through pilot projects, at least one of which should be located on the east side of the Cascade summit and one on the west side of the Cascade summit.

AMENDATORY SECTION (Amending Order 429, Resolution No. 8-8-84, filed 8/29/84, effective 10/1/84)

WAC 222-08-040 REGULAR MEETINGS. Regular meetings of the forest practices board shall be held quarterly on the second Wednesday of February, May, August and November, at a location to be designated by the forest practices board. Any person may obtain information as to said location and meeting time by contacting the Department of Natural Resources Division of ~~((Private Forestry and Recreation))~~ Forest Regulation and Conservation, Olympia, Washington 98504. A schedule of meetings will be published in the Washington Register in January of each year.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-030 CLASSES OF FOREST PRACTICES. Forest practices are divided into four classes as specified by RCW 76.09.050. In certain emergencies, as defined in RCW 76.09.060(7), the application or notification may be submitted within 48 hours after commencement of the practice.

(1) Class I forest practices require no application or notification, but do require compliance with all other forest practices regulations.

(2) Class II forest practices require a notification to the department, and may begin five calendar days (or such lesser time as the department may determine) after receipt by the department of the notification.

(3) Class III forest practices require an application which must be approved or disapproved within ~~((14))~~ thirty or fewer calendar days of receipt by the department. The department is directed to approve or disapprove within fourteen calendar days Class III applications not requiring additional field review.

(4) Class IV forest practices are divided into "Class IV - special," and "Class IV - general," and require an application to the department which must be approved or disapproved within 30 calendar days, except that "Class IV - special" requires an evaluation be made by the department as to whether a detailed environmental statement is necessary. Where a "Class IV - special" would require a detailed environmental statement, additional time for approval or disapproval as specified in RCW 76.09.050 will be required.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-040 *ALTERNATE PLANS. All forest practice operations must comply with the act and further with the rules and regulations promulgated pursuant to the act, unless an alternate plan has been approved by the department. ~~((Applicants))~~ An applicant may ((propose)) submit an alternate plan for any or all of the activities described in the application. ((An alternate plan is a plan proposed by the applicant when compliance with the purposes and policies of the act can be achieved as well or better through a variance from the regulations rather than through application of the specific provisions of chapters 222-24 through 222-38 WAC:)) The department may approve an application which departs from the specific provisions of chapters 222-24 through 222-38 WAC. Provided that the plan must, in the determination of the department, equal or exceed the protection

of public resources as provided in the Forest Practices Act and rules and regulations. The department shall provide an opportunity for comment to the departments of fisheries, game, and ecology, other state agencies, and affected Indian tribes prior to approval of any alternate plan.

NEW SECTION

WAC 222-12-045 ADAPTIVE MANAGEMENT. *In order to further the purposes of chapter 76.09 RCW the board has adopted a policy of adaptive management designed to modify these regulations and their application based on cooperative research, monitoring, and evaluation. Such adaptive management shall include the measures set out in WAC 222-08-035.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-12-090 FOREST PRACTICES BOARD MANUAL. When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fisheries, game, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, ~~((a))~~ revisions to the forest practices board manual. The manual shall include:

(1) Temperature sensitive determinations needed for use with WAC ~~((222-16-040))~~ 222-30-040.

(2) Procedures for leaving the required 50 percent or 75 percent shade as required in WAC 222-30-040.

(3) A list of ~~((key))~~ critical wildlife habitats as established under WAC 222-16-010 ~~((23))~~ (11).

(4) The standard methods for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.

(5) A chart for establishing recommended permanent culvert sizes and associated data.

(6) Guidelines for clearing slash and debris from Type 4 and 5 Waters.

(7) Guidelines for landing location and construction.

~~((8))~~ Aerial chemical application guidelines for requiring untreated strips on Type 4 waters:))

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-16-010 GENERAL DEFINITIONS.* Unless otherwise required by context, as used in these regulations:

(1) "Act" means the Forest Practices Act, chapter 76.09 RCW.

(2) "Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

(3) "Appeals board" means the forest practices appeals board established in the act.

~~((3))~~ (4) "Board" means the forest practices board established by the act.

~~((4))~~ (5) "Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

~~((5))~~ (6) "Chemicals" means substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, insecticides, rodenticides, plant-growth regulators, fungicides, fertilizers, desiccants, fire retardants when used in controlled burning, repellents, oil, dust-control agents (other than water), salt and other materials that may present hazards to the environment.

~~((6))~~ (7) "Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

~~((7))~~ (8) "Completion of harvest" means the latest of:

(a) Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

(b) Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

(c) Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: PROVIDED, That delay of reforestation under this subsection (c) is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

~~((8))~~ (9) "Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

~~((9))~~ (10) "Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

(11) "Critical wildlife habitat" means the habitat of any threatened or endangered species, as such habitat is established by the board in the forest practices board manual, or other situations as identified by the board, after consultation with the department of game, where specific management practices are needed to prevent critical wildlife habitat destruction.

(12) "Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

~~((10))~~ (13) "Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

~~((11))~~ (14) "Department" means the department of natural resources.

~~((12))~~ (15) "End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

~~((13))~~ (16) "Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

~~((14))~~ (17) "Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

~~((15))~~ (18) "Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

~~((16))~~ "Flood level - 25 year." For purposes of field interpretation of these regulations the 25-year flood level shall be considered to be a vertical elevation which is the same height measured from the ordinary high-water mark as the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 4 percent chance of occurring in any given year. The 25-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

~~((17))~~ (19) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

~~((18))~~ (20) "Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: PROVIDED, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other

person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

~~((19))~~ (21) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction;
- (b) Harvesting, final and intermediate;
- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

"Forest practice" shall not include: Preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

~~((20))~~ (22) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

~~((21))~~ (23) "Historic site" includes:

(a) Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

(b) Places associated with a personality important in history; or

(c) Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

~~((22))~~ (24) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk(s) pests.

~~((23))~~ "Key wildlife habitat" means the habitat of any threatened or endangered species, as such habitat is established by the board in the forest practices board manual, or other situations as identified by the board, after consultation with the department of game, where specific management practices are needed to prevent critical wildlife habitat destruction.) (25) "Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

~~((24))~~ (26) "Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

~~((25))~~ (27) "Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

~~((26))~~ "Major tractor road" is one which involves extensive sidecasting or similar disturbance of soil which may cause material damage to a public resource or would destroy the integrity of a streamside management zone.

~~((27))~~ (28) "Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

(a) Suitable in size and quality for the production of lumber, plywood, pulp or other forest products.

(b) Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

~~((28))~~ (29) "Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

~~((29))~~ (30) "Operator" shall mean any person engaging in forest practices except an employee with wages as his sole compensation.

~~((30))~~ (31) "Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

~~((31))~~ (32) "Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2).

~~((32))~~ (33) "Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave ~~((a))~~ an uneven-aged stand of well-distributed ~~((stand of))~~ residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

~~((33))~~ (34) "Pesticide" means any insecticide, herbicide or rodenticide but does not include nontoxic repellents or other chemicals.

~~((34))~~ (35) "Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of ~~((streamside))~~ riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

~~((35))~~ (36) "Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

~~((36))~~ (37) "Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

~~((37))~~ (38) "Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

~~((38))~~ (39) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

(40) "Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

~~((39))~~ (41) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

~~((40))~~ (42) "Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

~~((41))~~ (43) "Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

~~((42))~~ (44) "Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

~~((43))~~ (45) "Shorelines of the state" ~~((means all of the water areas of the state, including reservoirs, and their associated wetlands together with the lands underlying them, except:~~

(a) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and

(b) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

⁴Wetlands" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark, floodways and contiguous floodplain areas landward 200 feet from such floodways, and means all marshes, bogs and swamps associated with the streams, lakes and tidal waters which are included in the waters defined as "shorelines of the state" in these rules.

⁴Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, such floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands which can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.) shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act.)

~~((44))~~ (46) "Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

~~((45))~~ (47) "Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

~~((46))~~ (48) "Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

~~((47))~~ (49) "Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

~~((48))~~ "Streamside management zone" means a specified area alongside natural waters where specific attention must be given to the measures, that can be taken to protect water quality. These zones shall be measured from the ordinary high water mark of the body of water and measure:

(a) 50 feet in width on each side of a Type 1 and 2 water.

(b) 25 feet in width on each side of a Type 3 water.

~~((49))~~ (50) "Threatened or endangered species" applies to all species of wildlife listed as "threatened" or "endangered" by the United States Fish and Wildlife Service, except any species which the Washington department of game determines does not require special protection under the Forest Practices Act because conservation of the species is reasonably assured through a recovery and enhancement program or existence of an adequate population on lands where commercial forestry and land development are prohibited, or through other means. For this purpose, "wildlife" means all members of the animal kingdom except insects and benthic organisms.

~~((50))~~ (51) "Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

~~((51))~~ (52) "Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

~~((52))~~ (53) "Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

~~((53))~~ (54) "Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-16-030 WATER TYPING SYSTEM. The department in cooperation with the departments of fisheries, game and ecology, and in consultation with affected Indian tribes shall classify streams, lakes and ponds and prepare stream classification maps showing the location of Type 1, 2, 3 and 4 Waters within the various forested areas of the state. Such maps shall be available for public inspection at area offices of the department. The waters will be classified using the following criteria, except that these agencies may approve classifications of water segments which do not follow the criteria when substantiated evidence demonstrates that use of the criteria would result in incorrect classification of such water according to the definitions contained in WAC 222-16-020. When so requested by any affected landowners, applicant or aggrieved person, the department shall make available informal conferences, which shall include the departments of fisheries, game and ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

(1) "Type 1 Water" means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW, but not including those waters' associated wetlands.

(2) "Type 2 Water" classification shall be applied to segments of natural waters which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are within a federal, state, local, or private campground having more than 30 camping units: PROVIDED, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(c) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high-water marks and having a gradient of less than 4 percent.

(ii) Impoundments having a surface area of 1 acre or greater at seasonal low water.

(3) "Type 3 Water" classifications shall be applied to segments of natural waters which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have significant anadromous fish use:

(i) Stream segments having a defined channel of 5 feet or greater in width between the ordinary high-water marks; and having a gradient of less than 12 percent and not upstream of a falls of more than 10 vertical feet.

(ii) Impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream.

(c) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:

(i) Stream segments having a defined channel of 10 feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.

(ii) Impoundments having a surface area greater than 0.5 acre at seasonal low water.

(d) Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

(4) "Type 4 Water" classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high-water marks.

(5) "Type 5 Water" classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; areas of perennial or intermittent seepage, ponds and drainageways having short periods of spring or storm runoff.

(6) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of parttime occupancy.

(c) "Resident game fish" means game fish as described in the Washington game code that spend their life cycle in fresh water. Steelhead, Searun cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

(d) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(g) "Channel width and gradient" (~~shall be measured~~) means a measurement over a representative section of at least 500 (~~linear~~) linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps.

(h) "Intermittent streams" means those segments of streams that normally go dry.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-16-050 CLASSES OF FOREST PRACTICES. There are 4 classes of forest practices created by the act. These classes are listed below in the order most convenient for the applicant's use in determining into which class his operations fall. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) "Class IV - special." Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the state environmental policy act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

* (a) Aerial application of pesticides to an "area of water supply interest" as determined according to WAC 222-38-020 (~~(4)(h)~~) (5)(i).

(b) Harvesting, road construction, site preparation or aerial application of pesticides:

(i) On lands known to contain a breeding pair or the nest or breeding grounds of any threatened or endangered species; or

(ii) Within the critical habitat designated for such species by the United States Fish and Wildlife Service.

(c) Widespread use of DDT or a similar persistent insecticide.

(d) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except park managed salvage of merchantable forest products.

* (e) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas (~~when conducted~~) on (~~excessively steep slopes or~~) slide prone areas as defined in WAC 222-24-020(6) when such (~~slopes or~~) slide prone areas occur on an uninterrupted slope (~~within 1,000 feet~~) above a Type 1, 2, 3 or 4 Water where there is potential for a substantial debris flow or (~~debris torrent~~) mass failure to cause significant impact to (~~fisheries habitat or~~) public (~~capital improvements~~) resources.

(~~(f) Utilization of an alternate plan except those involving field evaluation of a new forest practice technology or any reforestation practice.~~)

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Such applications will not require an environmental evaluation by the department but are subject to a 30-day period for approval. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-34-050.)

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

(b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters.

(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the (~~streamside~~) riparian management zone of a Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water.

(d) Construction of less than 600 feet of road on a sideslope of 40 percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the (~~streamside~~) riparian management zone of a Type 2 or Type 3 Water, or the ordinary high-water mark of a Type 4 Water.

(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulics permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning.

(j) Tree planting and seeding.

(k) Removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 70.94.660).

(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type 1 Water, the ((streamside)) riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water.

(o) Ground application of chemicals. (See WAC 222-38-020.)

(p) Aerial application of chemicals (except insecticides) when applied to not more than 40 contiguous acres ((and beyond 50 feet of a Type 1 or 2 water, beyond 25 feet of a Type 3 water or beyond 25 feet of the ordinary high water mark of a flowing Type 4 water)) if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. ((See WAC 222-38-020-)) Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: PROVIDED, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulics project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed; and

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application.

(c) Any of the following if none of the operation or limits of construction takes place within the ((streamside)) riparian management zone of a Type 2 or 3 Water, or within the ordinary highwater mark of a Type 4 Water:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

(iii) The following operations except those involving off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(A) Salvage of logging residue.

(B) Salvage of dead, down or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(C) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(D) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(E) Any harvest on less than 40 acres.

(F) Construction of 600 or more feet of road, provided that the department shall be renotified at least 2 business days before commencement of the construction.

(5) "Class III" forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

(b) Those within the shorelines of the state other than those in a Class I forest practice.

(c) Aerial application of insecticides, except where classified as a Class IV forest practice.

(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or ((archeological)) archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

((6) Continuing review of forest practices classification:

(a) RCW 76.09.050 directs the forest practices board to establish by rule which forest practices shall be included in each of the 4 classes, and directs that these rules:

(i) Not include in Class I any categories of forest practice which the board finds to have a direct potential for damage to a public resource;

(ii) Exclude from Class II all categories of forest practice which the board finds to have an ordinary or greater than ordinary potential for damage to a public resource; and

(iii) Include in "Class IV - special" all categories of forest practice which the board finds to have potential for a substantial impact on the environment of the type justifying an evaluation as to whether or not a detailed statement must be prepared pursuant to chapter 43.21C RCW (SEPA);

(b) The board finds that the regulations contained in subsections (1) through (5) of this section meet those criteria to the maximum extent feasible in light of the limited information now available, but that further refinement of these subsections may be necessary as additional experience develops under the Forest Practices Act. Therefore, the department is requested to report to the forest practices advisory committee and the board at least annually on any categories of forest practice which, in the opinion of the department, should be reclassified:

(i) To make the classifications better conform to these criteria; and

(ii) To provide greater clarity and certainty for potential applicants and others as to which forest practice activities are in Classes I, II, III or IV forest practices; (m) Utilization of an alternate plan. See WAC 222-12-040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 222-16-040 TEMPERATURE SENSITIVE WATERS.

AMENDATORY SECTION (Amending Resolution No. 82-2, filed 8/31/82)

WAC 222-20-010 APPLICATIONS AND NOTIFICATIONS-POLICY. (1) No Class II, III or IV forest practices shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) ((At the option of the applicant, applications or notifications may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as

specified by the department. Long range plans may be submitted to the department for review and consultation.

~~((4))~~ (3) The department shall prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

~~((4))~~ (3) Applications and notifications for operations not converting to another use shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)). Where the application is not signed by the landowner, the department shall, provided all the other requirements contained in chapter 222-20 WAC are met, approve the application without the signature of the landowner if:

(a) The operator or timber owner provides legal evidence of timber rights, ownership, or other legal rights;

(b) The timber owner or operator posts a bond, in an amount determined by and a form acceptable to the department, securing compliance with the requirements of the forest practices regulations; and

(c) The operator or timber owner provides evidence of reasonably advance notification to the landowner of the proposed forest practice and that the landowner has been requested to sign the application, a copy of which has been made available to the landowner: PROVIDED, That in lieu of such evidence the applicant may submit a sworn statement indicating inability to locate the landowner after a reasonable good faith attempt to locate and notify the landowner of the proposed forest practice.

~~((5))~~ (4) Where an application for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection ~~((4))~~ (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

~~((6))~~ (5) Transfer of the approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices regulations as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

~~((7))~~ (6) Applications and notifications must be delivered to the department at the appropriate area office. Delivery should be in person or by registered or certified mail.

~~((8))~~ (7) Applications and notifications shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. If a notification or application is delivered in person to the department by the operator or his authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-20-020 APPLICATION TIME LIMITS. (1) A properly completed application shall be approved, conditioned or disapproved within ~~((14))~~ 30 calendar days for Class III and ~~((30 calendar days for))~~ Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For "Class IV-special" applications when the department has within 10 days of the receipt of an acceptable application and environmental checklist (WAC ~~((197-10-310))~~ 197-11-315) determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within 60 days, unless the commissioner of public lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least 10 days before promulgation of such an order extending the time, the applicant shall be given written notice that the department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the commissioner of public lands or obtain an informal conference with the department regarding the proposed extension.

(c) When they involve lands platted after January 1, 1960, or lands to be converted, the applicable time limit shall be 14 business days from transmittal to the county unless the county has waived its right to object or has consented to approval of the application.

(2) Unless the county has waived its rights under the act or consents to approval, the department shall not approve ~~((portions of))~~ an application involving lands platted after January 1, 1960, in the process of being platted or proposed to be converted to another use until at least 14 business days from the date of transmittal to the county.

~~((3))~~ ~~((Where an application covers both Class III and Class IV forest practices, the department shall have 30 calendar days to respond, except more time may be required as in subsection (1) of this section:))~~

~~((4))~~ ~~((If the application indicates that it covers only Class III forest practices, and the department determines it involves some Class IV forest practices, within 14 calendar days the department shall either so indicate or approve or disapprove the application:))~~

~~((5))~~ Where a notification is submitted for operations which the department determines involve Class III or IV forest practices, the department shall issue a stop work order or take other appropriate action. If the operations were otherwise in compliance with the act and forest practices regulations, no penalty should be imposed for those operations which occurred prior to the enforcement action: PROVIDED, That no damage to a public resource resulted from such operations, and the operations commenced more than 5 days from receipt by the department of the notification.

~~((6))~~ (4) If the department fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may commence: PROVIDED, That this provision shall not apply where:

(a) The county objects and the application involves lands platted after January 1, 1960, or lands to be converted where the county's right of objection is 14 business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

~~((7))~~ (5) If seasonal field conditions prevent the department from being able to properly evaluate the application, the department may ~~((issue an approval conditional upon further review within 60 days))~~ disapprove the application until field conditions allow for an on-site review.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-20-040 APPROVAL ~~((AND DISAPPROVAL POLICY))~~ CONDITIONS. (1) ~~((Applications shall be approved except to the extent the department finds:))~~

(a) The application is incomplete, improperly filed, or inaccurate;

(b) The applicable county has filed timely objections to the approval; and the application indicates that it involves lands either:

(i) Platted after January 1, 1960; or

(ii) Being converted to another use;

(c) The operator has been enjoined from conducting forest practices by a superior court action under the act.

(d) Conducting the operation(s) in accordance with the application would be inconsistent with applicable regulations and no acceptable alternate plan is provided;

(2) If an application is properly filed but portions of it must be disapproved, any portions of the proposed operations which can be separately conducted in compliance with these regulations without reasonable risk to the public resources shall be approved;

(3) The department shall specify the particular operations or parts thereof disapproved and the reasons for all disapprovals, citing the provision(s) of these regulations with which the proposed operation(s) do not comply;

~~(4) Approvals shall be effective for 12 months from the date issued.~~
~~(5))~~ Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department 2 business days before the commencement of actual operations.

~~((6))~~ (2) All approvals are subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-20-060 DEVIATION FROM PRIOR APPLICATION OR NOTIFICATION. Substantial deviation from a notification or an approved application requires a revised notification or application. Other deviations may be authorized by a supplemental directive, notice to comply or stop work order. The department shall notify the departments of fisheries, game ~~(and)~~, ecology, affected Indian tribes and the appropriate county of any supplemental directive, notice to comply or stop work order involving a deviation from a prior notification or approved application, except where such notice has been waived.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-20-090 ~~((VOLUNTARY PREFILING))~~ OPTIONS FOR FILING APPLICATIONS. ~~((1) An application may indicate that the applicant requests approval as of a specified date more than 30 days and less than 90 days from its submittal to the department. Approval of such applications shall be effective for 12 months from the requested date or the date of actual approval, whichever is later.~~

~~(2) When a deferred effective date has been requested, operations may commence on or after the requested effective date without approval of the application if:~~

- ~~(a) The department has not disapproved the application, and~~
~~(b) The timber owner or operator has given the department not less than 5 nor more than 10 days' written notice of intent to commence operations if the application is not disapproved within 10 days after filing of such notice of intent.)~~ Applicants may schedule an early review of a proposed application with the department prior to official filing, or submit an application with a delayed effective date. Such early review or submission will allow the department to review multiple applications and bring other forest practices concerns to the attention of the applicant so that such concerns can be addressed prior to official filing and processing of an application. When submitting an application with a delayed effective date, the applicant shall indicate the date when approval is desired.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-20-100 NOTICE TO PARKS AND OAHF. (1) Notice to parks. The department shall send to the affected agency, within 2 business days of receipt, a copy of any notification or application for forest practices within 500 feet of the boundary of any park entity registered according to ~~((WAC 222-20-100))~~ subsection (2) of this section.

(2) Parks register. The department shall establish and update every 5 years a parks register listing all publicly owned parks where the affected owner has filed a written request with the department for inclusion on such register. The department shall notify owners of all public parks inventoried on the state comprehensive outdoor recreation plan (SCORP) of the opportunity to register.

(3) DNR to provide information to OAHF. The department shall provide the office of ~~((archeology))~~ archaeology and historic preservation (OAHF) with copies of all applications and notifications for forest practices to be conducted on lands known to contain historic or ~~((archeological))~~ archaeological resources as identified by OAHF.

NEW SECTION

WAC 222-20-120 NOTICE OF FOREST PRACTICES TO AFFECTED INDIAN TRIBES. (1) The department shall notify affected Indian tribes of all applications of concern to such tribes, including those involving cultural resources, identified by the tribes.

(2) Where an application involves cultural resources the landowner shall meet with the affected tribe(s) with the objective of agreeing on a

plan for protecting the archaeological or cultural value. The department may condition the application in accordance with the plan.

(3) Affected Indian tribes shall determine whether plans for protection of cultural resources will be forwarded to the office of archaeological and historical preservation (OAHF).

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-010 POLICY. *A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife. Extra protection is required during road construction and maintenance to protect this habitat and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate to develop road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction. This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges(,), stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources. (NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-020 ROAD LOCATION. (1) Fit the road to the topography so that a minimum of alterations to the natural features will occur.

*~~(2) Minimize roads ((locations in)) along or within narrow canyons((, marshes, wet meadows, natural drainage channels, in stream-side management zones and nesting sites of key wildlife habitats)) and along riparian management zones, wet meadows and marshes.~~

~~(a) Except where crossings are necessary, roads shall not be located within natural drainage channels and riparian management zones when there would be substantial loss or damage to wildlife habitat unless adequate mitigation of damage to public resources is provided and the department has determined that alternatives will cause greater damage to public resources.~~

~~(b) Roads shall not be located in marshes or wet meadows when there would be substantial loss or damage to wildlife habitat unless adequate mitigation of damage to public resources is provided and the department has determined that alternatives will cause greater damage to public resources.~~

*~~(3) Minimize the number of stream crossings.~~

*~~(4) Whenever practical, cross streams at right angles to the main channel.~~

(5) Avoid duplicative roads by keeping the total amount of construction to a minimum. Use existing roads whenever practical and avoid isolating patches of timber which, when removed, may require unnecessary road construction.

(6) Where feasible, do not locate roads on excessively steep or unstable slopes or known slide prone areas as determined by the department. The department shall determine whether slopes are unstable using available soils information, or from evidence of geologically recent slumps or slides, or where the natural slope exceeds the angle of repose for the particular soil types present, or where springs or seeps may indicate unstable conditions are present in or above the construction site.

Essential road construction will be accomplished by end hauling, over hauling, or other special road construction techniques unless the department determines there is potential for damage to public resources under WAC 222-16-050 (1)(e).

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-025 ROAD DESIGN. (1) Use the minimum design standard that produces a road sufficient to carry the anticipated traffic load with reasonable safety.

(2) Subgrade width should average not more than 32 feet for double lane roads and 20 feet for single lane roads, exclusive of ditches, plus any additional width necessary for safe operations on curves and turnouts.

(3) Balance excavation and embankments so that as much of the excavated material as is practical will be deposited in the roadway fill sections. Where full bench construction is necessary, design suitable embankments so that the excavated material may be end hauled to appropriate deposit areas.

(4) Design or construct cut and fill slopes to the normal angle of repose for the materials involved, or at a lesser angle whenever practical.

* (5) All roads should be outsloped or ditched on the uphill side and appropriate surface drainage (~~should~~) shall be provided by the use of adequate cross drains, ditches, drivable dips, relief culverts, water bars, ~~(or)~~ diversion ditches, or other such structures demonstrated to be equally effective.

* (6) Cross drains, relief culverts, and diversion ditches (~~should~~) shall not discharge onto erodible soils, or over fill slopes unless adequate outfall protection is provided.

* (7) Install cross drains, culverts, water bars, drivable dips, or diversion ditches on all forest roads to minimize erosion of the road bed, cut bank, and fill slope, or to reduce sedimentation of Type 1, 2, 3 or 4 Water. These drainage structures shall be installed at all natural drainages, all low points in the road gradient and spaced no wider than as follows:

Grade	Distance Westside	Distance Eastside
0 to 7%	1,000 ft.	1,500 ft.
8% to 15%	800 ft.	1,000 ft.
over 15%	600 ft.	800 ft.

~~(The department may require)~~ More frequent culvert spacing or other drainage improvements are required where site specific evidence of peak flows or soil instability makes additional culverts necessary to minimize erosion of the road bed, ditches, cut bank, and fill slope to reduce sedimentation of Type 1, 2, 3 or 4 Waters, or to avoid unreasonable risk to public resources. See Part 5, Table 2 in the forest practices board manual for "Additional culvert spacing recommendations." On request of the applicant, the department may approve less frequent drainage spacing where parent material (e.g. rock, gravel) or topography justify.

* (8) Relief culverts installed on forest roads shall meet the following minimum specifications:

- (a) Be at least 12 inches in diameter or equivalent.
- (b) Be installed sloping toward the outside edge of the road at a minimum gradient of 3 percent.

* (9) Ditch diversion. Where roadside ditches slope toward a Type 1, 2, or 3 Water for more than 300 feet and otherwise would discharge into the stream, divert the ditchwater onto the forest floor by relief culvert or other means at the first practical point (~~more than 50 feet from the stream~~).

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-030 ROAD CONSTRUCTION. (1) Right of way timber. Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

- * (2) Debris burial.
 - (a) In permanent road construction, do not bury:
 - (i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across swampy ground or for culvert protection.
 - (ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across swampy ground or for culvert protection.
 - (iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across swampy ground or for culvert protection.
 - (b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.
- (3) Compact fills. During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

* (4) Stabilize soils. When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or ~~((washing))~~ sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by ~~((other means))~~ erosion control measures acceptable to the department.

* (5) Channel clearance. Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

* (6) Drainage.
(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation.

* (7) Moisture conditions. Construction (~~should~~) shall be accomplished when moisture and soil conditions are ~~((least))~~ not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

* (8) End haul/sidecasts. End haul or overhaul construction is required where significant amounts of sidecast material would rest below the ~~((25))~~ 50-year flood level of a Type 1, 2 ~~((or))~~, 3, or 4 Water (~~below the ordinary high-water mark of Type 4 water;~~) or where the department determines there is a potential for ~~((massive))~~ mass soil failure from overloading on unstable slopes or ~~((for))~~ from erosion of side cast material causing damage to the public resources (~~as determined by the department~~).

* (9) Waste disposal. When spoil, waste and/or other debris is generated during construction, this material (~~may~~) shall be deposited or wasted in suitable areas or locations and be governed by the following:

~~((a))~~ Spoil or other debris shall be deposited above the ~~((25))~~ 50-year flood level of Type 1, 2 ~~((or))~~, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

~~((b))~~ Spoil or other debris shall be deposited above the ordinary high-water channel of Type 4 waters and not in a location from which it will reasonably be expected to enter those waters.

~~((c))~~ When the spoil or other debris is deposited in appropriate location, embankments so formed shall be compacted by layering as in subsection (3) of this section, or so stabilized that the risk of its later entering streams is minimal.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-035 LANDING LOCATION AND CONSTRUCTION. *(1) Landing location:

~~((a))~~ Locate landings (~~on firm ground above the ordinary high-water mark of any stream~~) to prevent damage to public resources. Avoid excessive excavation and filling.

~~((b))~~ Landings involving sidecast or fill shall be located where the toe of the sidecast or fill does not lie below the 50-year flood level of a Type 1, 2 or 3 water or below the ordinary high-water mark of a Type 4 water.

(2) Landing construction.
(a) Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

(b) Where the average general slopes exceed 65 percent, fill material used in construction of landings shall be free from loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-040 WATER CROSSING STRUCTURES. *(1) Bridge construction.

(a) Bridges are required for new crossings of any Type 1 or 2 Waters regularly used for recreational boating.

(b) Permanent bridges shall not constrict clearly defined channels and shall be designed to pass the 50-year flood level or the road shall

be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure.

(c) One end of each new permanent log or wood bridge shall be tied or firmly anchored if any of the bridge structure is within 10 vertical feet of the 50-year flood level.

(d) Excavation for bridges, placement of sills or abutments, and the placement of stringers or girders shall be accomplished from outside the ordinary high-water mark of all waters, except when such operations are authorized by a hydraulics (~~permit or hydraulics agreement~~) project approval.

(e) Earth embankments constructed for use as bridge approaches shall be protected from erosion by high water. Some examples of protection are: Planted or seeded ground cover, bulkheads, rock riprap, or retaining walls.

(f) When earthen materials are used for bridge surfacing, curbs of sufficient size shall be installed to be above the surface material and prevent such surface material from falling into the stream bed.

*(2) Culvert installation: All permanent culverts installed in forest roads shall be of a size that is adequate to carry the 50-year flood or the road shall be constructed to provide erosion protection from the 50-year flood waters which exceed the water-carrying capacity of the drainage structure. Refer to Part 5 "Recommended culvert sizes" in the forest practices board manual for the size of permanent culverts recommended for use in forest roads. If the department determines that because of unstable slopes the culvert size shown on that table is inadequate to protect public resources, it may require culvert sizes in accordance with the nomograph (chart) contained in Part 5 of the forest practices board manual or with other generally accepted engineering principles.

(a) No permanent culverts shall be installed that are smaller than:

(i) 24 inches in diameter or the equivalent for anadromous fish streams.

(ii) 18 inches or the equivalent for the resident game fish streams.

(iii) 12 inches or the equivalent for all other water crossings.

(b) The alignment and slope of the culvert shall parallel the natural flow of the stream whenever possible.

(c) When fish life is present, construct the bottom of the culvert at or below the natural stream bed at the inlet and outlet.

(d) Terminate culverts on materials that will not readily erode, such as riprap, the original stream bed (if stable), or other suitable materials.

(e) If water is diverted from its natural channel, return this water to its natural stream bed via culvert, flume, spillway, or the equivalent.

(f) When flumes, downspouts, downfall culverts, etc., are used to protect fill slopes or to return water to its natural courses, the discharge point (~~must~~) shall be protected from erosion by: (i) Reducing the velocity of the water, (ii) use of rock spillways, (iii) riprap, (iv) splash plates, or (v) other methods or structures demonstrated to be equally effective.

(g) Stream beds shall be cleared for a distance of 50 feet upstream from the culvert inlet of such slash or debris that reasonably may be expected to plug the culvert.

(h) The entrance of all culverts should have adequate catch basins and headwalls to minimize the possibility of erosion or fill failure.

*(3) Culverts in anadromous fish streams. In addition to the requirements of subsection (2) of this section, in streams used by anadromous fish:

(a) Culverts shall be either open bottomed or have the bottom covered with gravel and installed at least 6 inches below the natural stream bed at the inlet and outlet.

(b) Closed bottom culverts shall not slope more than 1/2 percent; except as provided in (e) of this subsection; open bottom culverts shall not slope more than the natural slope of the stream bed.

(c) Where multiple culverts are used, one culvert shall be at least 6 inches lower than the other(s).

(d) Culverts shall be set to retain normal stream water depth throughout the culvert length. A downstream control may be required to create pooled water back into the culvert and to insure downstream stream bed stability.

(e) Closed bottom culverts, set at existing stream gradients between 1/2 percent and 3 percent slope shall be designed with baffles for water velocity control, or have an approved designed fishway.

(f) The department, after consultation with the departments of fisheries and game, shall impose any necessary limitations on the time of year in which such culverts may be installed to prevent interference with migration or spawning of anadromous fish.

(g) Any of the requirements in (a) through (f) of this subsection may be superseded by a hydraulics project approval.

*(4) Temporary water crossings.

(a) Temporary bridges and culverts, adequate to carry the highest anticipated flow in lieu of carrying the 50-year flood, may be used:

(i) In the westside region if installed after June 1 and removed by September 30 of the same year.

(ii) In the eastside region if installed after the spring runoff and removed prior to the snow buildup which could feed a heavy runoff.

(iii) At other times, when the department and applicant can agree to specific dates of installation and removal.

(b) Temporary bridges and culverts shall be promptly removed upon completion of use, and the approaches to the crossing shall be water barred and stabilized at the time of the crossing removal.

(5) Properly prepared and maintained fords may be used during periods of low water providing a hydraulics permit is acquired.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-24-050 ROAD MAINTENANCE. *(1) Road maintenance and abandonment plan.

(a) The landowner when notified by the department shall submit a plan for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources. The plan is subject to annual review and shall include:

(i) Ownership maps showing the road or road system;

(ii) Road status, whether active, inactive, abandoned or planned for abandonment;

(iii) Maintenance schedule and priorities for the year; and

(iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

(b) The plan shall be submitted to the department area office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

(c) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

(d) Such plans shall also be reviewed with departments of ecology, fisheries and game and affected Indian tribes, any of whom may request an informal conference with the landowner.

*(2) Active roads. An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

*((2)) (3) Inactive roads. An inactive road is a forest road ((the use of which for)) on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts which he knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he fails to make repairs as directed by a notice to comply.

*((3)) (4) Additional culverts/maintenance. If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

~~*((4))~~ (5) Abandoned roads. An abandoned road is a forest road which the forest landowner ~~((does not intend to be used again for commercial hauling of forest products))~~ has abandoned in accordance with procedures of (a) through (e) of this subsection. ~~((No subsequent))~~ Roads are exempt from maintenance ~~((of an abandoned road is required))~~ only after ~~((the following procedures are))~~ (e) of this subsection is completed:

(a) Roads are outloped, water barred, or otherwise left in a condition suitable to control erosion; and

(b) Ditches are ~~((cleaned))~~ left in a suitable condition to reduce erosion; and

(c) The road is blocked ~~((to vehicular traffic or is posted "closed."))~~ so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) ~~((The department may request the removal of))~~ Bridges ~~((and)), culverts, and fills on ((Type 1, 2, 3 and 4))~~ all waters ~~((, except where the owner elects to maintain the drainage structures))~~ are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

~~*((5))~~ (6) Brush control. Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water. Refer to WAC 222-38-020 for additional information.

~~*((6))~~ (7) Road surface treatment.

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours.

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-24-060 ROCK QUARRIES, GRAVEL PITS, BORROW PITS, AND SPOIL DISPOSAL AREAS. Not covered by the Surface Mine Reclamation Act of 1971 (chapter 78.44 RCW).

* (1) Location of pits. Except as approved by the department, rock quarries and gravel pits opened after January 1, 1975 shall be located above the ~~((25))~~ 50-year flood level.

* (2) Location of spoil disposal areas. Except as approved by the department, spoil disposal areas shall be located:

(a) Above the ~~((25))~~ 50-year flood level.

(b) Where the final slope after disposal will be no steeper than 1 1/2:1.

(c) Where practical, on areas having low potential timber productivity.

(d) Where the risk of soil erosion and mass soil movement is minimal.

(e) All spoils shall be placed to allow drainage without additional water ponding.

* (3) Pit drainage. During construction and use of rock quarries, gravel pits, or borrow pits, runoff water shall be either diverted onto the forest floor or be passed through one or more settling basins as approved by the department.

(4) Rehabilitation required. All rock quarries, gravel pits, spoil disposal areas and borrow pits used after January 1, 1975 shall be reclaimed within 2 years from the time the rock or gravel source is either exhausted or abandoned.

(5) Rehabilitation standards. Where rehabilitation is required:

(a) Remove all deleterious material that has potential for damaging the public resource, the soil productivity, or that would prevent reforestation of an otherwise plantable area.

(b) Grade slopes to less than the angle of repose unless otherwise approved.

(c) Reforest in accordance with chapter 222-34 WAC to the extent practical.

(d) Seed unreforested exposed erodible soils with grass, clover or other ground cover.

* (6) Major spoil disposal operations. Where a spoil disposal operation involves more than 1,000 cubic yards of spoils:

(a) The spoils shall be placed to provide drainage onto the forest floor without water ponding within the disposal area;

(b) The site shall be reforested in accordance with chapter 222-34 WAC to the extent practical; and

(c) If significant erosion of the spoils develops, the eroding areas shall be water barred and any unreforested areas shall be matted, mulched, or seeded with grass or ground cover.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-30-020 HARVEST UNIT PLANNING AND DESIGN. (1) Logging system. The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

* (2) Landing locations.

~~((a))~~ Locate landings ~~((on firm ground above the ordinary high-water mark of any stream))~~ to prevent damage to public resources. Avoid excessive excavation and filling.

~~((b))~~ Landings involving sidecast or fill shall be located where the toe of the sidecast or fill does not lie below the 50-year flood level of a Type 1, 2 or 3 water or below the ordinary high-water mark of a Type 4 water.)

(3) Landing construction.

(a) Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

(b) Where the average general slopes exceed 65 percent, fill material used in construction of landings shall be free of loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.

* (c) Truck roads, skid or fire trails shall be outloped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fill.

(d) Landings shall be sloped to minimize accumulation of water on the landing.

* (e) Excavation material shall not be sidecast where there is high potential for material to enter below the ordinary high-water mark of any stream or the 50-year flood level of Type 1, 2 ~~((or)),~~ 3 or 4 Water.

* (4) ~~((Streamside))~~ Riparian management zone. These zones shall be measured from the ordinary high-water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, but shall not be less than 25 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include swamps, bogs, marshes or ponds adjacent to the stream.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and temperature control. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

WATER TYPE/ AVERAGE WIDTH	RMZ MAXIMUM WIDTH	RATIO OF CONIFER TO DECIDUOUS/ SIZE OF LEAVE TREES	# TREES/1000 FT. EACH SIDE GRAVEL/BOULDER/ COBBLE BEDROCK <10" DIAMETER
1 & 2 Water 75' & over	100'	representative of stand	50 trees 25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees 50 trees except N.E. Wash. 75 trees 50 trees
3 Water 5' & over	50'	2 to 1/ 12" or largest available except N.E. Wash. 8" or largest available	75 trees 25 trees except N.E. Wash. 60 trees 25 trees
3 Water less than 5'	25'	1 to 1/ 6" or largest available	25 trees 25 trees

The leave tree requirement for northeastern Washington applies only to Stevens, Pend Oreille, Spokane, and Ferry Counties and that portion of Okanogan County lying east of the Okanogan River.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within the riparian management zone of Type 1, 2 or 3 Waters and either the harvest unit is a clearcutting of 30 acres or less or in eastern Washington, the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010(33) partial cutting.)

(5) Type 4 Water riparian leave tree areas. The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.

((5)) (6) Future productivity. Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for ((streamside)) riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

((6)) (7) Wildlife habitat. This ((section)) subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of game to identify ((key)) critical wildlife habitats as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Where a ((key)) critical wildlife habitat has been identified the applicant shall consider reasonable means of protection thereof as part of the proposed harvesting operation.

(c) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(d) In areas where this will not create a significant fire or safety hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), a reasonable number of snags will be left to protect habitat for cavity nesting wildlife.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-30-030 STREAM BANK INTEGRITY. *In the ((streamside)) riparian management zone along all Type 1, 2 and 3 Waters, ((use reasonable care to)) the operator shall:

(1) Avoid disturbing brush and similar understory vegetation;
(2) Avoid disturbing stumps and root systems and any logs embedded in the bank;

(3) Leave high stumps where necessary to prevent felled and bucked timber from entering the water((:));

((The streamside management zone is measured from the ordinary high water on both sides of the water and is 50 feet in width for Type 1 and 2 waters and 25 feet for Type 3 water.)) (4) Leave trees which display large root systems embedded in the bank.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-040 TEMPERATURE CONTROL. *(1) Determination of temperature sensitivity for Type 1, 2 and 3 Waters shall be based upon field data ((or upon criteria set forth in WAC 222-16-040)) or records, from a verified water temperature model or method acceptable to the department, that demonstrate significant adverse water temperature impacts following the proposed timber harvest and shade removal. Any designation as to whether or not waters are temperature sensitive shall be made by the department prior to the deadline for approval or disapproval of the application for harvest.

* (2) Shade requirements. Within the ((streamside)) riparian management zone along those Type 1, 2 and 3 Waters designated as temperature sensitive, unless a waiver is granted by the department under subsection (3) of this section, the operator shall:

(a) Leave all nonmerchantable vegetation which provides mid-summer and mid-day shade of the water surface; and

(b) Leave sufficient merchantable timber, if any, necessary to retain 50 percent of the summer mid-day shade of the water surface, provided that the department shall require leaving 75 percent of the shade where it determines that the mean of the maximum summer daily ambient water temperatures, for a 7-day period, exceeds 60 degrees before logging. (See the forest practices board manual part 2 for methods of shade determination.)

* (3) Waivers. The department may waive or modify the shade requirements where the applicant:

(a) Shows a high probability of windthrow and agrees to replant the ((streamside)) riparian management zone within the first planting season after harvest; or

(b) Agrees to a staggered setting program producing equal or greater temperature control; or

(c) Provides alternative means of stream temperature control satisfactory to the department.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-050 FELLING AND BUCKING. *(1) ((Felling into stream)) Falling along water.

(a) No trees will be felled into Type 1, 2 and 3 Waters, except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulics project approval of the departments of fisheries or game.

(b) Within the riparian management zone fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

((b)) (c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

* (2) Bucking in ((streams)) water.

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Water, except as necessary to remove the timber from the ((stream, lake or pond)) water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the ((stream, lake or pond)) water.

* (3) ((Felling in streamside management zones.

~~(a) Individual trees within a streamside management zone otherwise restricted from cutting may be harvested if reasonably expected to fall into the stream, lake or pond from natural causes.~~

~~(b) Care shall be taken to fall any trees cut within the streamside management zone in a manner to prevent damage to the stream, lake or pond and streamside management zone.~~

~~*~~(4) Felling~~) Felling near ~~((streamside)) riparian~~ management zone and setting boundaries. Reasonable care shall be taken to avoid felling trees into ~~((streamside)) riparian~~ management zones and areas outside the harvest unit.~~

~~((~~(5) Felling~~)) (4) Felling in selective and partial cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.~~

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-060 CABLE YARDING. *(1) Type 1, 2 and 3 Waters. No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where(~~:~~

~~(a)) the logs will not materially damage the ~~((stream)) bed of waters, banks or ~~((streamside)) riparian~~ management zones~~(; or~~~~~~

~~(b) Necessary to remove trees from the stream; or~~

~~(c) Part of a stream clearance and improvement project approved by the departments of fisheries or game; or~~

~~(d) Approved by the department)) and removals from Type 1, 2 or 3 Water have hydraulics project approval of the departments of fisheries or game.~~

*~~(2) Deadfalls. Any logs which are firmly embedded in the bed of a Type 1, 2 ~~((or)), 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries ~~((and)) or game.~~~~~~

*~~(3) Yarding in ~~((streamside)) riparian~~ management zone. Where timber is yarded from or across a ~~((streamside)) riparian~~ management zone, reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type 1, 2 and 3 Waters until clear of the ~~((streamside)) riparian~~ management zone.~~

~~(4) Direction of yarding.~~

~~(a) Uphill yarding is preferred.~~

~~(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.~~

*~~(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the ~~((25)) 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize ~~((rutting)) soil disturbance and to prevent logs from rolling into the stream, lake ~~((or)), pond, or ~~((streamside)) riparian~~ management zone.~~~~~~~~

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-070 TRACTOR AND WHEELED SKIDDING SYSTEMS. *(1) ~~((Streams)) Type 1, 2, 3 and 4 Waters.~~

~~(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with ~~((the)) approval by the department and with a hydraulics project approval of the departments of fisheries or game.~~~~

~~(b) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.~~

~~(c) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.~~

*~~(2) ~~((Streamside)) Riparian~~ management zone.~~

~~(a) Logging will be permitted within the zone~~(; provided that)~~. However, any use of tractors ~~((and))~~, wheeled skidders ~~((may not be used))~~, or other yarding machines within the zone ~~((unless)) must be as described in an approved forest practices application or otherwise approved in writing by the department.~~~~

~~(b) Where skidding in or through the ~~((streamside)) riparian~~ management zone is necessary, the number of skidding routes through the ~~((management)) zone shall be minimized.~~~~

~~(c) Logs shall be skidded ~~((in the direction in which they lie until clear of the streamside)) so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.~~~~

~~(3) Deadfalls. ~~((Any)) Logs ~~((which are)) firmly embedded in the bed or bank of ~~((a)) Type 1, 2 ~~((or)), 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulics project approval of the departments of fisheries ~~((and)) or game.~~~~~~~~~~~~

*~~(4) Moisture conditions. Tractor and wheeled skidders shall not be used on exposed erodible soils when soil moisture content is so high that unreasonable ~~((rutting)) soil disturbance, or stream, lake or pond siltation would result.~~~~

~~(5) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.~~

*~~(6) Skid trail construction.~~

~~(a) Skid trails shall be kept to the minimum feasible width.~~

~~(b) Reasonable care shall be taken to minimize the amount of side-cast required and shall only be permitted above the 50-year flood level.~~

~~(c) Skid trails shall be outslopped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.~~

*~~(7) Skid trail maintenance. Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.~~

*~~(8) Slope restrictions. Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.~~

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-090 POSTHARVEST SITE PREPARATION. Unless the application or notification indicates that the landowner or forest landowner specifically agrees to assume responsibility for compliance with this section, the operator shall leave the site in a condition suitable for reforestation following any clear cutting, or any partial cutting west of the summit of the Cascades where 80 percent or more of the cubic volume is removed within any 5 consecutive years unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils. Lands being converted to another use or classified as urban development lands under WAC 222-34-050 are exempt.

~~((++)) The following site preparation is required when necessary to establish a condition suitable for reforestation:~~

~~((+)) ~~(1) Cutting, slashing, or other treatment of all noncommercial tree species, other competing vegetation, and nonmerchantable size trees commonly known as "whips" which will not reasonably utilize the growing capacity of the soil except in the ~~((streamside)) riparian~~ management zone; or~~~~

~~((b)) ~~(2) Pile or windrow slash; or~~~~

~~((c)) ~~(3) Mechanically scatter slash; or~~~~

~~((d)) ~~(4) Leave the cutover area in a condition for controlled broadcast burning, and subsequently burn.~~~~

~~((2) Streamside management zones may require special treatment to establish conditions suitable for reforestation:))~~

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-30-100 SLASH DISPOSAL. (1) Slash disposal techniques:

(a) Except in riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity, any conventional method of slash disposal may be used, such as: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: PROVIDED, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to prevent damage to ~~((streamside)) riparian~~ management zones, soil, residual timber, public resources, and other property.

*~~(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the ~~((25)) 50-year flood level of any Type 1 ~~((or)),~~~~~~

2, 3 or 4 Water (or below the ordinary high-water mark of any Type 3 or 4 water;) or in locations from which it could be expected to enter any stream, lake or pond.

(2) Slash ((~~disposal~~) isolation, reduction, or abatement is required when ((~~abatement of~~) the department determines there is an extreme fire hazard ((~~is required by~~)) according to law (see WAC 332-24-360).

(3) Slash disposal is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

* (4) Removing slash and debris from streams.

((~~(a)~~)) "Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2 ((~~or~~)), 3 or 4 Waters, to above the ((25)) 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the ((25)) 50-year flood level of Type 1 ((~~or~~)), 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

((~~(b)~~)) "Slash" and "debris" shall be removed from below the ordinary high-water mark of Type 4 waters, when the department issues written notice for removal of the slash or debris because of potential damage to public resources. See part 6 of the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 waters.")

* (5) Fire trails.

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/10/86, effective 12/1/86)

WAC 222-34-010 REQUIRED REFORESTATION—WEST OF CASCADES SUMMIT. (1) Reforestation - where required.

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban uses, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

(i) Clearcutting; or

(ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

(i) Individual dead, dying, down or windthrown trees are salvaged; or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes; for example, removal of individual trees from lands used for farming or grazing; or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or

(iv) A minimum of 190 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested and not more than 20 percent of the harvested area has from 150 to 190 seedlings per acre; or

(v) A minimum of 100 vigorous, undamaged, well-distributed saplings or merchantable trees per acre of a commercial species or combinations thereof, remain on the area harvested.

(2) Acceptable stocking. Stocking levels are acceptable if a minimum of 190 well-distributed, vigorous, undamaged seedlings per acre of commercial tree species or such lesser number as the department determines will reasonably utilize the timber growing capacity of the site, have survived on the site at least 1 growing season. "Well-distributed" means that not more than 20 percent of the harvested area contains less than a minimum of 150 seedlings per acre as determined by the department.

(3) Competing vegetation. Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(4) Artificial regeneration standards.

(a) Satisfactory reforestation - clearcuts. Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest,

or a period of from 1 to ((5)) 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: PROVIDED, That regeneration failures from causes beyond the applicant's control will not result in violation of this section, but supplemental planting or reforestation may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest land owner's control require delay in planting or seeding.

(i) Reforestation species. Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(A) Site data indicates better potential production for the proposed species than the existing species.

(B) Control of forest insects or diseases.

(C) Greater economic return.

(ii) Seedling or seeding standards. Except as approved by the department to qualify as acceptable reforestation, the seedlings or seeds must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) Satisfactory reforestation - partial cuts. Where reforestation is required in connection with a partial cut, the harvest application shall include a plan for stocking improvement. The plan shall be approved unless the department determines that it will not reasonably utilize the timber growing capacity of the site.

(5) Natural regeneration standards. A natural regeneration plan may be approved as acceptable reforestation if:

(a) A seed source of well formed trees of commercial tree species, capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan, or until issuance of a satisfactory reforestation inspection report.

(c) The seed source must consist of:

(i) Seed blocks of sizes and locations shown on the plan and satisfactory to the department; or

(ii) An average of at least 8 individually marked, well-distributed, undamaged, vigorous, windfirm seed trees per acre of plantable area and no inadequately stocked area is more than 400 feet from the nearest seed tree; and

(iii) Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(6) Any alternate plan for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to ((5)) 10 years.

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/10/86, effective 12/1/86)

WAC 222-34-020 REQUIRED REFORESTATION—EAST OF CASCADES SUMMIT. (1) Reforestation - where required.

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban use, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

(i) Clearcutting; or

(ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

(i) Individual dead, dying, down or windthrown trees are salvaged; or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes, for example, removal of individual trees from lands used exclusively for farming or cultivated pasture; or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or

(iv) A minimum of 150 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested and not more than 20 percent of the harvested area has from 120 to 150 seedlings per acre; or

(v) A minimum of 100 vigorous, undamaged, well-distributed advanced regeneration, saplings or merchantable trees per acre of a commercial tree species or combinations thereof, remain on the area harvested.

(2) Acceptable stocking. Stocking levels are acceptable if a minimum of 150 well-distributed, vigorous, undamaged seedlings per acre of commercial tree species or such lesser number as the department determines will reasonably utilize the timber growing capacity of the site have survived on the site at least 1 growing season. "Well-distributed" means that not more than 20 percent of the harvested area contains less than a minimum of 120 trees per acre as determined by the department.

(3) Competing vegetation. Competing vegetation shall be controlled to the extent necessary to allow establishment survival and growth by commercial species.

(4) Artificial regeneration standards.

(a) Satisfactory reforestation - clearcuts. Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest or a period of from 1 to ~~(5)~~ 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: **PROVIDED**, That regeneration failures from causes beyond the applicant's control will not result in a violation of this section, but supplemental planting may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting or seeding.

(i) Reforestation species. Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(A) Site data indicates better potential production for the proposed species than the existing species.

(B) Control of forest insects or diseases.

(C) Greater economic return.

(ii) Seedling and seed standards. Except as approved by the department to qualify as acceptable reforestation, the seedlings and seed must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) Satisfactory reforestation - partial cuts. Partial cuts not meeting the specifications of subsection (1)(b)(iv) or (v) of this section shall have a seed source as required in subsection (5)(c)(ii) of this section.

(5) Natural regeneration standards. A natural regeneration plan may be approved by the department as acceptable reforestation if:

(a) A seed source of well-formed, vigorous trees of commercial tree species capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan or until issuance of a satisfactory reforestation inspection report.

(c) The seed source consists of one of the following, or combinations thereof:

(i) Seed blocks which total a minimum of 5 percent of the area of each 40 acre subdivision or portion thereof harvested: **PROVIDED**, That the seed block should be reasonably windfirm, at least 1/2 acre in size, and reserved in locations shown on the plan and approved by the department; or

(ii) A minimum of 4 undamaged seed trees per acre, well distributed over each 40 acre subdivision or portion thereof harvested: **PROVIDED**, That the distance from seed trees of harvested areas that are not adequately stocked should not be more than 200 feet. Seed trees shall be of commercial tree species, vigorous and of seed-bearing age and size.

(6) Any alternate plan for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to ~~(5)~~ 10 years.

AMENDATORY SECTION (Amending Resolution No. 86-2, filed 10/10/86, effective 12/1/86)

WAC 222-34-030 REFORESTATION—PLANS—REPORTS—INSPECTIONS. (1) Reforestation plans. Reforestation plans must be submitted with the application or notification except where no reforestation is required. The department shall designate difficult regeneration areas utilizing silvicultural information. When a

forest practice is proposed for such an area, the department may require additional information regarding harvest systems and post harvest site preparation, as well as regeneration. The department shall approve ~~((a))~~ the reforestation plan for difficult regeneration areas if it determines that such a plan will achieve acceptable stocking according to WAC 222-34-010 and 222-34-020.

(2) Reforestation reports. The landowner, forest landowner, or his designee shall file a report with the department either at the time of completion of planting or reforestation or at the end of the normal planting season. When artificial seeding is used the report shall be filed 2 growing seasons after seeding.

(3) The reports in subsection (2) of this section must contain at least the following:

(a) The original forest practice application or notification number.

(b) Species reforested, planted, or seeded.

(c) Age of stock planted or seed source zone.

(d) Description of actual area reforested, planted, or seeded.

(4) Inspection; supplemental planting or reforestation directives.

(a) Within 12 months after a reforestation report is received, the department shall inspect the reforested lands. The department shall issue written notice to the landowner, forest landowner, or his designee stating whether supplemental planting or reforestation or further inspection is required within 30 days after the deadline for inspection or the reforestation shall be deemed satisfactory.

(b) If the inspection shows that acceptable stocking levels have not been achieved, the department shall direct the forest landowner to perform supplemental planting in accordance with the planting standards of WAC 222-34-010 (3) and (4)(a)(ii), 222-34-020 (3) and (4)(a)(ii): **PROVIDED**, That:

(i) In lieu of such supplemental planting, the department and the forest landowner may agree on a supplemental reforestation plan.

(ii) Supplemental planting or reforestation shall not be required where in the opinion of the department planting or reforestation is not feasible due to rocky ground, dry conditions, excessively high water table or other adverse site factors and the department determines that there is little probability of significantly increasing the stocking level.

(iii) Where supplemental planting or reforestation has been required by the department, the landowner, forest landowner, or his designee shall file a report of supplemental planting or reforestation upon completion.

(iv) Except where stocking improvement is necessary to protect public resources and is feasible, further supplementary planting shall not be required where acceptable stocking levels have not been achieved after two properly performed supplemental plantings.

(c) Within 12 months after a supplemental planting or reforestation report is received, the department shall inspect the reforested lands.

(d) Evidence of compliance. The department shall within 30 days after the deadline for inspection or reinspection and when requested by the forest landowner confirm in writing whether acceptable stocking levels have been achieved, provided field conditions do not prevent the department from properly evaluating the reforestation.

(e) Where a natural regeneration plan has been approved by the department, the department may allow up to 5 years to achieve acceptable stocking levels.

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-34-040 SITE PREPARATION AND REHABILITATION. *(1) Heavy equipment. Heavy equipment shall not be used in connection with site preparation or rehabilitation work:

(a) When, because of soil moisture conditions or the type of soils, undue compaction or unnecessary damage to soil productivity would occur or erosion would result in damage to water quality; or

(b) ~~((In Type 1, 2 or 3 water, except as approved by the departments of fisheries and game:~~

~~(c) In streamside management zones except as permitted in WAC 222-30-020(4) streamside management zone or WAC 222-30-030 stream bank integrity:)) Within riparian management zones or within ten feet of the ordinary high-water mark of Type 4 and 5 Waters on slopes of 30 percent or less. On slopes greater than 30 percent heavy equipment shall not operate within 50 feet of Type 1 through 5 Waters unless a site specific plan has been approved by the department.~~

*(2) Surface water drainage. Where site preparation or rehabilitation involves contouring or terracing of slopes, drainage ditches, or similar work:

(a) The gradient of ditches or other artificial water courses in erodible soils shall not cause significant stream, lake or pond siltation.

(b) Ditches and other artificial water courses shall not discharge onto any road, landing or fill.

(c) Ditches and other artificial water courses shall not be constructed to discharge onto the property of other parties without their consent.

*(3) Stream channel alignment. Where work involves deepening, widening, straightening or relocating the channel; or bulkheading, ripping or otherwise stabilizing the banks of a Type 1, 2 or 3 Water, the work shall be done only:

(a) After consultation with any party having an appropriation permit or registered right to appropriate waters from the affected stream segment in cases of streams used for domestic water supplies.

(b) Where no significant adverse affects on either the peak or minimum water levels or flows downstream can be expected.

(c) In a manner not expected to result in long-term damage to public resources or to adjacent or downstream property. (NOTE: OTHER LAWS AND REGULATIONS AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

AMENDATORY SECTION (Amending Resolution No. 82-1, filed 8/3/82, effective 10/1/82)

WAC 222-38-020 HANDLING, STORAGE, APPLICATION.

*(1) ((Leakage-))

(a) ((No significant leakage of chemicals into water or soil is permitted from any equipment used for their transportation, storage, mixing or application)) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants, and animals.

(b) The department or the department of agriculture may suspend further use of any equipment responsible for ((significant)) chemical leakage, until the deficiency has been corrected to the satisfaction of the department suspending its usage.

*(2) ((Mixing-When water is used in mixing of chemicals:

(a) Provide)) No person shall pollute streams, lakes, and other public water supplies in their pesticide loading and mixing operation. This includes using devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

((b) Use uncontaminated pumps, hoses and screens:))

*(3) Mixing and landing areas.

(a) Mix chemicals and clean tanks and equipment only where any accidental spills would not enter any water types.

(b) Landing areas should be located where accidental spillage of chemicals will not cause them to become a ((contaminate)) contaminant. If any chemical is spilled, immediate appropriate procedures should be taken to contain or neutralize it.

*(4) Riparian management zone. Chemical treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(5) Aerial application.

(a) ((Leave at least 50 feet untreated on each side of all Type 1 and 2 water and other areas of open water, such as ponds or sloughs or leave 25 feet untreated on each side of Type 3 waters.

(b) Leave at least 25 feet untreated on each side of flowing Type 4 waters when required by the department. The department may so require when there is a likelihood of unreasonable impact on:

(i) Water intakes authorized by permit or certificate pursuant to chapter 90.03 RCW or duly registered pursuant to chapter 90.14 RCW, known to the applicant or the department; or

(ii) Streams or segments of streams which have been identified by the department of game or the department of fisheries as serving artificial fish rearing or incubation facilities.

See part 8 of the forest practices board manual for guidelines for requiring untreated strips on Type 4 waters:)) To keep chemicals out of the water, leave a 50 foot buffer strip on Type 1, 2, 3 and flowing Type 4 and 5 Waters and other areas of open water, such as ponds or sloughs. Do not spray chemicals in buffer strips or riparian management zones. Provided that fertilizers may be applied to within 25 feet of the water.

((c) Where practical:)) (b) Apply the initial swath parallel to the ((untreated zones)) buffer strip in ((subsection (4))) (a) of this ((section)) subsection on Type 1, 2 ((or)), 3 ((waters)) or flowing Type 4 and 5 Waters. Parallel flight adjacent to all buffer strips shall be required unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips.

((d)) (c) Use a bucket or spray device capable of immediate shutoff.

((e)) (d) Shut off chemical application during turns and over open water.

((f) Avoid)) (e) Do not allow direct entry of chemicals into any Type 1 ((or flowing Type)), 2 ((or)), 3 ((waters)) or ((those)) flowing Type 4 and 5 Waters ((identified in subsection (b) of this section)).

(f) Leave at least 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(g) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units so they are visible from the air. Before application of the chemical an over-flight of the area shall be made by the pilot and a responsible agent of the landowner.

(h) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least five days prior to treatment. Posting shall remain at least fifteen days after the spraying is complete. Posting at formal, signed trailheads that are adjacent to aeri ally treated units is required. The signs will contain the name of the product used, date of treatment, and a contact telephone number.

(i) Any water purveyor of a certified Class 1, 2 or 3 system, as defined in WAC 248-54-560, may request the department to designate lands within the watershed upstream of the surface water intake of the affected water supply as an "area of water supply interest." Prior to requesting such designation, the purveyor shall personally or by certified mail deliver to each landowner of record within such area, a copy of the request, a map showing proposed area boundaries and the name and address of the purveyor. The department may designate an "area of water supply interest" in such area(s) where it determines that the aerial application of pesticides may adversely impact the affected water supply. Where the department has designated an "area of water supply interest," it shall notify the purveyor of any Class IV Forest Practices for the aerial application of pesticides.

*((5)) (6) Stream protection - ground application with power equipment.

(a) Leave ((at least)) a 10 ((feet untreated)) foot buffer strip on each side of every Type 1 and 2 Water and each flowing Type 3 Water.

((b) ((Avoid direct)) Do not allow entry of chemicals into any water.

((c) ((Avoid exceeding intended or)) Do not exceed allowable dosages.

*((6)) (7) Stream protection - hand application.

((a)) Apply only to specific targets, such as a stump, burrow, bait or trap.

((b) Keep chemicals out of all water.

((7)) * (8) Limitations on application. Chemicals shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

((8)) * (9) Container disposal. Chemical containers shall be either:

(a) Removed from the forest and disposed of in the manner ((described by the state department of agriculture)) consistent with label directions; or

(b) Removed and cleaned for reuse in a manner not inconsistent with any applicable regulations of the state department of agriculture or the state or local health departments ((or

(c) Buried in a manner approved by the department)).

((9)) * (10) Daily records - aerial application of pesticides. On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC ((+6-235-030)) 16-228-190.

*((10)) (11) Reporting of spills. All potentially damaging chemical spills shall be immediately reported to the department ((and the departments of agriculture and)) of ecology.

WSR 87-10-019
EMERGENCY RULES
DEPARTMENT OF COMMUNITY DEVELOPMENT
 [Order 87-07—Filed May 1, 1987]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, Olympia, Washington, the annexed rules relating to the winter utility moratorium program, chapter 365-100 WAC:

- Amd WAC 365-100-010 General purpose.
- Amd WAC 365-100-020 Definitions.
- Amd WAC 365-100-030 Applicant responsibilities.
- Amd WAC 365-100-040 Agency responsibilities.

I, Chuck Clarke, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is clarifying amendments are needed to incorporate changes made in the Laws of 1986. This action is taken to ensure implementation of appropriate services and assistance to low-income households under this program.

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

This rule is promulgated under the general rule-making authority of the Department of Community Development as authorized in chapters 43.63A and 34.04 RCW.

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

APPROVED AND ADOPTED April 29, 1987.

By Chuck Clarke
 Deputy Director

Chapter 365-100 WAC
WINTER UTILITY MORATORIUM PROGRAM

- WAC
- 365-100-010 General purpose.
- 365-100-020 Definitions.
- 365-100-030 Applicant responsibilities.
- 365-100-040 (~~Agency~~) Contractor responsibilities.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-010 GENERAL PURPOSE. The following regulations are adopted pursuant to chapter ((251)) 245, Laws of ((1984)) 1986 for the purpose of implementing a moratorium on utility shut-off's during the winter. The legislature has determined and declared that utilities that supply (~~electrical~~) electricity or natural gas for home heating cannot discontinue service for low-income households between November 15 and March 15 for reasons of nonpayment(;) provided the customer complies with the provisions of the act.

The purpose of this chapter is to outline the conditions and procedures under which the department of community development (DCD) and its contractors will implement this program pursuant to chapter ((251)) 245, Laws of ((1984 and its grantees)) 1986.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-020 DEFINITIONS. The following definitions shall apply to terms in chapter ((251)) 245, Laws of ((1984)) 1986, and/or this chapter:

"Applicant" refers to a client of a community action agency or other public or private nonprofit organization, or a current customer of a utility company, or an applicant for service of a utility company, who applies for the moratorium program or other energy assistance.

(~~"Agency"~~) "Contractor" means community action agency or other public or private nonprofit organizations providing energy assistance ((program or)) and weatherization ((program grantee of)) services under contract with the department of community development.

"Business days" means all days except Saturday, Sunday and legal holidays.

"Client income statement" means a statement the applicant(~~/customer~~) signs that acknowledges ((their)) household gross income, ((their self-declared)) self-certified income, and ((the applicants)) seven percent ((payment)) of household's income. The statement acknowledges whether the income is verified or unverified, whether the applicant(~~/customer~~) has applied for energy and weatherization assistance, and whether the utility company and the agency were properly notified by the applicant(~~/customer~~). The statement also acknowledges that the applicant(~~/customer~~) agrees to enter into a payment plan ((and agrees)), to pay the past due bill by October 15 even if they move, to pay for continued utility service, and ((agrees)) to apply any assistance received to the bill.

(~~"DSHS"~~ means the department of social and health services.)

"Date of application" means the day the applicant(~~/customer~~) notifies the utility of their inability to pay the bill.

"Extenuating circumstances" means anything beyond the reasonable control of the ((customer)) applicant.

"Household income" means the total income of all household members considered for LIHEAP eligibility determination.

"LIHEAP" means low-income home energy assistance program, a federally-funded block grant.

"Low-income households" means households whose total income is no more than 125 percent of the federal poverty level.

"Overdue notice" means a written notice to disconnect service on a given date, unless payment is made.

(~~"Seven percent payment"~~ means a payment of 7 percent of monthly income (as defined in the LIHEAP procedures) of the household from November 15 through March 15.) "Utility" means regulated electric and gas companies, public utility districts, and municipal electric suppliers.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-030 **APPLICANT RESPONSIBILITIES.** (1) The applicant(~~(/customer)~~) shall notify the utility (~~(company)~~) of the inability to pay the bill, or the security deposit, within five business days. Notification may be made in person, in writing, or by telephone.

(2) The applicant(~~(/customer)~~) shall contact the (~~(agency)~~) contractor within five business days from the date of notification to the utility to (~~(begin completing the)~~) complete a client income statement. The applicant shall self-certify twelve months of household income.

(3) The applicant(~~(/customer)~~) shall provide the utility (~~(company)~~) with the completed client income statement of unverified income(~~(:)~~) within twenty days from the date of application. Verified income, or acceptance of self-certification, must be supplied to the utility within forty-five days of application. (See WAC 365-100-040.)

~~((The applicant/customer may be subject to disconnection if the client income statement of verified income is not returned to the utility company within forty-five days and no interim payment agreement has been made, or the household has been determined not income eligible.))~~

(4) At the time the client income statement is submitted to the utility, the applicant(~~(/customer)~~) shall enter an agreement to pay no less than seven percent of (~~(their)~~) the applicant's household monthly income, plus one-twelfth of any billing accrued from the date application is made and thereafter through March 15, during the period of the utility moratorium.

(5) Prior to March 15, the applicant(~~(/customer)~~) and the utility (~~(company)~~) shall enter into an agreement with the specific terms for the repayment of any account balance. Such repayment agreement shall require full payment of the balance no later than October 15 of that year, unless other arrangements are provided by the utility (~~(company. The applicant/customer shall be provided a choice between either a budget billing plan or equal payment plan).~~).

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-040 (~~(AGENCY)~~) **CONTRACTOR RESPONSIBILITIES.** (~~(With the agreement of the local utility,)~~) (1) The (~~(agency)~~) contractor may use the unverified client income statement to expedite the process for determining client eligibility for the moratorium program. The contractor may accept the applicant's self-certification of income in determining eligibility, or verify and document income in accordance with LIHEAP procedures. In either instance, the contractor shall notify the utility and the applicant of the applicant's eligibility no later than forty-five days from the date of application.

(2) The (~~(agency)~~) contractor shall provide the client income statement and assist the applicant(~~(/customer)~~)

in completing the statement when applying for the moratorium program. If the applicant(~~(/customer)~~) contacts the (~~(agency)~~) contractor to apply for the moratorium program before notifying the utility (~~(company)~~) of their inability to pay the bill, the (~~(agency)~~) contractor shall instruct the applicant(~~(/customer)~~) to immediately contact the utility.

(3) The (~~(agency)~~) contractor shall (~~(also)~~) interview the applicant(~~(/customer)~~) for energy and weatherization assistance.

(4) The (~~(agency)~~) contractor shall provide the client income statement of unverified income to the applicant(~~(/customer)~~) within twenty days from the date of application.

~~((The agency shall verify the applicant's/customer's income and program eligibility within forty-five days from the date of application.))~~

(5) The contractor shall inform the applicant that default on an agreed payment plan with the utility will remove moratorium protection until the past due bill is paid.

(6) The contractor shall advise the applicant that disconnection of services is possible if:

(a) Verified income is not supplied to the utility within forty-five days of application and no interim payment agreement has been made with the utility by the applicant.

(b) The applicant has been determined income ineligible.

(7) The contractor shall inform the applicant that the utility is required to offer a choice between a budget billing plan or equal payment plan.

WSR 87-10-020**ADOPTED RULES****DEPARTMENT OF COMMUNITY DEVELOPMENT**

[Order 87-08—Filed May 1, 1987]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington, the annexed rules relating to the winter utility moratorium program, chapter 365-100 WAC:

Amd	WAC 365-100-010	General purpose.
Amd	WAC 365-100-020	Definitions.
Amd	WAC 365-100-030	Applicant responsibilities.
Amd	WAC 365-100-040	Agency responsibilities.

This action is taken pursuant to Notice No. WSR 87-03-043 filed with the code reviser on January 20, 1987. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Community Development as authorized in chapters 43.63A and 34.04 RCW.

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

APPROVED AND ADOPTED April 29, 1987.

By Chuck Clarke
Deputy Director

Chapter 365-100 WAC
WINTER UTILITY MORATORIUM PROGRAM

WAC

- 365-100-010 General purpose.
- 365-100-020 Definitions.
- 365-100-030 Applicant responsibilities.
- 365-100-040 ((Agency)) Contractor responsibilities.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-010 GENERAL PURPOSE. The following regulations are adopted pursuant to chapter ((251)) 245, Laws of ((1984)) 1986 for the purpose of implementing a moratorium on utility shut-off's during the winter. The legislature has determined and declared that utilities that supply ((electrical)) electricity or natural gas for home heating cannot discontinue service for low-income households between November 15 and March 15 for reasons of nonpayment((:)) provided the customer complies with the provisions of the act.

The purpose of this chapter is to outline the conditions and procedures under which the department of community development (DCD) and its contractors will implement this program pursuant to chapter ((251)) 245, Laws of ((1984 and its grantees)) 1986.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-020 DEFINITIONS. The following definitions shall apply to terms in chapter ((251)) 245, Laws of ((1984)) 1986, and/or this chapter:

"Applicant" refers to a client of a community action agency or other public or private nonprofit organization, or a current customer of a utility company, or an applicant for service of a utility company, who applies for the moratorium program or other energy assistance.

(("Agency")) "Contractor" means community action agency or other public or private nonprofit organizations providing energy assistance ((program or)) and weatherization ((program grantee of)) services under contract with the department of community development.

"Business days" means all days except Saturday, Sunday and legal holidays.

"Client income statement" means a statement the applicant((/customer)) signs that acknowledges ((their)) household gross income, ((their self-declared)) self-certified income, and ((the applicants)) seven percent ((payment)) of household's income. The statement acknowledges whether the income is verified or unverified, whether the applicant((/customer)) has applied for energy and weatherization assistance, and whether the

utility company and the agency were properly notified by the applicant((/customer)). The statement also acknowledges that the applicant((/customer)) agrees to enter into a payment plan ((and agrees)), to pay the past due bill by October 15 even if they move, to pay for continued utility service, and ((agrees)) to apply any assistance received to the bill.

(("DSHS" means the department of social and health services:))

"Date of application" means the day the applicant((/customer)) notifies the utility of their inability to pay the bill.

"Extenuating circumstances" means anything beyond the reasonable control of the ((customer)) applicant.

"Household income" means the total income of all household members considered for LIHEAP eligibility determination.

"LIHEAP" means low-income home energy assistance program, a federally-funded block grant.

"Low-income households" means households whose total income is no more than 125 percent of the federal poverty level.

"Overdue notice" means a written notice to disconnect service on a given date, unless payment is made.

(("Seven percent payment" means a payment of 7 percent of monthly income (as defined in the LIHEAP procedures) of the household from November 15 through March 15:)) "Utility" means regulated electric and gas companies, public utility districts, and municipal electric suppliers.

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-030 APPLICANT RESPONSIBILITIES. (1) The applicant((/customer)) shall notify the utility ((company)) of the inability to pay the bill, or the security deposit, within five business days. Notification may be made in person, in writing, or by telephone.

(2) The applicant((/customer)) shall contact the ((agency)) contractor within five business days from the date of notification to the utility to ((begin completing the)) complete a client income statement. The applicant shall self-certify twelve months of household income.

(3) The applicant((/customer)) shall provide the utility ((company)) with the completed client income statement of unverified income((:)) within twenty days from the date of application. Verified income, or acceptance of self-certification, must be supplied to the utility within forty-five days of application. (See WAC 365-100-040.)

((The applicant/customer may be subject to disconnection if the client income statement of verified income is not returned to the utility company within forty-five days and no interim payment agreement has been made, or the household has been determined not income eligible:))

(4) At the time the client income statement is submitted to the utility, the applicant((/customer)) shall enter an agreement to pay no less than seven percent of ((their)) the applicant's household monthly income, plus

one-twelfth of any billing accrued from the date application is made and thereafter through March 15, during the period of the utility moratorium.

(5) Prior to March 15, the applicant(~~/customer~~) and the utility (~~company~~) shall enter into an agreement with the specific terms for the repayment of any account balance. Such repayment agreement shall require full payment of the balance no later than October 15 of that year, unless other arrangements are provided by the utility (~~company. The applicant/customer shall be provided a choice between either a budget billing plan or equal payment plan~~).

AMENDATORY SECTION (Amending Order 84-02, filed 2/13/85)

WAC 365-100-040 ((AGENCY)) CONTRACTOR RESPONSIBILITIES. ((With the agreement of the local utility;)) (1) The ((agency)) contractor may use the unverified client income statement to expedite the process for determining client eligibility for the moratorium program. The contractor may accept the applicant's self-certification of income in determining eligibility, or verify and document income in accordance with LIHEAP procedures. In either instance, the contractor shall notify the utility and the applicant of the applicant's eligibility no later than forty-five days from the date of application.

(2) The ((agency)) contractor shall provide the client income statement and assist the applicant(~~/customer~~) in completing the statement when applying for the moratorium program. If the applicant(~~/customer~~) contacts the ((agency)) contractor to apply for the moratorium program before notifying the utility (~~company~~) of their inability to pay the bill, the ((agency)) contractor shall instruct the applicant(~~/customer~~) to immediately contact the utility.

(3) The ((agency)) contractor shall ((also)) interview the applicant(~~/customer~~) for energy and weatherization assistance.

(4) The ((agency)) contractor shall provide the client income statement of unverified income to the applicant(~~/customer~~) within twenty days from the date of application.

((The agency shall verify the applicant's/customer's income and program eligibility within forty-five days from the date of application.))

(5) The contractor shall inform the applicant that default on an agreed payment plan with the utility will remove moratorium protection until the past due bill is paid.

(6) The contractor shall advise the applicant that disconnection of services is possible if:

(a) Verified income is not supplied to the utility within forty-five days of application and no interim payment agreement has been made with the utility by the applicant.

(b) The applicant has been determined income ineligible.

(7) The contractor shall inform the applicant that the utility is required to offer a choice between a budget billing plan or equal payment plan.

**WSR 87-10-021
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2476—Filed May 1, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Medicaid qualifying trusts, new WAC 388-92-041.

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 comply with section 9506 of COBRA and section 9401 of H.R. 5300.

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

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

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

APPROVED AND ADOPTED May 1, 1987.

By Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-92-041 MEDICAID QUALIFYING TRUSTS. (1) A Medicaid qualifying trust is a grantor trust, or other similar legal device, set up by the client (or spouse) under which:

(a) The client may be the beneficiary of all or part of the payments from the trust; and

(b) The distribution of such payments is determined by one or more trustees; and

(c) The trustees are permitted to use discretion with respect to the distribution to the client.

(2) The amount deemed to be available to the client from the trust is the greatest amount of payments permitted to be distributed under the terms of the trust.

(3) This section shall apply:

(a) Whether or not the Medicaid qualifying trust:

(i) Is irrevocable; or

(ii) Is established for purposes other than to establish eligibility for medical assistance.

(b) Whether or not the trustees actually use the discretion permitted by the trust.

(4) The department shall waive the requirements of this section if undue hardship exists. Each case involving a Medicaid qualifying trust shall be evaluated on an individual basis to decide if undue hardship exists. Undue hardship shall include but not be limited to situations in which:

(a) *The trustee has refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or*

(b) *The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.*

(5) *This section shall not apply to any trust or initial trust decree established:*

(a) *Prior to April 7, 1986; and*

(b) *Solely for the benefit of a mentally retarded client who lives in an intermediate care facility for the mentally retarded.*

WSR 87-10-022
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2486—Filed May 1, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Medicaid qualifying trusts, new WAC 388-92-041.

This action is taken pursuant to Notice No. WSR 87-07-012 filed with the code reviser on March 11, 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 74.09 RCW and is intended to administratively implement that statute.

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

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

APPROVED AND ADOPTED May 1, 1987.

By Leslie F. James, Director
 Administrative Services

NEW SECTION

WAC 388-92-041 MEDICAID QUALIFYING TRUSTS. (1) A Medicaid qualifying trust is a grantor trust, or other similar legal device, set up by the client (or spouse) under which:

(a) The client may be the beneficiary of all or part of the payments from the trust; and

(b) The distribution of such payments is determined by one or more trustees; and

(c) The trustees are permitted to use discretion with respect to the distribution to the client.

(2) The amount deemed to be available to the client from the trust is the greatest amount of payments permitted to be distributed under the terms of the trust.

(3) This section shall apply:

(a) Whether or not the Medicaid qualifying trust:

(i) Is irrevocable; or

(ii) Is established for purposes other than to establish eligibility for medical assistance.

(b) Whether or not the trustees actually use the discretion permitted by the trust.

(4) The department shall waive the requirements of this section if undue hardship exists. Each case involving a Medicaid qualifying trust shall be evaluated on an individual basis to decide if undue hardship exists. Undue hardship shall include but not be limited to situations in which:

(a) The trustee has refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or

(b) The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.

(5) This section shall not apply to any trust or initial trust decree established:

(a) Prior to April 7, 1986; and

(b) Solely for the benefit of a mentally retarded client who lives in an intermediate care facility for the mentally retarded.

WSR 87-10-023
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Order 2487—Filed May 1, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to certificate of need, amending chapter 248-19 WAC.

This action is taken pursuant to Notice No. WSR 87-06-048 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 70.38.115 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 70.38 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 May 1, 1987.

By Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2344, filed 2/28/86)

WAC 248-19-230 APPLICABILITY OF CHAPTER 248-19 WAC. (1) The following undertakings shall be subject to the provisions of chapter 248-19 WAC, with the exceptions provided for in this section.¹

(a) The construction, development, or other establishment of a new health care facility.

(b) Any capital expenditure by or on behalf of a health care facility which substantially changes the services of the facility.

(i) The specific services subject to review under this subsection are limited to:

(A) Air ambulance services licensed under chapter 18.73 RCW including a change between fixed wing and rotor aircraft. This includes, but is not limited to, acquisition of aircraft or construction of landing facilities.

(B) Land ambulance services licensed under chapter 18.73 RCW.

(C) Brain electrical activity mapping.

(D) Burn services meaning a portion of an acute care facility equipped, organized, and assigned the function of the complete care, including rehabilitation, of persons suffering from a burn injury.

(E) Cardiac catheterization.

(F) Extracorporeal shock wave lithotripsy/extracorporeal pressure wave lithotripsy.

(G) Inpatient psychiatric services.

(H) Level II inpatient rehabilitation service. Patients treated in a Level II service should have moderate to severe impairment in two or more functional areas. Disability is frequently permanent and requires adjustments in lifestyle through intervention of at least two rehabilitation disciplines. Patients are treated in a separate unit, wing, or section staffed by nurses with specialized training and/or experience in rehabilitation. Care is provided by a rehabilitation team consisting of at least a rehabilitation nurse and physical, occupational, and speech therapists and headed by either a physiatrist or a physician with specialized training and/or experience in rehabilitation medicine. These services must have access to social, psychological, and/or prosthetic-orthotic services.

(I) Level III inpatient rehabilitation service. Level III rehabilitation services are those services for persons with usually nonreversible, multiple functional impairments of a moderate-to-severe complexity resulting in major changes in patient's lifestyle and require intervention by several rehabilitation disciplines. Services are provided by a multidisciplinary team, including those listed in subsection (1)(b)(i)(H) of this section and vocational counseling and managed by a physiatrist. The service is provided in a dedicated unit with a separate nurses station staffed by nurses with specialized training and/or experience in rehabilitation nursing. While the service may specialize (i.e., spinal cord injury, severe head trauma, etc.), it is able to treat all persons within the designated diagnostic specialization regardless of level of severity or complexity of the impairments.

(J) Basic inpatient pediatric services. These are services for uncomplicated pediatric cases and for pediatric cases requiring specialized equipment and personnel with specialty, but not subspecialty, skills and training. These services are not provided in a separate unit, but are in designated pediatric beds distinct from medical/surgical beds.

(K) Specialized inpatient pediatric services. These are services for complex pediatric cases requiring specialized

equipment as well as specialty and subspecialty personnel. These services are provided in dedicated pediatric units with a separate nurses' station.

(L) Magnetic resonance imaging(~~(/nuclear magnetic resonance)~~).

(M) Intensive care neonatal services.

(N) Level I obstetrics services. This level provides services primarily for uncomplicated (~~(services)~~) deliveries.

(O) Level II obstetrics services when a hospital does not already provide Level I obstetrics services. A Level II service provides a full range of maternal and neonatal services for uncomplicated patients. Level II units will also provide a full range of services for the majority of complicated obstetrical problems and certain neonatal illnesses. They will have a highly trained multidisciplinary staff.

(P) Level III obstetrics services. Level III obstetrics services are provided to those few women and infants requiring full intensive care services for the most serious type of maternal-fetal and neonatal illnesses and abnormalities. Such a service provides the coordination of care, communications, transfer, and transportation for a given region experiencing eight thousand to twelve thousand deliveries yearly. Level III services provide leadership in preparatory and continuing education in prenatal and perinatal care and may be involved in clinical and basic research.

(Q) Open-heart surgery.

(R) Heart transplantation service.

(S) Liver transplantation service.

(T) Solid organ transplantation other than heart and liver transplantation.

(U) Positron emission tomography.

(V) Megavoltage radiation therapy.

(W) End-stage renal dialysis.

(ii) The services listed in subsection (1)(b)(i) of this section are subject to review under any one of the following circumstances:

(A) The service was not offered on a regular basis within the twelve-month period prior to the time the service is proposed to be offered.

(B) An existing service is proposed to be terminated.

(C) A service is proposed to be offered at another health care facility, whether or not the service is currently offered at one or more existing sites, or an end-stage renal dialysis service is proposed to be offered at a new site.

(D) An increase in the number of rooms, suites, or stations used for cardiac catheterization, open-heart surgery, and end-stage renal dialysis.

(E) A change from a mobile to a fixed base service.

(F) The establishment of a new or different landing site for an air ambulance service.

(iii) The department shall review and periodically revise and update these coverage provisions. This shall be done through the adoption of rules and may be done on an emergency basis.

(c) Any capital expenditure by or on behalf of a health care facility exceeding the expenditure minimum as defined by WAC 248-19-220(18). The costs of any

studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort and consulting and other services which under generally accepted accounting principles are not properly chargeable as an expense of operation and maintenance) essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure. Functional programming and general long-range planning activities, including marketing surveys and feasibility studies, are not to be included when determining whether an expenditure exceeds the expenditure minimum.

(d) A change in bed capacity of a licensed health care facility which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months.

(e) The obligation of any capital expenditure by or on behalf of a health care facility not required to be licensed for a change in bed capacity which increases the total number of beds, or redistributes beds among various categories, by more than ten beds or more than ten percent of total bed capacity as determined by the department, whichever is less, over a two-year period.

(f) Acquisition of major medical equipment:

(i) If the equipment will be owned by or located in ~~((an inpatient))~~ a health care facility; or

(ii) If the equipment is not to be owned by or located in a health care facility and the department finds, consistent with WAC 248-19-403, that:

(A) The equipment will be used to provide services for inpatients of a hospital on other than a temporary basis in the case of a natural disaster, a major accident, or equipment failure; or

(B) The person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements² for such acquisition.

(g) The sale, purchase, or lease of part or all of an existing hospital as defined in RCW 70.39.020. ~~((The acquisition of an existing health care facility other than a hospital which the department has determined, in accordance with the provisions of subsection (2) of this section, is subject to review.))~~

(h) Any new institutional health services which are offered by or on behalf of a health care facility and which were not offered on a regular basis by or on behalf of such health care facility within the twelve-month period prior to the time such services would be offered.

(i) Any expenditure by or on behalf of a health care facility in excess of the expenditure minimum made in preparation for any undertaking under this subsection and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings and specifications.

(j) The obligation of any capital expenditure by or on behalf of a health care facility which decreases the total number of licensed beds or relocates beds from one

physical facility or site to another by ten beds or ten percent, whichever is less, in any two-year period.

(k) Any acquisition by donation, lease, transfer, or comparable arrangement, by or on behalf of a health care facility, if the acquisition would otherwise be reviewable under chapter 248-19 WAC if made by purchase.

~~(2) ((The following provisions apply to the acquisition of existing health care facilities other than hospitals. At least thirty days before any person acquires or enters into a contract² to acquire an existing health care facility, the person shall provide written notification to the department and the appropriate regional health council, and in the case of a hospital, the hospital commission, of the person's intent to acquire the facility.~~

~~(a) Written notification of intent, to be considered valid, shall be made in a form and manner acceptable to the secretary's designee and shall include:~~

~~(i) The name and address of the health care facility to be acquired;~~

~~(ii) The name and address of the person intending to acquire the health care facility;~~

~~(iii) A description of the means by which the health care facility would be acquired, including the total capital expenditures associated with the acquisition, and the intended date of incurring the contractual obligation to acquire the health care facility;~~

~~(iv) The name and address of the person from whom the facility is to be acquired, and~~

~~(v) A description of any changes in institutional health services or bed capacity proposed by the person acquiring the health care facility.~~

~~(b) A certificate of need shall be required for the obligation of a capital expenditure to acquire by purchase, or under lease or comparable arrangement, an existing health care facility if:~~

~~(i) A written notification of intent to acquire an existing health care facility is not provided in accordance with WAC 248-19-230(2), or~~

~~(ii) The department finds within fifteen working days after receipt of a written notification to acquire a health care facility that the services or bed capacity of the facility will be changed in being acquired.~~

~~(c) Within fifteen working days after receipt of a written notification of intent, the department shall send written notice to the person intending to acquire the health care facility, indicating:~~

~~(i) Whether the written notification constitutes a valid notification, as prescribed in subsection (2)(a) of this section and, if such notification is valid,~~

~~(ii) Whether such acquisition is subject to certificate of need review.~~

~~(d) If the department fails to make a determination within thirty days after receipt of a valid notice, the health care facility may be acquired without a certificate of need.~~

~~(3))~~ With respect to ambulatory care facilities and inpatient health care facilities controlled (directly or indirectly) by a health maintenance organization or combination of health maintenance organizations, the provisions of chapter 248-19 WAC shall apply only to the

offering of inpatient institutional health services, the acquisition of major medical equipment, and the obligation of capital expenditures for the offering of inpatient institutional health services, and then only to the extent that such offering, acquisition, or obligation is not exempt under the provisions of WAC 248-19-405.

((4)) (3) The extension, on a regular and ongoing basis, of the services of a home health agency or a hospice to a population residing in a county not previously regularly included in the service area of that home health agency or hospice during the preceding twelve months constitutes extension of home health services or hospice services beyond a defined geographic area and shall be considered the development or establishment of a new home health agency or hospice.

((5)) (4) Any change in the number of dialysis stations in a kidney disease treatment center shall be considered to be a change in bed capacity of a health care facility.

((6)) (5) No person shall engage in any undertaking subject to certificate of need review under the provisions of this chapter unless a certificate of need authorizing such undertaking has been issued and remains valid or an exemption has been granted in accordance with the provisions of this chapter.

((7)) (6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

((8)) (7) The department may issue certificates of need permitting predevelopment expenditures only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made.

((9)) (8) A certificate of need application, the review of which had begun but upon which final action had not been taken prior to July 24, 1983, shall be reviewed and final action taken based on chapter 70.38 RCW and chapter 248-19 WAC as in effect prior to July 24, 1983.

((10)) (9) The provision of hospice services by an entity providing the services described in the definition of "hospice" in WAC 248-19-220, when such an entity was providing services as of July 24, 1983, shall not be considered the establishment of a new health facility or service. Persons providing hospice services as of July 24, 1983, shall submit information prescribed by the department showing they were providing hospice services as of that date and showing the services provided and the county or counties comprising the service area.

((11)) (10) Any capital expenditure in excess of the expenditure minimum not otherwise subject to certificate of need review under subsection (1)(a), (b), (d), (e), (f), or (h) of this section, solely for any one or more of the following and which does not substantially affect patient charges as determined by the department based on information provided by the applicant, is exempt from certificate of need review except to the extent required by the federal government as a condition to receipt of federal assistance:

- (a) Communications and parking facilities;
- (b) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(c) Energy conservation systems;

(d) Repairs to, or the correction of, deficiencies in existing physical plant facilities necessary to maintain state licensure;

(e) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(f) Construction, involving physical plant facilities, including administrative and support facilities, which are not and will not be used for the provision of health services;

(g) Acquisition of land; and

(h) Refinancing of existing debt.

Note:

¹Where a hospital is part of a larger institution, such as a university, the components of the larger institution (e.g., a component conducting medical research) not related to the hospital will not be considered part of the hospital, whether or not the hospital is a distinct legal entity. Similarly, when there is a legal entity, the primary activity of which is operating a hospital, but which also operates a distinct research component, the research component will not be considered part of the hospital. In these cases, the component conducting medical research that is distinct from the hospital and that neither provides inpatient services nor uses revenues derived from patient charges at the hospital to finance its operations will not be considered part of the hospital.

Further, expenditures by a component of a larger institution, such as a university, which is distinct from a separate health care facility component, such as the university's hospital, will not be viewed as being "by a health care facility." Thus, a capital expenditure by a university medical school that is a distinct component of the university will not be considered to be "by" the hospital of the university. In finding that the medical school is distinct, the department must find at least that the revenues derived from patient charges at the hospital of the university are not used for operating expenses of the medical school.

If a capital expenditure exceeds the expenditure minimum, for it to be required to be subject to review, the department must find that it is "on behalf of" a health care facility. Such an expenditure is also required to be subject to review if it is for the acquisition of major medical equipment and meets the conditions set forth in WAC 248-19-230 (1)(f). The same analysis would apply to a distinct research component of a legal entity, the primary activity of which is operating a hospital.

²A person may enter into a contractual arrangement at an earlier date, provided such contractual arrangement is contingent upon a determination by the department that a certificate of need is not needed or upon issuance of a certificate of need.

AMENDATORY SECTION (Amending Order 2344, filed 2/28/86)

WAC 248-19-270 LETTER OF INTENT. Any person planning to propose an undertaking subject to certificate of need review (~~except for projects which would qualify for an emergency review under the provisions of WAC 248-19-300 (2)(a))~~) shall submit a letter of (~~intent in accordance with the following provisions~~) as follows:

(1) (~~General~~):

(a)) A copy of the letter of intent shall include the following information:

((i)) (a) A description of the extent of the services proposed;

((ii)) (b) The estimated cost of the proposed project;

((iii)) (c) A description of the service area.

~~((b) A copy of the letter of intent))~~ (d) Any person proposing an undertaking subject to certificate of need review shall ~~((be sent))~~ send simultaneously a copy of the letter of intent to the regional health council or councils, if any, for the health service area or areas in which the project is to be located and, in the case of a hospital project, to the hospital commission.

~~((c))~~ (e) The letter of intent ~~((submitted in accordance with the provisions of this section does))~~ shall not constitute "notice of intent" with respect ~~((to the acquisition of existing health care facilities, as required by WAC 248-19-230(2) or))~~ to the acquisition of major medical equipment, as required by WAC 248-19-403.

(2) Expedited or regular review. Any person proposing an undertaking subject to an expedited or regular review shall submit a letter of intent at least thirty days prior to the submission of the application.

(3) Concurrent review.

(a) Any person proposing undertakings ~~((for which a))~~ subject to concurrent review ~~((schedule has been established according to WAC 248-19-327))~~ shall submit a letter of intent ~~((in accordance with))~~ according to the applicable schedule ~~((published in WAC 248-19-327))~~. ~~((Applications for projects subject to concurrent review will not be processed unless a letter of intent has been submitted in accordance with the schedule published by the department.))~~

(b) Within thirty days following the ~~((date on which letters))~~ last day of the letter of intent ~~((must be received))~~ submittal period, the department, after consultation with the advisory review agencies, shall determine which of the proposed undertakings compete with ~~((another))~~ other proposed undertakings. ~~((To be considered competing, a proposed undertaking must meet at least one of the following criteria:~~

~~((i) Nursing home bed additions - The))~~ Two or more undertakings within the same concurrent review cycle may be competing when the proposed nursing home beds ~~((with))~~ would be located in the same county or nursing home planning area and/or the undertakings propose nursing home beds to be allocated from the same statewide continuing care retirement community (CCRC) bed pool as defined in WAC 248-19-373.

~~((ii) Other - Criteria to determine which undertaking will be considered competing will be developed and published in rule when a concurrent review is published.))~~

AMENDATORY SECTION (Amending Order 2344, filed 2/28/86)

WAC 248-19-327 CONCURRENT REVIEW PROCESS. (1) Projects for which the department may ~~((publish))~~ establish concurrent review schedules are identified in RCW 70.38.115(7). ~~((A))~~ An annual concurrent review has been scheduled for competing projects proposing:

(a) New nursing homes,

(b) Nursing home bed additions,

(c) The redistribution of ~~((acute care))~~ beds from the following facility and service categories to skilled nursing ~~((care))~~ facility beds:

(i) Acute care,
(ii) Boarding home, or
(iii) Intermediate care for the mentally retarded, or
(d) The redistribution of beds from the following facility and service categories to intermediate care facility beds(;;):

(i) Acute care, or

(ii) Boarding home, and

(e) The relocation of nursing home beds from one county or nursing home planning area to another county or nursing home planning area.

(2) ~~((Time schedules for submission of application subject to))~~ Procedures for the concurrent review(;;) process shall be as follows:

(a) ~~((The department, in cooperation with the advisory review agencies, shall prescribe particular time schedules for the submission and concurrent review of certificate of need applications for selected types of projects within a given area. Such time schedules shall be for the purpose of comparative analysis of competing or similar projects))~~ Submittal of initial applications.

(i) Each applicant shall submit simultaneously copies of the application to each reviewing agency.

(ii) Each applicant if requested in writing shall provide a copy of his or her application to the applicant of each other competing application.

(b) ~~((Time schedules for projects subject to concurrent review shall be published in rule))~~ Screening of the initial applications.

(i) The department and the appropriate advisory agencies shall screen each initial application during the screening period of the applicable concurrent review cycle schedule.

(ii) The screening period shall begin on the first work day following the last day of the initial application submittal period for the applicable concurrent review cycle schedule.

(iii) The department by the end of the screening period of the applicable concurrent review cycle schedule shall send a written request for supplemental information to each applicant.

(iv) Each applicant by the end of the final application submittal period shall respond to the department's written request for supplemental information in one of the following ways:

(A) Submitting the requested written supplemental information, or

(B) Submitting a written request that the incomplete application be reviewed without supplemental information.

(c) ~~((When a new concurrent review schedule is published, there shall be no more than four months between the publishing of the concurrent review schedule and the date initial applications are due))~~ Reviewing of final applications.

(i) The department shall commence the review of competing applications on the date prescribed for the applicable concurrent review cycle schedule.

(ii) The total number of days in the advisory and final review periods shall not exceed one hundred and thirty-five, unless extended in accordance with subsection (2)(d) of this section.

(iii) The appropriate advisory review agencies shall submit written findings and recommendations on each competing application to the department within ninety days from the beginning of the advisory review period, unless the advisory review period is extended in accordance with subsection (2)(d) of this section.

(iv) The department shall conclude its final review and the secretary's designee shall take action on a certificate of need application within forty-five days after the end of the advisory review agencies' review period, unless extended in accordance with subsection (2)(d) of this section.

(d) ((Review schedules for concurrent review shall provide for at least an annual review for a given project type within each service area)) Extending review of final applications.

(i) The advisory review period shall be extended in accordance with the provisions of WAC 248-19-295(6).

(ii) The final review period may be extended by the department under the following provisions:

(A) The department informs each applicant of the competing applications of the existence of an unresolved pivotal issue.

(B) The department may make a written request for additional information from one or more of the applicants of the competing applications.

(C) The department shall specify in the written request a deadline for receipt of written responses.

(D) Each applicant receiving such written request may provide a written response within the specified deadline.

(E) The department may extend the final review period for all competing applications up to thirty days after the receipt of the last response to the department's request for additional information or after the specified deadline, whichever occurs first.

((3) The concurrent review shall not exceed one hundred thirty-five days from the beginning of the review period unless it is extended in accordance with WAC 248-19-295.

(a) Applications subject to the nursing home concurrent review shall be submitted as follows:

(i) Deadlines are the first working day of the month:

(ii) Letter of intent - June.

(iii) Initial application - August.

(iv) Screening of applications - September.

(v) Submission of final applications and beginning of review - October.

(b) Applications subject to concurrent review shall be submitted to reviewing agencies in accordance with the provisions of WAC 248-19-280(1). Each applicant shall provide the other competing applicant or applicants with a copy or copies of the application if requested in writing.

(c) The department and the appropriate advisory agencies shall screen the initial application within one month to determine whether the information provided in the application is complete and as explicit as necessary for certificate of need review. The screening period shall begin on the first working day after the end of the period for submission of the initial application published by the department:

~~(d) Within one month after the department sends the request for supplemental information, the applicant shall exercise one of the following which will constitute submission of the final application:~~

~~(i) Submission of the requested written supplemental information; or~~

~~(ii) Submission of a written request that the incomplete application be reviewed without supplemental information.~~

~~(c) The concurrent review shall begin within fifteen days after the published date for submission of final applications:~~

~~(f) Within ninety days from the first day of the review period, the appropriate advisory agencies shall submit written findings and recommendations on a certificate of need application to the department unless the review period has been extended according to the provisions in subsection (4) of this section:~~

~~(g) The department shall conclude its final review and the secretary's designee shall take action on a certificate of need application within forty-five days after the end of the advisory agencies' review period unless extended according to the provisions of subsection (4) of this section:~~

~~(4) The review period for a concurrent review may be extended according to the following provisions:~~

~~(a) When an applicant amends an application, the review period shall be extended in accordance with the provisions of WAC 248-19-295.~~

~~(b) If an issue, which is pivotal to the decision of the secretary's designee remains unresolved, the department may make one request for additional information from one or more of the applicants reviewed concurrently. The request shall specify a deadline by which an applicant or applicants shall respond. The department may extend the final review period for all applications being reviewed concurrently up to, but not exceeding, thirty days after the receipt of the response or responses of the applicant or applicants to the department's request for information or after the specified deadline for response:))~~

NEW SECTION

WAC 248-19-328 NURSING HOME CONCURRENT REVIEW CYCLES. (1) The following undertakings shall be reviewed concurrently under review cycles established under subsection (4)(c) of this section:

(a) New nursing homes,

(b) Nursing home bed additions, or

(c) Redistribution of beds from the following facility or service categories to skilled nursing care beds:

(i) Acute care,

(ii) Boarding home care, or

(iii) Intermediate care for the mentally retarded, or

(d) Redistribution of beds from the following facility or service categories to intermediate care facility beds:

(i) Acute care, or

(ii) Boarding home care.

(2) Undertakings of type A continuing care retirement communities (CCRC), as defined in subsection (3)(b)(i) of this section meeting the following conditions, shall be reviewed under the regular review process per WAC 248-19-330.

(a) The number of nursing home beds requested in a single undertaking shall not exceed sixty, and

(b) After project completion, the number of nursing home beds, including those with which the CCRC contracts, shall not exceed one bed for each four independent living units within the CCRC. In computing this ratio, only independent living units of the CCRC already existing, and/or scheduled for completion at the same time as the proposed nursing home beds under the same financial feasibility plan, shall be counted.

(3) For purposes of this section, the following definitions shall be used:

(a) "Continuing care contract" means a contract to provide a person, for the duration of the person's life or for a term in excess of one year, shelter along with nursing, medical, health-related or personal care services, in exchange for payment of an entrance fee, periodic charges, or both. Continuing care contracts include, but are not limited to, life care agreements and mutually terminable contracts. The living space and services under a continuing care contract may or may not be provided at the same location.

(b) "Continuing care retirement community (CCRC)" means any of a variety of entities providing shelter and services based on continuing care contracts with its enrollees. CCRCs are categorized as follows:

(i) "Type A CCRC" means a CCRC providing its enrollees or residents with a contractually guaranteed range of services from independent living through nursing home care, including some form of assistance with activities of daily living and unrestricted nursing care without any limitations unrelated to medical need. With limited exceptions related to start-up periods, a type A CCRC offers services only to contractual enrollees. The enrollee's financial responsibility is stated in the contract, with the CCRC responsible for remaining costs. With the exception of insurance purchased by the CCRC or its enrollees no third party, including after a limited transition or start-up period, the Medicaid program, is liable for costs of care even if the member depletes his or her personal resources.

(ii) "Type B CCRC" means a CCRC not meeting all the requirements of type A CCRCs, but does provide nursing home care or other facilities or services. A typical example would be a CCRC operating an on-site nursing home, but contractually guarantees only a limited number of days of nursing home care, after which additional payment is required of the enrollee. Many type B CCRCs have nursing home units maintaining Medicaid contracts and/or admit patients who are not CCRC enrollees.

(c) "Enrollee" of a CCRC means an individual who has signed a continuing care contract with the CCRC.

(d) "Transition period" means a period of time, not exceeding five years, between the date an enrollee becomes the first resident of a type A CCRC and the date it fully meets the requirements of a type A CCRC as contained in the current state health plan.

(4) The annual nursing home concurrent review consists of three cycles:

(a) One of the three annual cycles is reserved for the review of competing applications submitted by or on behalf of:

(i) Type A CCRCs applying for nursing home beds available from the one hundred and twenty-bed statewide CCRC pool as described in WAC 248-19-373.

(ii) Type B CCRCs applying for nursing home beds available from the one hundred and twenty-bed statewide pool as described in WAC 248-19-373.

(b) Two other cycles are for review of competing applications for nursing home beds needed in half of the counties or nursing home planning areas.

(5) Nursing home concurrent review application filing procedures:

(a) Each applicant shall file the required number of copies of each application with the department no later than the last day prescribed in the schedule for each of the concurrent review cycles.

(b) The department shall not review any application for which a letter of intent as described in WAC 248-19-270 was not filed at least thirty days before the last day for submittal of initial applications as indicated below.

(c) The department shall begin screening all applications received during the initial application submittal period on the first working day following the close of the submittal period.

(d) The department shall return to the applicant any application filed after the last day of the initial application submittal period.

(6) The schedules for the three annual nursing home bed concurrent review cycles shall be as follows:

(a) For competing applications identified in subsection (4)(a) of this section, the concurrent review cycle schedule shall be as follows:

(i) Period for submittal of letters of intent shall begin on the first working day of June and end on the first working day of July,

(ii) End of initial application submittal period is the first working day of August,

(iii) End of initial application completeness screening period is the first working day of September,

(iv) End of final application submittal period is the first working day of October, and

(v) Beginning of concurrent review period is October 16 or first working day after that date.

(b) For competing applications submitted for nursing home beds available for the Chelan, Clallam, Clark/Skamania, Cowlitz, Douglas, Grant, Grays Harbor, Island excluding Camano, Jefferson, King, Kittitas, Klickitat, Okanogan, Pacific, San Juan, Skagit, Spokane, and Yakima counties or nursing home planning areas, the concurrent review cycle schedule shall be as follows:

(i) Period for submittal of letters of intent shall begin on the first working day of July and end on the first working day of August,

(ii) End of initial application submittal period is the first working day of September,

(iii) End of initial application completeness screening period is the first working day of October,

(iv) End of final application submittal period is the first working day of November, and

(v) Beginning of concurrent review period is November 16 or first working day after that date.

(c) For competing applications submitted for nursing home beds available from the Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Kitsap, Lewis, Lincoln, Mason, Pend Oreille, Pierce, Snohomish including Camano, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, and Whitman counties or nursing home planning areas, the concurrent review cycle schedule shall be as follows:

(i) Period for submittal of letters of intent shall begin on the first working day of August and end on the first working day of September,

(ii) End of initial application submittal period is the first working day of October,

(iii) End of initial application completeness screening period is the first working day of November,

(iv) End of final application submittal period is the first working day of December, and

(v) Beginning of concurrent review period is December 16 or first working day after that date.

WSR 87-10-024
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed May 1, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning landscape architect fees, WAC 308-13-150;

that the agency will at 10:00 a.m., Tuesday, June 9, 1987, in the Exam Center, 1st Floor, 1300 Quince Street S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.24.086.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 2, 1987.

Dated: May 1, 1987
 By: Robert VanSchoorl
 Assistant Director

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To establish the amount of fees associated with the licensing or regulation of landscape architects administered by the Department of Licensing.

Statutory Authority: RCW 43.24.86 [43.24.086].

Summary of Rule: WAC 308-13-150 Landscape architect fees.

Reason Proposed: To set the fees for the landscape architect licensing program at a sufficient level to defray the costs of administering that program.

Responsible Departmental Personnel: In addition to the Department of Licensing, the following departmental personnel have knowledge of and responsibility for drafting, implementing and enforcing this rule: Bob VanSchoorl, Assistant Director, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-2241 comm, 234-2241 scan.

Proponents: Director of the Department of Licensing.

Small Business Economic Impact Statement: Not required and has not been filed since this rule does not impact small business as that term was defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-13-150 **LANDSCAPE ARCHITECT FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Exam application (nonrefundable)	\$ 25.00
Full exam or retake	125.00
Retake—Part A only	25.00
Part B only	25.00
Part C only	30.00
Part D only	30.00
Part E only	30.00
Initial license	75.00
Renewal	75.00
Late renewal penalty	75.00
Duplicate license	5.00
Reciprocity fee	150.00
Certification	15.00
Replacement certificate	20.00))
<u>Application fee:</u>	
Nonrefundable examination or reexamination (entire) fee	\$255.00
Refundable fee for issuance of certificate	100.00
Total application fee	355.00
<u>Reexamination:</u>	
Section 1 only	17.00
Section 2 only	23.00
Section 3 only	84.00
Section 4 only	96.00
Section 5 only	35.00
Renewal (3 years)	180.00
Late renewal penalty	60.00
Duplicate license	15.00
Reciprocity fee (filing and investigation fee)	150.00
Certification	25.00
Replacement certificate	20.00

WSR 87-10-025
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed May 1, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Licensing intends to adopt, amend, or repeal rules concerning WAC 308-13-160;

that the agency will at 10:00 a.m., Tuesday, June 9, 1987, in the Exam Center, 1st Floor, 1300 Quince Street

S.E., Olympia, WA 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 43.24.086 and 18.96.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 2, 1987.

Dated: May 1, 1987
 By: Robert VanSchoorl
 for Theresa Anna Aragon
 Director

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To implement a staggered three year renewal period for landscape architecture licenses. The three year license period is pursuant to RCW 18.96.110.

Statutory Authority: RCW 43.24.086 and 18.96.110.

Summary of the Rule: WAC 308-13-160 implements a three year staggered renewal system for licensure of landscape architects in this state.

Reason Proposed: So the Department of Licensing could implement an orderly system so that all landscape architects can renew their certificates of registration for a three year period, pursuant to a recent change in RCW 18.96.110.

Responsible Personnel: In addition to the Department of Licensing, the following departmental personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Bob VanSchoorl, Assistant Director, 1300 Quince Street S.E., Olympia, WA 98504, phone (206) 753-2241 comm, 234-2241 scan.

Proponents: Director of the Washington State Department of Licensing.

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 308-13-160 RENEWAL OF LICENSES. (1) Effective with the renewal period beginning June 30, 1987, the annual renewal date for landscape architects will be changed to a three year renewal period. Conversion to this renewal system will be accomplished as follows:

(a) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of July, August, September or October, will be required to pay a fee equal to one years' renewal fee, or one third of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1988. Subsequent renewals will be for a three year period.

(b) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of November, December, January or February, will be required to pay a fee equal to two years' renewal fees, or two thirds of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1989. Subsequent renewals will be for a three year period.

(c) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of March, April, May or June, will be required to pay a fee equal to the current three year renewal fee in order to extend their licenses to expire on June 30, 1990. Subsequent renewals will be for a three year period.

(2) On or before June 30, 1987, all new or initial landscape architects licenses will be issued for a three year period with subsequent renewals for a three year period.

(3) Following completion of the conversion to a three year renewal period, licensees will renew every three years on or before June 30.

WSR 87-10-026
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Order PM 647—Filed May 1, 1987]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt the annexed rules relating to landscape architect fees, WAC 308-13-150.

I, Theresa Anna Aragon, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule was proposed so that the Department of Licensing could implement fees at a sufficient level to defray the costs of administering the landscape architect program.

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

This rule is promulgated pursuant to RCW 43.24.086 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 1, 1987.

By Theresa Anna Aragon
 Director

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-13-150 LANDSCAPE ARCHITECT FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Exam application (nonrefundable)	\$ 25.00
Full exam or retake	125.00
Retake—Part A only	25.00
Part B only	25.00
Part C only	30.00
Part D only	30.00
Part E only	30.00
Initial license	75.00
Renewal	75.00
Late renewal penalty	75.00
Duplicate license	5.00
Reciprocity fee	150.00
Certification	15.00
Replacement certificate	20.00))

Title of Fee	Fee
<i>Application fee:</i>	
<i>Nonrefundable examination or reexamination (entire) fee</i>	<i>\$255.00</i>
<i>Refundable fee for issuance of certificate</i>	<i>100.00</i>
<i>Total application fee</i>	<i>355.00</i>
<i>Reexamination:</i>	
<i>Section 1 only</i>	<i>17.00</i>
<i>Section 2 only</i>	<i>23.00</i>
<i>Section 3 only</i>	<i>84.00</i>
<i>Section 4 only</i>	<i>96.00</i>
<i>Section 5 only</i>	<i>35.00</i>
<i>Renewal (3 years)</i>	<i>180.00</i>
<i>Late renewal penalty</i>	<i>60.00</i>
<i>Duplicate license</i>	<i>15.00</i>
<i>Reciprocity fee (filing and investigation fee)</i>	<i>150.00</i>
<i>Certification</i>	<i>25.00</i>
<i>Replacement certificate</i>	<i>20.00</i>

WSR 87-10-027
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Order PM 648—Filed May 1, 1987]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt the annexed rules relating to renewal of licenses, WAC 308-13-160.

I, Theresa Anna Aragon, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule was proposed so that the Department of Licensing could implement an orderly system so that all landscape architects can renew their certificates of registration for a three year period, pursuant to a recent change in RCW 18.96.110.

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

This rule is promulgated pursuant to RCW 43.24.086 and 18.96.110 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 1, 1987.

By Theresa Anna Aragon
 Director

NEW SECTION

WAC 308-13-160 RENEWAL OF LICENSES.
(1) Effective with the renewal period beginning June 30, 1987, the annual renewal date for landscape architects

will be changed to a three year renewal period. Conversion to this renewal system will be accomplished as follows:

(a) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of July, August, September or October, will be required to pay a fee equal to one years' renewal fee, or one third of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1988. Subsequent renewals will be for a three year period.

(b) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of November, December, January or February, will be required to pay a fee equal to two years' renewal fees, or two thirds of the current three year renewal fee, in order to extend their licenses to expire on June 30, 1989. Subsequent renewals will be for a three year period.

(c) current licensees, whose licenses expire June 30, 1987, and whose birthdates fall in the months of March, April, May or June, will be required to pay a fee equal to the current three year renewal fee in order to extend their licenses to expire on June 30, 1990. Subsequent renewals will be for a three year period.

(2) On or before June 30, 1987, all new or initial landscape architects licenses will be issued for a three year period with subsequent renewals for a three year period.

(3) Following completion of the conversion to a three year renewal period, licensees will renew every three years on or before June 30.

WSR 87-10-028
ADOPTED RULES
DEPARTMENT OF LICENSING
(Also Board of Chiropractic Examiners and
Board of Registration for Professional Engineers
and Land Surveyors)
 [Order PM 650—Filed May 1, 1987]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fees associated with the licensing or regulation of certain professions, occupations, or business administered by the Department of Licensing including: Chiropractors, auctioneers, architects, cosmetology, dental hygiene, dispensing opticians, collection agencies, employment agencies, physical therapy, funeral directors and embalmers, physicians and surgeons, optometry, practical nurses, registered nurses, psychology, osteopaths, veterinarians and occupational therapy.

This action is taken pursuant to Notice No. WSR 87-07-046 filed with the code reviser on March 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 43.24.086 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED April 30, 1987.

By Theresa Anna Aragon
Director

NEW SECTION

WAC 308-12-326 ARCHITECT FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application	\$ 50.00
Examination (initial or retake full)	300.00
Registration fee	35.00
Registration renewal	45.00
Late renewal	15.00
Certificate replacement	15.00
Examination proctor fee	50.00
Registration (without full examination)	250.00
Exam retake:	
Division A: Predesign	30.00
Division B: Site design	65.00
Division C: Building design	80.00
Division D: Structural—General	15.00
Division E: Structural—Lateral forces	10.00
Division F: Structural—Long span	10.00
Division G: Mechanical, plumbing, electrical and safety systems	30.00
Division H: Materials and methods	30.00
Division I: Construction documents and services	30.00
Duplicate license	15.00
Certification	25.00
Corporations:	
Certificate of authorization	250.00
Certificate of authorization renewal	100.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-12-312 FEES.

AMENDATORY SECTION (Amending Order PL 446, filed 11/2/83)

WAC 114-12-136 CHIROPRACTIC FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Application/full examination	\$250.00
Application/partial examination	200.00
(Reciprocity and national board waiver)	
Retake examination	200.00
License renewal	125.00
License restoration	25.00

Title of Fee	Fee
Duplicate	5.00
Certification	10.00
<u>Application/full examination or reexamination</u>	<u>\$300.00</u>
<u>Application/partial examination or reexamination</u>	<u>200.00</u>
<u>(Reciprocity and national board waiver)</u>	
<u>Original license</u>	<u>150.00</u>
<u>License renewal</u>	<u>200.00</u>
<u>Late renewal penalty</u>	<u>150.00</u>
<u>Duplicate</u>	<u>15.00</u>
<u>Certification</u>	<u>25.00</u>

AMENDATORY SECTION (Amending Order PM 622, filed 10/22/86)

WAC 308-11-030 AUCTIONEER FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Auctioneer:	
<u>Initial application</u>	<u>\$ 50.00</u>
<u>Renewal</u>	<u>50.00</u>
<u>Late renewal penalty</u>	<u>50.00</u>
<u>Duplicate license</u>	<u>5.00</u>
<u>Certification</u>	<u>10.00</u>
Auction company:	
<u>Initial application</u>	<u>150.00</u>
<u>Renewal</u>	<u>100.00</u>
<u>Late renewal penalty</u>	<u>100.00</u>
<u>Duplicate license</u>	<u>5.00</u>
Auctioneer:	
<u>Initial application</u>	<u>\$100.00</u>
<u>Renewal</u>	<u>75.00</u>
<u>Late renewal penalty</u>	<u>50.00</u>
<u>Duplicate license</u>	<u>15.00</u>
<u>Certification</u>	<u>25.00</u>
Auction company:	
<u>Initial application</u>	<u>150.00</u>
<u>Renewal</u>	<u>125.00</u>
<u>Late renewal penalty</u>	<u>125.00</u>
<u>Duplicate license</u>	<u>15.00</u>

NEW SECTION

WAC 308-20-210 COSMETOLOGY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Cosmetologist:	
<u>Examination application</u>	<u>\$ 25.00</u>
<u>Renewal</u>	<u>10.00</u>
<u>Late renewal penalty</u>	<u>10.00</u>
<u>Duplicate</u>	<u>15.00</u>
<u>Certification</u>	<u>25.00</u>
<u>Out-of-state application</u>	<u>25.00</u>

Title of Fee	Fee
Instructor:	
Examination application	30.00
Renewal	25.00
Late renewal penalty	25.00
Duplicate	15.00
Certification	25.00
Out-of-state application	25.00
Manicurist:	
Examination application	25.00
Renewal	10.00
Late renewal penalty	10.00
Duplicate	15.00
Certification	25.00
Out-of-state application	25.00
School:	
License application	150.00
Renewal	150.00
Late renewal penalty	150.00
Duplicate	15.00
Barber:	
Examination application	25.00
Renewal	10.00
Late renewal penalty	10.00
Out-of-state application	25.00
Duplicate	15.00
Certification	25.00

REPEALER

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

WAC 308-20-200 FEES.

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-25-065 DENTAL HYGIENE FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Initial application and exam	\$ 50.00
Reexam	50.00
Renewal	25.00
Reciprocity	50.00
Duplicate license	5.00
Certification	25.00))
<u>Application examination and reexamination</u>	<u>\$100.00</u>
<u>Renewal</u>	<u>55.00</u>
<u>Reciprocity</u>	<u>100.00</u>
<u>Duplicate license</u>	<u>15.00</u>
<u>Certification</u>	<u>25.00</u>

AMENDATORY SECTION (Amending Order PL 446, filed 11/2/83)

WAC 308-29-045 COLLECTION AGENCY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Collection agency—Main office:	
Original application	\$ 300.00
Investigation (nonrefundable)	200.00
Renewal	300.00
Late renewal penalty	300.00
Reregistration fee after 30 days	1,100.00
Duplicate license	5.00
Branch office:	
Original application	250.00
Renewal	150.00
Late renewal penalty	150.00
Reregistration fee after 30 days	550.00))
Collection agency—Main office:	
Original application	\$ 350.00
Investigation (nonrefundable)	250.00
Renewal	525.00
Late renewal penalty	300.00
Reregistration fee after 30 days	1,425.00
Duplicate license	15.00
Certification	25.00
Branch office:	
Original application	300.00
Renewal	300.00
Late renewal penalty	150.00
Reregistration fee after 30 days	750.00
Duplicate license	15.00
Certification	25.00

NEW SECTION

WAC 308-26-045 DISPENSING OPTICIAN FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Optician:	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	30.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
Late renewal penalty	75.00
Duplicate license	15.00
Certification	25.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-26-040 FEES.

AMENDATORY SECTION (Amending Order PL 446, filed 11/2/83)

WAC 308-33-105 EMPLOYMENT AGENCY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
<u>((Agencies:</u>	
Original license	\$300.00
Renewal	300.00
Transfer of license	150.00
Duplicate license	5.00
Late renewal penalty	300.00
New/amended contract approval	50.00
New/amended fee schedule approval	50.00
<u>Branch office:</u>	
Original application	150.00
Renewal	150.00
Transfer of license	75.00
Late renewal penalty	150.00
Duplicate license	5.00
General manager exam fee	50.00))
<u>Agencies:</u>	
Original application and license	\$250.00
Renewal	225.00
Transfer of license	150.00
Duplicate license	15.00
New/amended contract or fee schedule review	50.00
<u>Branch office:</u>	
Original application and license	100.00
Renewal	125.00
Transfer of license	25.00
Duplicate license	15.00
General manager exam fee	65.00

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-42-075 PHYSICAL THERAPY FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
<u>((Application—Exam</u>	
Reciprocity application	\$100.00
License renewal	100.00
Late renewal penalty	35.00
Duplicate license	35.00
Certification	5.00
Application—Examination (two or more parts—initial/retake)	10.00))
Application—Examination (two or more parts—initial/retake)	\$100.00
Application—Examination (one part—initial/retake)	60.00
Reciprocity application	100.00
License renewal	35.00
Late renewal penalty	35.00
Duplicate license	15.00
Certification	25.00

NEW SECTION

WAC 308-48-800 FUNERAL DIRECTOR/EMBALMER FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of fee	Fee
<u>Embalmers:</u>	
State examination or reexamination	\$150.00
Renewal	75.00
Late renewal penalty	40.00
Duplicate	15.00
Reciprocity application	50.00
Certification	25.00
<u>Embalmer apprentice:</u>	
Apprentice application	50.00
Apprentice renewal	35.00
Duplicate	15.00
Certification	25.00
<u>Funeral director:</u>	
State examination or reexamination	200.00
Renewal	125.00
Late renewal penalty	100.00
Duplicate	15.00
Certification	25.00
<u>Funeral director apprentice:</u>	
Apprentice application	75.00
Apprentice renewal	45.00
Duplicate license	15.00
Certification	25.00
<u>Funeral establishment:</u>	
Original application	250.00
Renewal	200.00
Preneed application	50.00
Preneed renewal	30.00
Financial statement fee	25.00
Crematory endorsement registration	50.00
Endorsement renewal	40.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-48-250 FEES.

NEW SECTION

WAC 308-52-590 PHYSICIAN AND SURGEON FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
<u>Physician and surgeons:</u>	
Application with examination or reexamination (both components)	\$375.00
Examination or reexamination (component I)	170.00
Examination or reexamination (component II)	195.00

Title of Fee	Fee
Applicants (without full examination)	150.00
Renewal	35.00
Late renewal penalty	15.00
Disciplinary assessment	35.00
Certification	25.00
Duplicate license	15.00
Limited license:	
Limited license application	75.00
Original license	45.00
Renewal	35.00
Duplicate license	15.00
Disciplinary assessment	35.00
Physician's assistants:	
Application	25.00
Renewal	10.00
Duplicate license	15.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-52-315 FEES.

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-53-020 **OPTOMETRY FEES**. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
(Examination	\$100.00
Reexam	100.00
Initial license	40.00
License renewal	40.00
Late renewal	40.00
Duplicate license	5.00
Certification	10.00))
Examination or reexamination	\$100.00
Initial license	150.00
License renewal	160.00
Duplicate license	15.00
Certification	25.00

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 308-116-325 FEES.

NEW SECTION

WAC 308-117-500 **PRACTICAL NURSE FEES**. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Application (examination and reexamination)	\$35.00
License renewal	25.00

Title of Fee	Fee
Late renewal penalty	10.00
Endorsement—Reciprocity	35.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-120-275 **REGISTERED NURSE FEES**. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Application fee	\$ 35.00
Application penalty	10.00
License renewal	15.00
Late renewal penalty	15.00
Endorsement—Reciprocity	35.00
Duplicate license	5.00
Second—Subsequent retake	35.00
Verification	10.00
CRN Application	25.00
CRN Renewal	20.00
CRN Prescriptive application	30.00
CRN Prescriptive renewal	20.00))
Application—Examination	\$30.00
License renewal	20.00
Late renewal penalty	15.00
Endorsement—Reciprocity	25.00
Duplicate license	15.00
Examination (second—Subsequent retake or more)	30.00
Certification	25.00
ARNP Application	25.00
ARNP Renewal	20.00
ARNP Prescriptive application	30.00
ARNP Prescriptive renewal	20.00

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-122-275 **PSYCHOLOGY FEES**. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Application—Written exam	\$ 70.00
Application—Oral exam	60.00
Retake written	70.00
Retake oral	60.00
Initial license or renewal	30.00
Duplicate license	5.00
Certificate of qualification	30.00
Verification	15.00
Late renewal penalty	30.00))
Application—Written examination (initial and retake)	\$150.00
Application—Oral examination (initial and retake)	150.00

Title of Fee	Fee
Renewal	210.00
Duplicate license	15.00
Certificate of qualification	30.00
Certification	25.00
Amendment of certificate of qualification	30.00

AMENDATORY SECTION (Amending Order PL 442, filed 8/10/83)

WAC 308-138-080 **OSTEOPATHIC FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
((Osteopathic physician:	
Application	\$250.00
License renewal	125.00
Reciprocity	250.00
Retake—Single subject	50.00
Retake—Full day	125.00
Retake—Over one day	200.00
Late renewal penalty	125.00
Duplicate license	5.00
Osteopathic physician assistant:	
Application	150.00
Renewal	50.00
Late renewal penalty	50.00
Duplicate license	5.00))
Osteopath:	
Renewal	\$ 30.00
Osteopathic physician:	
Application	250.00
License renewal	170.00
Reciprocity	250.00
Retake—Single subject	50.00
Retake—Full day	125.00
Retake—Over one day	200.00
Duplicate license	15.00
Certification	25.00
Osteopathic physician assistant:	
Application	150.00
Renewal	50.00
Duplicate license	15.00

NEW SECTION

WAC 308-152-030 **VETERINARY FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Veterinarian:	
National board examination (NBE) (initial/retake)	\$110.00
Clinical competency test (CCT) (initial/retake)	85.00
State examination (initial/retake)	75.00
Temporary permit	35.00

Title of Fee	Fee
Initial license	40.00
Renewal	75.00
Late renewal penalty	25.00
Duplicate license	15.00
Certification	25.00

Animal technician:

National examination (initial/retake)	70.00
State examination (initial/retake)	50.00
Initial license	30.00
Renewal	30.00
Late renewal penalty	10.00
Duplicate license	15.00
Certification	25.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-152-015 FEES.

NEW SECTION

WAC 308-171-310 **OCCUPATIONAL THERAPY FEES.** The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Occupational therapist:	
Application fee (nonrefundable)	\$ 90.00
Initial license	80.00
License renewal	125.00
Limited permit fee	40.00
Late renewal fee	60.00
Duplicate	15.00
Certification	25.00
Occupational therapy assistant:	
Application fee (nonrefundable)	60.00
Initial license	50.00
License renewal	60.00
Late renewal fee	40.00
Limited permit fee	20.00
Duplicate	15.00
Certification	25.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-171-030 FEES.

WSR 87-10-029
ADOPTED RULES
BOARD OF PHARMACY
 [Order 206—Filed May 1, 1987]

Be it resolved by the Board of Pharmacy, acting at Seattle, Washington, that it does adopt the annexed rules relating to Uniform Controlled Substances Act, amending WAC 360-36-010.

This action is taken pursuant to Notice No. WSR 87-07-049 filed with the code reviser on March 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 69.50.301 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 23, 1987.

By Douglas W. Beeman
 Chair

AMENDATORY SECTION (Amending Order 193, filed 2/22/85)

WAC 360-36-010 UNIFORM CONTROLLED SUBSTANCES ACT. (1) Consistent with the concept of uniformity where possible with the federal regulations for controlled substances (21 CFR), the federal regulations are specifically made applicable to registrants in this state by virtue of RCW 69.50.306. Although those regulations are automatically applicable to registrants in this state, the board is nevertheless adopting as its own regulations the existing regulations of the federal government published in the code of federal regulations revised as of April 1, ((1979)) 1987, and all references made therein to the director or the secretary shall have reference to the board of pharmacy, and the following sections are not applicable: Section 1301.11-13, section ((1301.31-33)) 1301.31, section 1301.43-57, section 1303, section 1308.41-48, and section 1316.31-.67. The following specific rules shall take precedence over the federal rules adopted herein by reference, and therefore any inconsistencies shall be resolved in favor of the following specific rules.

(2) Registrations under chapter 69.50 RCW shall be for an annual period with the registration period ending on a date to coincide with those license renewal dates as found in rules promulgated under chapter 18.64 RCW.

(3) A separate registration is required for each place of business (as defined in section 1301.23) where controlled substances are manufactured, distributed or dispensed. Application for registration must be made on

forms supplied by the pharmacy board, and all information called for thereon must be supplied unless the information is not applicable, in which case it must be indicated. An applicant for registration must hold the appropriate wholesaler, manufacturer or pharmacy license provided for in chapter 18.64 RCW.

(4) Every registrant shall be required to keep inventory records required by section 1304.04 (of the federal rules which have been adopted by reference ((by) (to)) by Rule 1) and must maintain said inventory records for a period of five years from the date of inventory. Such registrants are further required to keep a record of receipt and distribution of controlled substances. Such record shall include:

(a) Invoices, orders, receipts, etc. showing the date, supplier and quantity of drug received, and the name of the drug;

(b) Distribution records; i.e., invoices, etc. from wholesalers and manufacturers and prescriptions records for dispensers;

(c) In the event of a loss by theft or destruction, two copies of DEA 106 (report of theft or loss of controlled substances) must be transmitted to the federal authorities and a copy must be sent to the board;

(d) For transfers of controlled substances from one dispenser to another, a record of the transfer must be made at the time of transfer indicating the drug, quantity, date of transfer, who it was transferred to and from whom. Said record must be retained by both the transferee and the transferor. These transfers can only be made in emergencies pursuant to section 1307.11 (federal rules).

(5) The records must be maintained separately for Schedule II drugs. The records for Schedule III, IV and V drugs may be maintained either separately or in a form that is readily retrievable from the business records of the registrant. Prescription records will be deemed readily retrievable if the prescription has been stamped in red ink in the lower right hand corner with the letter "C" no less than one inch high, and said prescriptions are filed in a consecutively numbered prescription file which includes prescription and noncontrolled substances.

(6) A federal order form is required for each distribution of a Schedule I or II controlled substance, and said forms along with other records required to be kept must be made readily available to authorized employees of the board.

(7) Schedule II drugs require that a dispenser have a signed prescription in his possession prior to dispensing said drugs. An exception is permitted in an "emergency." An emergency exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the physician to provide a written prescription for the drug at that time. If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within 72 hours, and further he must note on the prescription that it was filled on an emergency basis.

WSR 87-10-030

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-07—Filed May 1, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd	WAC 296-46-110	Foreword.
Amd	WAC 296-46-130	Classification or definition of occupancies.
Amd	WAC 296-46-140	Plan review for educational, institutional or health care facilities and other buildings.
Amd	WAC 296-46-150	Wiring methods for designated building occupancies.
Amd	WAC 296-46-160	Service requirements.
Amd	WAC 296-46-180	Meter installation.
Amd	WAC 296-46-200	Service entrance conductors.
Amd	WAC 296-46-220	Service equipment.
Amd	WAC 296-46-240	Service masts.
New	WAC 296-46-316	Table headings—1987 National Electrical Code.
Amd	WAC 296-46-350	Emergency systems.
Amd	WAC 296-46-370	Boat moorages, floating buildings and similar installations.
Amd	WAC 296-46-420	Nonmetallic cable systems ground fault circuit interrupter protection.
New	WAC 296-46-422	Water heater circuit.
Amd	WAC 296-46-495	Electrical work permits and fees.
New	WAC 296-46-514	Service stations.
Amd	WAC 296-46-680	Electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs.
Amd	WAC 296-46-910	Inspection fees.
Amd	WAC 296-46-920	Civil penalty.

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

J. Philip Simmons
Chief Electrical Inspector
805 Plum Street S.E.
P.O. Box 9519
Olympia, WA 98504-9519
(206) 753-2330

This action is taken pursuant to Notice No. WSR 87-06-047 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 19.28.060 and 19.28.600 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in chapter 19.28 RCW.

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

APPROVED AND ADOPTED May 1, 1987.

By Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-110 FOREWORD. The ((1984)) 1987 edition of the National Electrical Code (NFPA 70-1987) is hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the ((Seattle)) Olympia office of the electrical section of the department during business hours. Where there is any conflict between ((a specific rule,)) this chapter and the National Electrical Code, the ((specific rule)) requirements of this chapter shall be observed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code and this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-130 CLASSIFICATION OR DEFINITION OF OCCUPANCIES. (1) Educational ((occupancy)) facility refers to a building or portion of a building used primarily for educational purposes and shall include buildings used for the gathering of groups of six or more persons for purposes of instruction. Educational occupancy includes, but is not restricted to: Schools, colleges, academies, ((and)) universities and child day care facilities.

(2) Institutional ((occupancy)) facility refers to a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required. Such occupancies shall include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(3) Health or personal care ((occupancy, in addition to the health care facilities defined in the 1984 National Electrical Code in Article 517-2, shall also include, but is not restricted to the following: Ambulatory surgeries, alcoholism hospitals, alcoholism detoxification facilities, residential treatment facilities for psychiatrically impaired children and youth)) facility. Health or personal care facility refers to buildings or parts of buildings that contain but are not limited to facilities such as a hospital, nursing home, alcoholism hospital, psychiatric hospital, boarding home, alcoholism treatment facility, maternity home, birth center or childbirth center, residential treatment facility for psychiatrically impaired children and youths, and renal hemodialysis clinics which are licensed by the department of social and health services; and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(a) Boarding home means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include any home, institution, or section

thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(b) Private alcoholism hospital means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.

(c) Detoxification means care or treatment of an intoxicated person during a period where the individual recovers from the effects of intoxication.

(d) Private psychiatric hospital means an institution, facility, building, or agency specializing in the diagnosis, care, and treatment of individuals demonstrating signs and/or symptoms of mental disorder (as defined in RCW 71.05.020(2), and providing accommodations and other necessary services over a continuous period of twenty-four hours or more for two or more individuals not related to the operator, provided that this chapter shall not apply to any facility, agency, or other entity which shall be both owned and operated by a public or governmental body.

(e) Alcoholism treatment facility means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(f) Maternity home means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(g) Birth center or childbirth center means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(h) Residential treatment facility for psychiatrically impaired children and youth means a residence, place, or facility designed and organized to provide twenty-four hour residential care and long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(i) Ambulatory surgical center or ASC means any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, has an agreement with HFCA under Medicare to participate as an ASC.

(j) Renal dialysis clinic is a facility in a building or part of a building which is approved to furnish the full

spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement).

(k) Adult residential treatment facility means a residence, place, or facility designed and organized primarily to provide twenty-four hour residential care, crisis and short-term care, and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 204, Laws of 1982.

(l) Private adult treatment home means a dwelling which is the residence or home of two adults providing food, shelter, beds, and care for two or fewer psychiatrically impaired clients, provided these clients are detained under chapter 71.05 RCW and the dwelling is certified as an evaluation and treatment facility under chapter 71.05 RCW.

(m) Group care facility means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-140 PLAN REVIEW FOR EDUCATIONAL ((AND)), INSTITUTIONAL OR HEALTH CARE FACILITIES AND OTHER BUILDINGS. (1) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in WAC 296-46-130 and as indicated in WAC 296-46-150, Table 1 or 2 shall be reviewed and approved by the department before the electrical installation((s-are)) or alteration is begun. Plans for these electrical installations within cities which perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds that of the department's, may be submitted to that city for review rather than to the department. Approved plans shall be available on the job site for use during the electrical installation or alteration and for use by the electrical inspector. Refer plans for department review to the Electrical Inspection Section, Department of Labor and Industries, ((520 South Water Street)) 805 Plum St. SE, Olympia, Washington 98504. Please refer to WAC 296-46-910 for required fees for plan review.

(2) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans shall clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, shall include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment.

(3) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-150 WIRING METHODS FOR DESIGNATED BUILDING OCCUPANCIES. Wiring methods ((for institutional, educational, health care facilities, and places of assembly of one hundred or more persons shall be wired as set forth in Article 518 of the National Electrical Code. The wiring methods in Section 518-3, Exception 1 shall not be permitted)), equipment and devices for health or personal care, educational and institutional facilities as defined or classified in WAC 296-46-130 and for places of assembly for one hundred or more persons shall comply with Table 1 or 2 and the notes thereto. For determining the occupant load of places of assembly, the methods ((in)) of NFPA ((101-198+)), 101-1985 Life Safety Code shall be used.

Table 1
Health or Personal Care Facilities
Electrical System—Wiring Methods

<u>Health or Personal Care Facility</u>	<u>Power, Lighting, or Class 1 Circuits</u>	<u>General Patient Care</u>	<u>Critical Patient Care</u>	<u>Emergency Power, Lighting or Signalling</u>	<u>Low Voltage Systems</u>	<u>Special Requirements</u>
Hospital	1,9	2	2	1	6,7	4,5,10
Nursing home	1,9	2	2	1	6,7	4,10
Boarding home more than 16 persons	1,9			1	6,7	4,10
Boarding home 16 persons or less	3			1	7,8	4,10
<u>Alcoholism</u>						
hospital	1,9	2		1	6,7	4,10
Detoxification facilities	1,9	1		1	6,7	4,10
<u>Psychiatric</u>						
hospital	1,9	1		1	6,7	4,5,10
<u>Alcoholism treatment facility (other than detoxification facility)</u>	3	3		1	6,7	4,10
Maternity home	1,9	1		1	7,8	4,10
Birth or childbirth center	3	3		1	7,8	
<u>Residential treatment facility for psychiatrically impaired children & youths</u>	1,9	1		1	6,7	4,5,10
<u>Medical, dental & chiropractic clinics</u>	3	3		1	7,8	
<u>Ambulatory surgeries & clinics</u>	1,9	2	2	1	7,8	10
<u>Renal hemodialysis clinics</u>	1,9	2		1	7,8	10
<u>Adult residential treatment facility more than 16 persons</u>	1,9			1	6,7	4,10
<u>Adult residential treatment facility 16 persons or less</u>	3			1	7,8	4,10

Table 1
Health or Personal Care Facilities
Electrical System—Wiring Methods

<u>Health or Personal Care Facility</u>	<u>Power, Lighting, or Class 1 Circuits</u>	<u>General Patient Care</u>	<u>Critical Patient Care</u>	<u>Emergency Power, Lighting or Signalling</u>	<u>Low Voltage Systems</u>	<u>Special Requirements</u>
<u>Group care facilities for children more than 16 persons</u>	1,9			1	6,7	4,5,10
<u>Group care facilities for children 16 persons or less</u>	3			1	7,8	4,5,10

Table 2
Educational Facilities, Institutional Facilities
or Places of Assembly for 100 or more persons
Electrical System—Wiring Methods

<u>Facility</u>	<u>Power, Lighting or Class 1 Circuits</u>	<u>Emergency Power, Lighting</u>	<u>Low Voltage Systems</u>	<u>Special Requirements</u>
<u>Educational</u>	1,9	1	6,7	10
<u>Institutional</u>	1,9	1	6,7	10
<u>Place of assembly for 100 or more persons</u>	1,9	1	6,7	
<u>Licensed day care for children aged through 6 years over three story building</u>	1,9	1	6,7	5,10
<u>Licensed day care for children aged through 6 years - thru three story building</u>	3	1	7,8	5

Notes for Tables 1 and 2

1. Metallic raceways.
2. Metallic raceways with an insulated equipment grounding conductor.
3. Wiring methods in accordance with the National Electrical Code.
4. Ground-fault circuit-interrupter protection of 15 or 20 ampere, 125 volt receptacles within a bathroom or shower room or within five feet of a basin which is located in a patient room.
5. Tamperproof receptacles in licensed day care facilities and pediatric or psychiatric patient care areas for 15 or 20 ampere, 125 volt receptacles. Tamperproof receptacles shall, by construction, limit improper access to energized contacts.
6. Fire alarm, nurse call, public address systems used to give directions during an emergency situation or other emergency systems shall be installed in a metallic raceway.

7. Class 2 or 3 limited energy systems and communication systems including telephone, intercom, data processing or similar systems shall be permitted to be installed as open cable systems in compliance with the National Electrical Code.
8. Fire alarm systems shall be permitted to be installed as open cable systems in compliance with the National Electrical Code.
9. Rigid nonmetallic raceways shall be permitted to be installed outside of buildings, in the earth or in concrete on or below grade.
10. Plan review required.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-160 SERVICE REQUIREMENTS.
(1) The serving utility shall be consulted by the owner, the owner's agent, or the contractor making the installation regarding the service entrance location and meter

equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral shall be made at a location acceptable to the serving utility. The point of attachment for a service drop must permit the clearances required by the National Electrical Code.

(2) A fire wall shall have a minimum two-hour rating as defined by the Uniform Building Code to be considered a building separation in accordance with Article 100 of the National Electrical Code.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-180 METER INSTALLATION. Except as otherwise permitted by the serving utility, the height of the center of the service meter shall not be more than 7 feet or less than 5 feet above finished grade or the floor below the meter. Secondary instrument transformer conductors for metering shall not be permitted in the service raceway.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-200 SERVICE ENTRANCE CONDUCTORS. (1) Service entrance conductors shall extend at least 18 inches from the service head to permit connection to the service drop.

~~((Unfused))~~ (a) Service conductors for 600 volts, nominal, or less within a building or structure shall be ((installed in the metallic raceways, other than electrical metallic tubing, permitted in Section 230-43 of the National Electrical Code or in Schedule 80 rigid nonmetallic conduit. The raceway shall extend no more than fifteen feet inside the building or structure)) limited to the following methods: Galvanized rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; rigid nonmetallic conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

(b) Service conductors exceeding 600 volts, nominal, within a building or structure shall be limited to the following methods: Galvanized rigid metal conduit; galvanized intermediate metal conduit; open runs of metal-clad cable; cablebus; or busways.

(3) Service conductors under the exclusive control of the serving utility, when installed within a building or structure shall be installed in rigid steel galvanized conduit or Schedule 80 nonmetallic conduit ~~((and shall comply with subsection (2) of this section))~~. The grounded service conductor may be identified with a yellow jacket.

(4) The service raceway or cable shall extend no more than fifteen feet inside a building or structure.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-220 SERVICE EQUIPMENT. (1) Service equipment, sub-panels, and similar electrical equipment shall be installed so that they are readily accessible and shall not be installed in bathrooms, clothes closets, shower rooms, cupboards, or attics, or above washers, clothes dryers, or plumbed-in fixtures. All indoor service equipment and sub-panel equipment shall be adequately illuminated.

(2) Service switches and other equipment exposed to elements of the outside weather shall be rain tight type factory built for the purpose. Refer to NEMA-3R.

(3) Temporary construction service equipment shall not be used for other than construction purposes and shall be disconnected when the permanent service is connected unless an extension for a definite period of time is granted by the department.

(4) Multiple-occupancy buildings. A second or additional underground service lateral to a multiple-occupancy building shall be permitted to be installed at a location separate from other service laterals to the building provided that all the following conditions are complied with:

(a) Each service lateral is sized in accordance with the National Electrical Code for the calculated load to be served by the conductors;

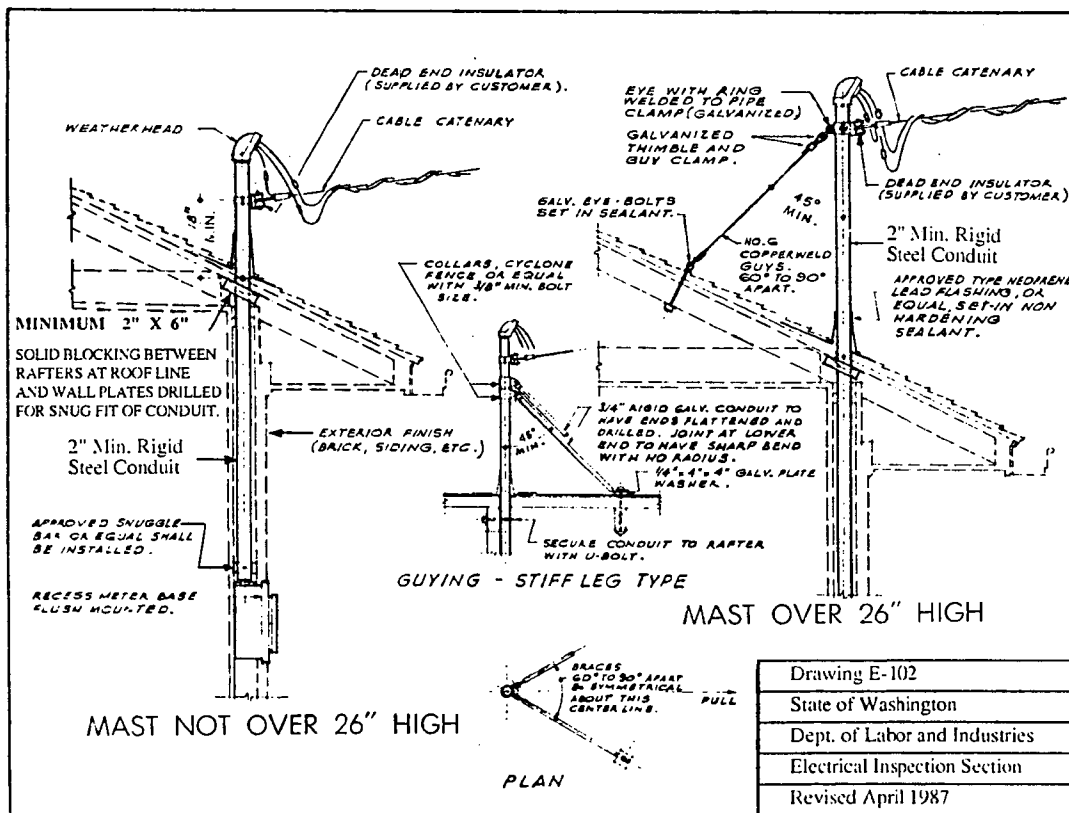
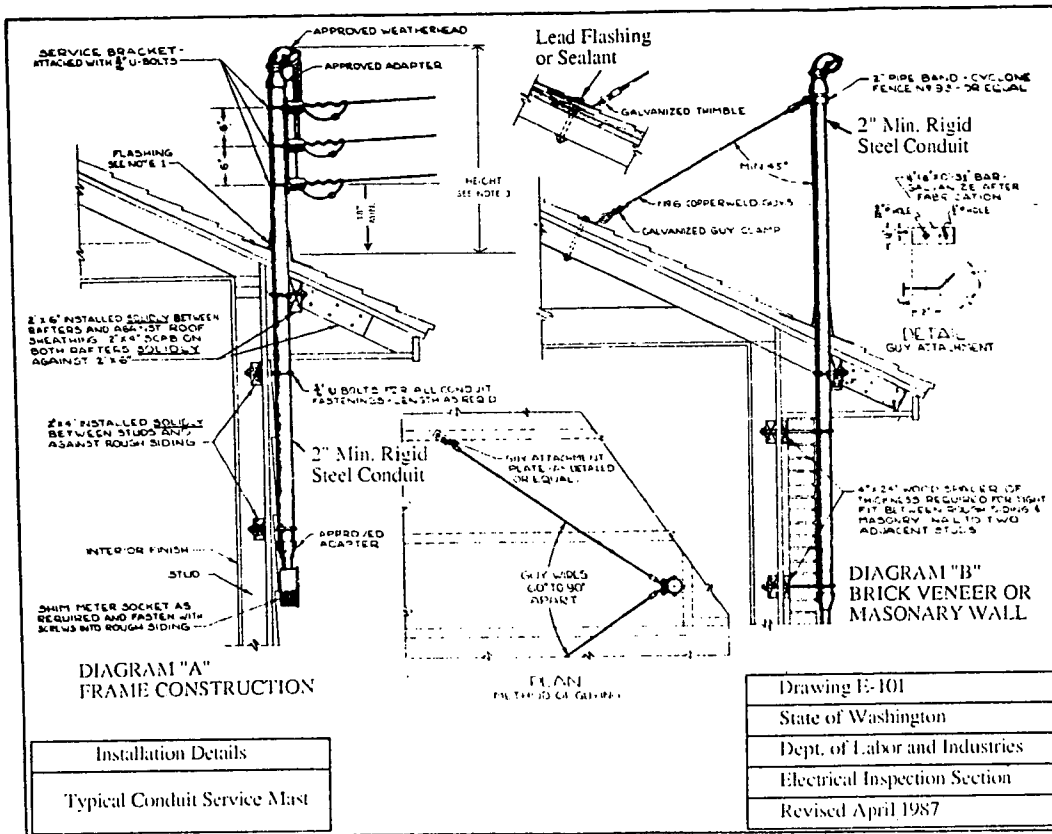
(b) Each service lateral terminates in service equipment which is located in or on a unit served by the service equipment;

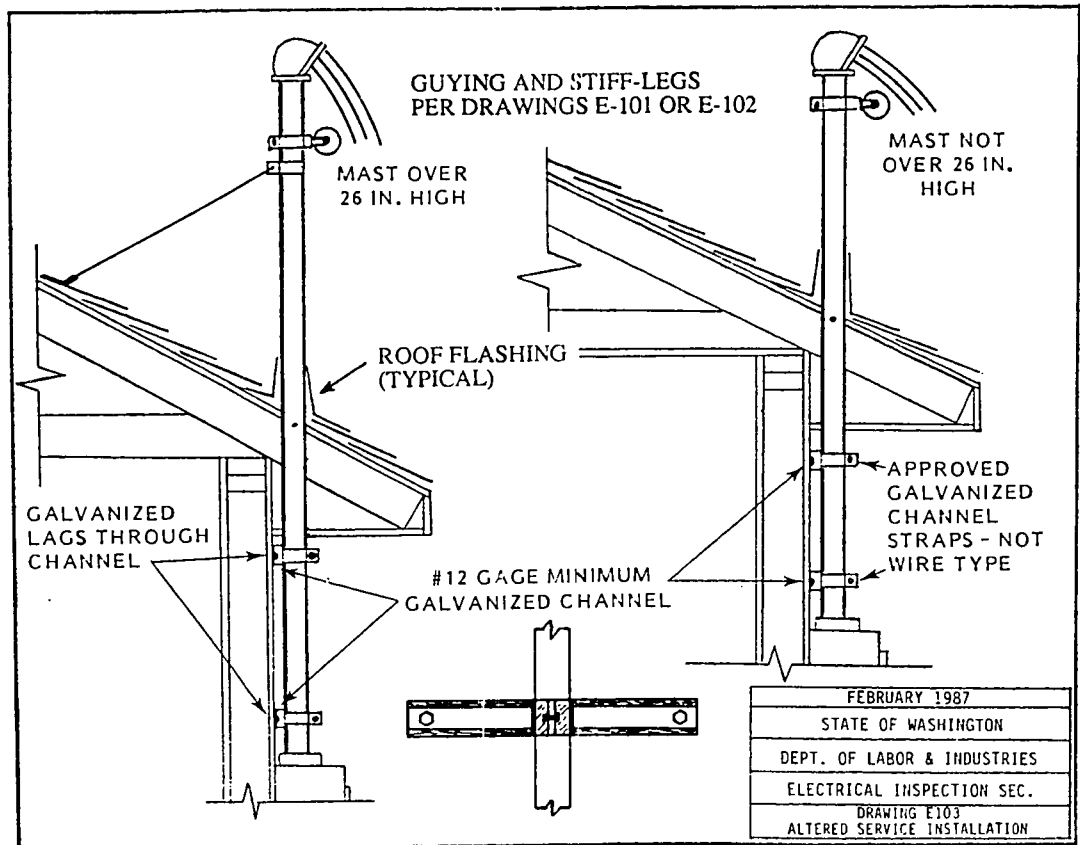
(c) The service equipment is separated at least fifteen feet from other service equipment in or on the building; and

(d) A permanent directory, suitable for the environment, is placed at each service equipment location which identifies all other service equipment locations in or on the building.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-240 SERVICE MAST. A service entrance conduit extended through the roof to provide a means of attaching the service drop shall be no smaller than 2-inch rigid steel galvanized conduit. ~~((It))~~ The service mast shall provide a structurally sound attachment for the service drop and shall be equipped with a properly installed flashing at the roof line. The installation shall comply with drawings E-101 and E-102, or shall provide equivalent strength by other approved means.





Notes to drawings E-101, E-102, and E-103.

1. An approved roof flashing shall be installed on each mast which passes through a roof. Plastic, nonhardening mastic shall be placed between lead-type flashings and the conduit. Neoprene type flashings shall also be permitted to be used.
2. A service mast may be installed inside or outside the building lines provided that the mast is braced, secured and supported in such a manner that no pressure from the service drop will be exerted on a roof flashing or meter base.
3. Utilization of couplings in a service mast are permitted only below the point the mast is braced, secured or supported.
4. Except as otherwise required by the serving utility, service mast support guys shall be installed if the service drop attaches to the mast more than 24 inches above the roof line or if the service drop is greater than 100 feet.
5. Intermediate support masts shall be installed in an approved manner with methods identical or equal to those required for service masts.
6. For altered services, when it is impractical to install U bolt mast supports due to interior walls remaining closed, it shall be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material which is secured to two or more wooden studs with 5/16 inch diameter or larger galvanized lag bolts.

NEW SECTION

WAC 296-46-316 TABLE HEADINGS—1987 NATIONAL ELECTRICAL CODE. (1) The heading of Table 310-16 of the 1987 National Electrical Code is hereby revised to read as follows: "Table 310-16. Ampacities of not more than three single insulated conductors, rated 0 through 2000 volts, in raceway and ampacities of cable types AC, NM, NMC, and SE. Based on ambient air temperature of 30° C (86° F)."

(2) The heading of Table 310-18 of the 1987 National Electrical Code is hereby revised to read as follows: "Table 310-18. Ampacities of three single insulated conductors, rated 0 through 2000 volts 110° to 250° C in raceway. Based on ambient air temperature of 40° C (104° F)."

(3) The heading of Table 310-22 of the 1987 National Electrical Code is hereby revised to read as follows: "Table 310-22. Ampacities of three insulated conductors, rated 0 through 2000 volts within an overall covering (three conductor cable) in raceway. Based on ambient air temperature of 30° C (86° F)."

(4) Electrical conductors, cables and duct banks shall be permitted to be buried deeper than shown in Figure 310-1 in the 1987 National Electrical Code.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-350 EMERGENCY SYSTEMS. (1) Exit and emergency lights shall be installed in accordance with the National Electrical Code, Article 700, and

Life Safety Code NFPA 101-1985 in all health or personal care facilities defined in WAC 296-46-130, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons. Installation shall be made in strict accordance with the National Electrical Code, Article 700, and WAC 296-46-150.

(2) Fire alarm systems. Fire alarm systems required by a city, county, or state ordinance, statute, or regulation shall be installed in accordance with the National Electrical Code and this chapter. Power-limited fire alarm systems shall be permitted to be installed in metallic raceways using conductors shown in section 760-16(b) of the National Electrical Code for nonpower-limited circuits or those 600 volt conductors which are rated for 90° C or greater in Table 310-13 of the National Electrical Code.

(3) Junction boxes for fire alarm systems other than the surface raceway type, shall be substantially red in color. Power-limited fire protective signalling circuit conductors shall be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signalling circuit. Conductors for light, heat, or power shall not be installed in any enclosure, raceway, cable, compartment, outlet box, or similar fitting containing fire alarm conductors.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-370 BOAT MOORAGES, FLOATING BUILDINGS, AND SIMILAR INSTALLATIONS. Docks, wharves, boat moorages, floating buildings, and similar facilities in addition to complying with the appropriate sections of Article 553 or Article 555 of the National Electrical Code shall have a service disconnect located on the shoreline ((for all services of 600 volts or less)).

Where shore power is provided, each floating building or boat moorage berth shall have a disconnecting means located within sight of and not more than fifty feet from each floating building or berth. The disconnecting means shall be installed adjacent to but not in or on the floating building. Conductors in excess of 600 volts, nominal shall not be installed on floating portions of marinas, docks, or wharves. Refer to the Fire Protection Standard for Marinas and Boatyards, NFPA 303 for additional information.

AMENDATORY SECTION (Amending Order 84-10, filed 7/17/84)

WAC 296-46-420 ((ELECTRICAL EQUIPMENT GROUNDING)) NONMETALLIC CABLE SYSTEMS-GROUND-FAULT CIRCUIT INTERRUPTER PROTECTION. (1) All electrical equipment grounding conductors for nonmetallic cable systems shall be completely made up at the time of the inspection.

(2) For the purposes of section 336-4(a) of the National Electrical Code, the first floor of a building shall be defined as that floor which is intended or used for human occupancy or habitation and which has fifty percent or more of the exterior wall area level with or above

finished grade. Floor levels which are designed or used only for vehicle parking, storage, or similar uses shall not be considered a floor for human occupancy or habitation.

(3) All 125 volt, single phase, 15 and 20 ampere receptacles installed outdoors at a dwelling shall have ground-fault circuit-interrupter protection for personnel.

All 125 volt, single phase, 15 and 20 ampere receptacles installed in kitchens in a dwelling unit on the small appliance branch circuits, except for those receptacle outlets for dedicated use, such as for a dishwasher, disposal, trash compactor, refrigerator or freezer, shall have ground-fault circuit-interrupter protection for personnel.

NEW SECTION

WAC 296-46-422 WATER HEATER CIRCUIT. Branch circuit conductors and overcurrent devices shall be rated at least one hundred twenty-five percent of the circuit load. Water heaters which have a rated circuit load in excess of 3,500 watts at 240 volts shall be provided with branch circuit conductors not smaller than No. 10 AWG copper or equal.

AMENDATORY SECTION (Amending Order 85-16, filed 9/27/85)

WAC 296-46-495 ELECTRICAL WORK PERMITS AND FEES. Inspections shall not be made nor services connected unless an electrical work permit is completely and legibly filled out and readily available. The classification or type of facility to be inspected and the scope of the electrical work to be performed shall be clearly shown on the electrical work permit. The address where the inspection is to be made shall be identifiable from the street, road or highway which serves the premises.

Except for emergency repairs to existing electrical systems, electrical work permits shall be obtained prior to beginning the installation or alteration. Electrical work permits shall expire one year after the date of purchase unless electrical work is actively and consistently in progress. Electrical work permits for temporary construction activity shall expire ninety days after suspended construction and no later than one year after purchase. Fees shall be paid in accordance with the inspection fee schedule WAC 296-46-910 ((Appendix F)).

Each electrical work permit shall be signed by the electrical contractor's administrator (or designee) or the person, firm, partnership, corporation, or other entity who or which is performing the electrical installation or alteration.

NEW SECTION

WAC 296-46-514 SERVICE STATIONS. In addition to complying with Article 514 of the National Electrical Code, each circuit leading to or through a gasoline pump shall be provided with an emergency disconnect switch or other approved means which shall simultaneously disconnect all circuit conductors including the grounded circuit conductor if any.

The disconnecting means or operator shall be substantially red in color and identified with a sign as the emergency disconnecting means. The disconnecting means or operator shall be readily accessible and shall be located outdoors and within sight of the gasoline pump or dispenser the disconnect controls. For multicircuit installations an electrically held contactor shall be permitted to be used.

AMENDATORY SECTION (Amending Order 86-23, filed 8/29/86)

~~WAC 296-46-680 ((HYDROMASSAGE BATH-TUBS)) ELECTRICAL EQUIPMENT ASSOCIATED WITH SPAS, HOT TUBS, SWIMMING POOLS OR HYDROMASSAGE BATHTUBS. (1) ((Electrical equipment associated with hydromassage bathtubs shall be listed by an electrical products testing laboratory which is accredited by the department and shall have the supply circuit protected by a ground-fault circuit-interrupter.~~

~~(2) Receptacle outlets. Receptacle outlets shall not be located closer than six feet to a hydromassage bathtub unless located above or within one foot of a basin or vanity, in which case a receptacle outlet shall be permitted to be located no closer than three feet to the inside walls of a hydromassage bathtub. Receptacles located within the room or within twelve feet from the inside walls of a hydromassage bathtub, shall be protected by a ground-fault circuit-interrupter. A door or sliding window is not considered to be a permanent barrier.~~

~~(3) Lighting fixtures and lighting outlets. Lighting fixtures other than the pendant or hanging type shall be permitted above a one-person hydromassage bathtub if all of the following conditions are met:~~

- ~~(a) The fixture is of the totally enclosed type;~~
- ~~(b) The distance from the bottom of the fixture to the maximum water level is not less than five feet;~~
- ~~(c) The fixture is rigidly attached to the wall or ceiling; and~~
- ~~(d) A ground-fault circuit-interrupter is installed in the branch circuit supplying the fixture(s).~~

~~(4) Wall switches. Switches shall be located at least three feet measured horizontally from the inside walls of the hydromassage bathtub. Circuits controlled by wall switches located within six feet of the hydromassage bathtub shall be protected by a ground-fault circuit-interrupter.)) Electrical installations. In addition to complying with the statute, the National Electrical Code, and this chapter, the installation shall comply with electrical testing laboratory standards applicable to the specific equipment or installation.~~

~~(2) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within five feet of a spa or hot tub shall be listed as a package with the spa or hot tub.~~

~~(3) Skid packs. A factory assembly of electrical heating, pumping, filtering, and/or control equipment (skid pack) which shall be installed more than five feet from a spa or hot tub and shall be listed as a package unit.~~

~~(4) Field assembly of listed electrical equipment for a spa, hot tub, or swim spa. Field installed, listed electrical~~

equipment (as distinguished from recognized components) for a hot tub, spa, or swim spa shall be permitted to be located at least five feet from the hot tub, spa or swim spa, provided that:

(a) The heater is listed as a "spa heater or swimming pool heater"; and

(b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and

(c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(5) Field assembly of listed electrical equipment for swimming pools. Field installed, listed electrical equipment (as distinguished from recognized components) for a swimming pool shall be permitted to be located at least five feet from the swimming pool provided that:

(a) The heater is listed as a "swimming pool heater or a spa heater"; and

(b) The pump is listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and

(c) Other equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(6) Hydromassage bathtubs. Hydromassage bathtubs shall be either:

(a) Listed as a unit and bear a listing mark which will read "hydromassage bathtub"; or

(b) Be equipped with a listed "swimming pool pump," "spa pump," or "swimming pool/spa pump" and in addition, show evidence of having received approval from the department for the owners/installation instruction manual, brochures, and/or wiring diagrams.

(7) Manufacturers instructions shall be followed as a part of the listing requirements.

The field assembly or installation of "recognized components" shall not be permitted.

The five foot separation of electrical components may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The five foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.

(8) Replacement of electrical equipment. Electrical components which have failed and require replacement shall be replaced with identical products unless the replacement part is no longer available, in which case, a similar product may be substituted provided that the electrical characteristics are identical and that the mechanical and grounding integrity of the equipment is maintained. Recognized components or listed equipment will be permitted to be replaced in kind. Cut-away type display models will not be expected to bear a listing mark and shall not be sold for other than display purposes.

AMENDATORY SECTION (Amending Order 85-16, filed 9/27/85)

WAC 296-46-910 INSPECTION FEES. To calculate the inspection fees, the amperage is based on the larger of the conductor ampacity or the over current device.

(1) The fee for inspection of the installation, alteration, or maintenance of the following service(s), or feeder(s), is:

	Residential Services Column A	Commercial/Industrial Column B	Additional Feeders in Commercial/Industrial Column C
1 - 100 AMP -	\$ 30	\$ 40	\$ ((30)) 10
101 - 200 AMP -	\$ 40	\$ 60	\$ ((30)) 15
201 - 400 AMP -	\$ 55	\$100	\$ ((50)) 25
401 - 600 AMP -	\$ 70	\$140	\$ ((70)) 35
601 - 1000 AMP -	\$ 85	\$180	\$ ((90)) 45
1001 - Over AMP -	\$100	\$220	\$((+10)) 55
Two family dwelling	\$ 50		
Temporary Construction Service	\$ ((30)) 25		

No additional fee for inspection of branch circuits when included on the service/feeder permit.

- Column A - Residential
 - Single family residential services.
 - Multi family residential services.
- Column B - Commercial and industrial
 - Each service or the first feeder when the service is not being installed, increased or altered.
 - Feeders that terminate in a separate building.
 - Secondaries of transformers that have a capacity greater than 600 VA.
 - Each service or feeder that is over 600 volts.
- Column C - Additional feeders in commercial and industrial facilities
 - Each feeder inspected with a service or feeder in Column B at the same time and on the same permit.

(2) The following fees shall be provided for the inspection of each of the following units:

	Single/first Unit Column A	Additional Units Column B
a. Mobile home, modular home, or commercial coach service. (200 Amp. Max.)	25	((+0*)) 5*
b. Mobile home feeder.	25	((+0*)) 5*
c. Each lot for a recreational vehicle.	25	((+0)) 5
d. Berth at a marina or dock.	25	((+0)) 5
e. Yard pole meter loops or similar isolated metering installations.	25	((+0)) 5

	Single/first Unit Column A	Additional Units Column B
f. Outbuilding(s) on residential property(1. served by a 60-Ampere or larger feeder 2. served by a circuit or a feeder less than 60-Amperes)	25	((+0)) 5
g. Motors 10 HP or larger	25	((+0)) 5
h. Multi-family dwelling feeders	25	((+0)) 5
i. Signs	25	((+0)) 5
j. <u>Low voltage temperature control circuits per building story or system</u>	25	5

Column A The fee for inspection of a single unit or the first of several units when a service or feeder in (1)(A) or (1)(B) is not installed.

Column B The fee for inspection of additional units when they are inspected at the same time, at the same location and on the same permit as a unit in Column (1)(A), (1)(B), or (2)(A).

*Total fee for inspection of one service and feeder for a mobile home when they are inspected at the same time is ~~((35.00))~~ \$30.00.

The above fees are in addition to master meter, mobile home park, recreational vehicle park, marina shore services and/or the main service(s).

(3) The fee for new circuits, circuit extensions, and circuit alterations where the service or feeder is not modified, shall be ~~((30))~~ \$25 for one to four circuits inspected at the same time on the same premises under a single permit plus \$1 for each additional circuit. The total fee shall be no greater than the fee for a new service of like ampacity.

(4) Low voltage systems. The fee for inspection of residential, burglar or fire alarm systems, and other Class 2, low voltage systems shall be \$25 ~~((for one to four circuits (zone) plus \$1 for each additional circuit (zone)))~~. For commercial or industrial, Class 2, low voltage system installations, the minimum fee shall be \$25 for the control panel and up to four circuits or zones plus \$5 for each additional circuit (zone).

(5) In addition to the service and feeder installation fees, the fee for inspecting each electrically driven irrigation machine is \$50 including tower and drive motors.

(6) The fee for emergency, standby, and resource recovery generators up to 50 KVA is \$25. The fee for a generator installation larger than 50 KVA, or that is the main source of power, is that for the applicable service in subsection (1) of this section.

(7) A firm, corporation or other entity which has a regularly employed electrical maintenance staff which is exempted from the requirement to have an electrician certificate of competency by RCW 19.28.610, may choose to purchase an annual electrical work permit rather than a work permit for each installation or alteration in accordance with this section. The following fee will entitle the purchaser to the number of inspections shown for a one year period after the date of purchase of an electrical work permit.

	FEE	INSPECTIONS
1 thru 3 plant electricians	\$1,300 per year	12
4 thru 6 plant electricians	\$2,600 per year	24
7 thru 12 plant electricians	\$3,900 per year	36
13 thru 25 plant electricians	\$5,200 per year	52
more than 25 plant electricians	\$6,500 per year	52

(8) Fees for carnival electrical inspections.
 a. Preseason inspection, \$40 per hour.
 b. The first field inspection of each ride, concession, or generator which has not had a preseason inspection shall be \$10.
 c. For subsequent inspections, the fee shall be \$40 for the first ten rides, concessions, or generators, and \$2 each for all additional rides, concessions, and generators. If a ride, concession, or generator has no insignia of inspection for the calendar year, the fee for that ride, concession, or generator shall be that charged in b. of this subsection.

((8)) (9) Trip fees. A fee of \$25 shall be paid before approval of the installation if the following services are necessary:

a. Requests to inspect existing installations. After the first one half hour, an additional \$25 fee shall be provided for each one half hour of inspection time.
 b. Trips to inspect when the permit submitter has given notice to the inspector that the work is ready for inspection when it is not.
 c. An additional inspection trip is necessary because the submitter has given an erroneous or incomplete address.

d. More than one additional inspection trip per permit to inspect corrections required by the inspector as a result of carelessness or neglect, or for improperly responding to a corrective notice.

e. Each trip necessary to remove a noncompliance citation from the jobsite, posted because unlicensed electrical contractors or uncertified electricians or trainees were working on the jobsite.

f. When corrections have not been made in the prescribed time, unless an exception has been requested and granted.

((9)) (10) Double fees. A double inspection fee shall be charged for:

a. Installations that are covered or concealed before inspection;
 b. Failure to obtain the electrical work permit prior to beginning the installation or alteration. Exception - emergency repairs to existing electrical systems.

((10)) (11) On jobs requiring partial or progress inspections, "one" inspection of one half hour duration is allowed per \$25 of fee.

((11)) (12) The fee for a plan review request pursuant to WAC 296-46-140 (1) and (2) is thirty-five percent of the electrical work permit fee as determined by WAC 296-46-495, plus a fee of \$35. The fee for review of electrical plans voluntarily requested pursuant to WAC 296-46-140(4) and for supplemental submissions of plans is \$30 per hour or a fraction of an hour.

AMENDATORY SECTION (Amending Order 86-23, filed 8/29/86)

WAC 296-46-920 CIVIL PENALTY. A person, firm, partnership, corporation or other entity that violates a provision of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC is liable for a civil penalty based upon the following schedule.

(1) Offering to perform, submitting a bid for, installing or maintaining conductors or equipment that convey or utilize electrical current without having an unexpired, unrevoked and unsuspended electrical contractor license.	First offense: \$ 500 Second offense: \$1,000 Third offense: \$3,000 Each offense thereafter: \$5,000
(2) Employing an individual for the purposes of RCW 19.28.510 through 19.28.620 who does not possess a valid certificate of competency or training certificate.	First offense: \$ 50 Second offense: \$ 100 Each offense thereafter: \$ 250
(3) Working as an electrician or electrical trainee in the electrical construction trade without having a valid certificate of competency or electrical training certificate.	First offense: \$ 50 Second offense: \$ 100 Each offense thereafter: \$ 250
(4) Employing electricians and trainees in an improper ratio.	First offense: \$ 50 Second offense: \$ 100 Each additional offense: \$ 250
(5) Failing to provide supervision to an electrical trainee as required by RCW 19.28.510.	First offense: \$ 50 Second offense: \$ 100 Each additional offense: \$ 250
(6) Working as an electrical trainee without proper supervision as required by RCW 19.28.510.	First offense: \$ 50 Second offense: \$ 100 Each additional offense: \$ 250
(7) Performing electrical installations, alterations or maintenance outside the scope of the firm's specialty electrical contractors license.	First offense: \$(500) 250 Second offense: \$(1,000) 500 Each additional offense: \$(3,000) 1,000
(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which is not listed and labeled by an approved electrical testing laboratory.	First offense: \$ 500 Second offense: \$1,000 Each additional offense: \$2,000
Definition: The sale or exchange of electrical components associated with hot tubs, spas, swimming pools or hydromassage bathtubs means: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."	
(9) Violating any of the provisions of chapter 19.28 RCW or chapters 296-46 or 296-401 WAC which are not identified in subsections (1) through (8) of this section.	First offense: \$ 50 Second offense: \$ 100 Each additional offense: \$ 250

(10) Each day that a violation occurs will be a separate offense. A violation will be a "second" or "additional" offense only if it occurs within one year from the first violation.

(11) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW, the department may double the penalty amounts shown in subsections (1) through ((6)) (9) of this section.

WSR 87-10-031
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 87-37—Filed May 1, 1987]

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

I, Joseph R. Blum, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of chinook 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 May 1, 1987.

By Judith Merchant
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-36-02500Y CHEHALIS RIVER—TRIBAL FISHERY. *Notwithstanding the provisions of WAC 220-36-025, effective immediately until further notice, it is unlawful for any person, including treaty Indian fishermen, to fish for or possess foodfish taken for any purpose from the waters of the Chehalis River upstream from the Porter Bridge except that fishermen possessing tribal fishing rights from the Chehalis Tribe may fish for salmon with one net not less than six and one-half inch mesh during the following 1987 periods, or until 165 chinook salmon are taken, whichever occurs first:*

8:00 p.m. May 3 to 8:00 a.m. May 4
 8:00 p.m. May 4 to 8:00 a.m. May 5
 8:00 p.m. May 10 to 8:00 a.m. May 11
 8:00 p.m. May 11 to 8:00 a.m. May 12
 8:00 p.m. May 17 to 8:00 a.m. May 18
 8:00 p.m. May 18 to 8:00 a.m. May 19
 8:00 p.m. May 24 to 8:00 a.m. May 25
 8:00 p.m. May 25 to 8:00 a.m. May 26
 8:00 p.m. May 31 to 8:00 a.m. June 1
 8:00 p.m. June 1 to 8:00 a.m. June 2
 8:00 p.m. June 7 to 8:00 a.m. June 8
 8:00 p.m. June 8 to 8:00 a.m. June 9
 8:00 p.m. June 14 to 8:00 a.m. June 15
 8:00 p.m. June 15 to 8:00 a.m. June 16

Any unattended fishing gear must be identified to the fisherman. Fishermen must have tribal fishing identification cards in possession. Failure to comply with the provisions of this section is a violation of the Fisheries Code.

WSR 87-10-032
NOTICE OF PUBLIC MEETINGS
GREEN RIVER COMMUNITY COLLEGE
 [Memorandum—April 28, 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 14, 1987, to Wednesday, May 20, 1987.

WSR 87-10-033
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed May 1, 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, June 19, 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 June 12, 1987.

This notice is connected to and continues the matter in Notice No. WSR 86-09-059 [87-09-059] filed with the code reviser's office on April 20, 1987.

Dated: April 29, 1987

By: Carey L. Rader
 Chief Executive Officer

WSR 87-10-034
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed May 1, 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
Amd	WAC 4-25-181	Experience;

that the agency will at 9:00 a.m., Friday, June 19, 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 June 12, 1987.

This notice is connected to and continues the matter in Notice No. WSR 86-09-060 [87-09-060] filed with the code reviser's office on April 20, 1987.

Dated: April 29, 1987

By: Carey L. Rader
Chief Executive Officer

WSR 87-10-035
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed May 1, 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 requirements for applicants, examinees, and eligibles, amending WAC 356-34-090;

that the agency will at 10:00 a.m., Thursday, June 11, 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 June 9, 1987.

Dated: April 16, 1987

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amending WAC 356-34-090 Requirements for applicants, examinees, and eligibles.

Purpose: Provides for the review of certain personnel actions.

Statutory Authority: RCW 41.06.150.

Summary: To extend the time currently allowed to request a review and would clarify when notification occurs.

Reasons: With this change, the rule will clearly specify the time limits for candidates to request a review.

Responsibility for Drafting: Christina L. Valadez, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98504, phone 586-1769; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel.

Comments: None.

Rule Proposed as a Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 271, filed 2/24/87)

WAC 356-34-090 PROTESTS—REQUIREMENTS FOR APPLICANTS, EXAMINEES, AND ELIGIBLES. (1) An applicant whose application has been rejected; an examinee who feels the score or examination is unfair, in error, not applied or arrived at uniformly; an eligible whose name has been removed from the register; or an applicant who is not appointed following a background inquiry and review conducted pursuant to WAC 356-26-140 may request a review by the director of personnel or designee. The request must be in writing and ~~((fifteen))~~ received at the director of personnel's office within ~~((fifteen))~~ twenty calendar days following the postmarked date of the notification of the application rejection, examination score, removal from the register, or the appointing authority's decision.

(2) The director of personnel or designee shall notify the party requesting a review of the date and place of the review at least ten calendar days prior to the review. The review shall be informal and conducted by the director of personnel or designee. The director of personnel or designee may limit attendance of other interested parties if good order, justice, and fairness will be promoted. Within ten calendar days following the review and the receipt of any additional necessary information, the director of personnel or designee shall issue a written determination and send a copy to each of the participating parties.

(3) An adversely affected party may request a hearing of the personnel board to review the determination of the director of personnel or designee. The request for a personnel board hearing must be in writing and ~~((fifteen))~~ received at the director of personnel's office within ~~((fifteen))~~ twenty calendar days following the postmarked date of the notification of the director's or designee's determination. A hearing before the personnel board shall be scheduled and each party shall be afforded not less than ten calendar days' notice. The personnel board will issue a written decision which will be final.

WSR 87-10-036
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Filed May 1, 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 356-42-020 Determination of bargaining unit.
- New WAC 356-42-042 Election provisions—General.
- Amd WAC 356-42-043 Union shop requirements.
- Amd WAC 356-42-045 Union shop elections.
- New WAC 356-42-049 Disclaimer of interest petition—Decertification of exclusive representative.
- Amd WAC 356-42-055 Arbitration—Grievance—Procedure.
- Amd WAC 356-42-082 Filing unfair labor practice charge.
- Amd WAC 356-42-084 Answer to complaint—Unfair labor practice.
- New WAC 356-42-105 Requests for mediation and arbitration;

that the agency will at 10:00 a.m., Thursday, June 11, 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 June 9, 1987.

Dated: April 13, 1987

By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amending WAC 356-42-020 Determination of bargaining unit, establishes process by which bargaining unit creations/modifications are accomplished.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: This change clarifies that the creations and modifications of the bargaining units are effective the date of the board's oral decision at monthly meetings and that the decision will be confirmed in writing.

New WAC 356-42-042 Election provisions—General, creates a new rule regarding general election provisions.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Consolidates into one section the general provisions which are applicable to all certification and decertification elections.

Amending WAC 356-42-043 Union shop requirements, delineates requirements which exist when bargaining unit has a union shop provision.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Clarifies that the appointing authorities must notify employees of existing union shop provisions prior to movement into bargaining unit.

Amending WAC 356-42-045 Union shop elections, establishes conditions of and procedures for union shop elections.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Subsections that are being deleted have been moved to the general election provisions of new WAC 356-42-042; subsection (4) establishes that all employees on active payroll on date of election are eligible to vote; subsection (6) clarifies that management representatives who are included in bargaining units may express personal opinions/beliefs regarding union shop issues; and subsection (7) clarifies what occurs when a new group of employees are added to a unit which has a union shop provision in effect.

New WAC 356-42-049 Disclaimer of interest petition—Decertification of exclusive representative, new section to provide process for decertification of exclusive representative.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Provides process for decertification of employee organization as exclusive representative of unit when it has no interest in continuing to represent employees in unit and affected employees do not object to the decertification.

Amending WAC 356-42-055 Arbitration—Grievance—Procedure, establishes procedure for arbitration of grievances by the board.

Statutory Authority: RCW 41.06.150.

Summary and Reasons: Subsection (1) clarifies that arbitration requests may be filed within thirty days or less from the date the director declares impasse; deletion of subsection (3) removes requirement that all background information be attached to arbitration petition; subsection (4) clarifies that answer to arbitration requests must be served on grievant or his/her representative at the same time it is filed with the State Personnel Board; and subsection (7) provides for the Personnel Board to act on arbitration petition without a hearing if grievant requests to waive the right to a hearing.

Responsibility for Drafting: Marilyn Glenn, Labor Relations, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98504, phone 753-5699; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Result of Federal Law or Federal or State Court Action: No.

Amending WAC 356-42-082 (alternate #1), Filing unfair labor practice charge, outlines the procedure the charging party must follow when filing an unfair labor practice charge with the State Personnel Board.

Statutory Authority: RCW 41.06.150.

Summary: Proposed change would establish a sixty calendar day time limit for filing unfair labor practice charges with the State Personnel Board.

Reasons: While most unfair labor practice charges are filed shortly after the alleged infraction, the Personnel Board is occasionally asked to make decisions on charges filed over a year after the events in question. Such delay makes it difficult for the responding party to prepare a defense and also hinders the board's ability to fashion an effective remedy.

Responsibility for Drafting: Arthur J. Morse, Personnel Manager, Department of Transportation, Transportation Building, Mailstop KF-01, Olympia, WA 98504, phone 753-7337; Implementation: Department of Personnel; and Enforcement: State Personnel Board.

Proposed by: Department of Transportation, governmental agency.

Comments: The proposed sixty day deadline would be consistent with that contained in the Higher Education Personnel Board rules (WAC 251-14-080).

Result of Federal Law or Federal or State Court Action: No.

Amending WAC 356-42-082 (alternate #2), Filing unfair labor practice charge, establishes process for filing unfair labor practice charges with the State Personnel Board.

Statutory Authority: RCW 41.06.150.

Summary: Proposed change would establish a six month time limit for filing unfair labor practice charges with the State Personnel Board.

Reasons: Establishes a requirement that a charge could be filed within six months of the date on which the

party could reasonably be expected to have knowledge of an alleged unfair labor practice.

Responsibility for Drafting: Marilyn Glenn, Labor Relations, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98504, phone 753-5699; Implementation: Department of Personnel; and Enforcement: State Personnel Board.

Proposed by: Department of Personnel, governmental agency.

Comments: None.

Result of Federal Law or Federal or State Court Action: No.

Amending WAC 356-42-084 Answer to complaint—Unfair labor practice, outlines the procedure the responding party must follow when filing an answer to the unfair labor practice complaint with the Personnel Board.

Statutory Authority: RCW 41.06.150.

Summary: The proposal would extend the deadline for filing an answer to an unfair labor practice complaint from five to twenty days.

Reasons: The present five day deadline for responding to unfair labor practice complaints frequently does not provide the responding party with an adequate amount of time to prepare a response. Furthermore, the statutory impetus for the present rule was abolished by the legislature in 1983.

New WAC 356-42-105 Requests for mediation and arbitration, establishes guidelines in which mediation/arbitration requests would not be processed.

Statutory Authority: RCW 41.06.150.

Summary: Requires requesting party to choose remedy to be pursued when a request for mediation/arbitration is not processed.

Reasons: A request will not be processed for mediation/arbitration if the same charges or issues are pending before the board in an unfair labor practice charge or before the Personnel Appeals Board in an appeal.

Responsibility for Drafting: Marilyn Glenn, Labor Relations, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98504, phone 753-5699; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Comments: None.

Result of Federal Law or Federal or State Court Action: No.

AMENDATORY SECTION (Amending Order 147, filed 9/16/80)

WAC 356-42-020 DETERMINATION OF BARGAINING UNIT. (1) Determination, alteration, or modification of an appropriate bargaining unit shall be made by the personnel board upon petition from an employee organization, or upon the board's own motion after 20 days' notice has been given to the appointing authority and to affected employees and their representatives.

(2) Prior to an employee organization petitioning the personnel board for creation or modification of a bargaining unit, the petitioning employee organization will confer with the appointing authority on the proposed unit creation or unit modification.

(3) If an appointing authority has reason to believe that an existing bargaining unit in the appointing authority's agency or department is no longer appropriate, the appointing authority may request the personnel board to consider modification of the bargaining unit. However,

if there is an employee organization certified as exclusive bargaining representative for that unit, the appointing authority will first confer with the certified employee organization on the proposed modification prior to presenting the request to the personnel board. The personnel board may choose to consider such unit modification questions and would act on its own motion as designated in WAC 356-42-020(1).

(4) In determining a bargaining unit, the personnel board shall consider the following factors:

(a) Duties, skills and working conditions of the employees.

(b) History of collective bargaining by the employees and their representatives.

(c) Extent of organization among the employees.

(d) Desires of the employees.

(5) Any petition filed hereunder should set forth all pertinent facts and supporting reasons, as comprehensively as possible, to aid the personnel board in its determination.

(6) ~~((After a))~~ At the hearing on a petition, the personnel board shall make an oral determination regarding the proposed action. Thereafter, the board shall enter an appropriate order containing findings of fact and conclusions of law reflecting the oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

(7) Bargaining units normally shall not include both supervisory and nonsupervisory employees.

NEW SECTION

WAC 356-42-042 ELECTION PROVISIONS—GENERAL.

(1) Purpose. To provide that certification/decertification and union shop elections are truly representative of the desires of the employees and that all employees eligible to vote have every opportunity to do so, employee participation in these elections will be encouraged to the greatest extent possible.

(2) The director or designee shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections.

(3) Upon being notified by the director or designee that a valid petition for an election has been received, the affected appointing authority shall submit to the director or designee and the petitioning party a list of all employees included in the bargaining unit as of the preceding payroll period. This list shall contain the employees' names, job classifications, work locations, and mailing addresses. Upon written request, the director or designee shall provide such listing to an affected employee organization and/or affected employees who show proof that they represent at least ten percent of the employees in the bargaining unit.

(4) Upon receipt of a valid petition for an election, the director or designee shall conduct a preelection conference which shall include representatives of the appointing authority, and representatives of the employee organization and/or petitioning party. At the preelection conference, determinations will be made on such matters as absentee voting, eligibility of voters, locations, personnel at each election site, campaign activities, and any other matter that should be resolved concerning that election. Following, the preelection conference, the director or designee will establish rules, regulations and procedures for holding the election.

(5) At least ten days prior to the scheduled date, the director or designee will distribute a notice of election for posting in the work areas of affected employees. Such notice will contain information regarding the date(s), time(s) and location(s) of balloting, the rules, regulations and procedures established for the election, and a sample ballot.

(6) All on-site voting shall take place during the employees' regular work schedule and all eligible voters shall be given ample opportunity to vote during their work time.

(7) Employees on leave of absence without pay for the entire calendar month preceding the start of the balloting shall not be eligible to vote.

(8) Rules governing campaign activities shall be determined at the preelection conference. Employees included in the affected bargaining unit and representatives of the petitioning party and/or the affected employee organization shall have the right to conduct such activities on the employer's grounds during work hours so long as the work of the employee and the operation of the employer are not disturbed.

(9) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of the exclusive representation or

the union shop provision by any employee organization whether on the ballot or otherwise nor shall any person in that area engage in any form of electioneering.

(10) Within five calendar days of the date of the tally of the ballots, the petitioning party, the affected employee organization, or an employee in the bargaining unit may file objections to the election. The director or designee shall investigate and determine an appropriate remedy if the objection is found to be meritorious.

(11) The appointing authority shall cooperate with the director or designee to assure that employees have maximum opportunity to vote in elections.

(12) An employee who cannot appear at the voting site on the date of the vote, may vote by absentee ballot. A request for an absentee ballot must be submitted to the director or designee prior to the close of the voting at the employee's voting site.

(13) Any violation of these rules should be immediately reported to the director or designee. Upon receiving a complaint, the director or designee will immediately investigate; and if necessary, take steps to cause the violation to stop. If it is found by the director or designee that violations of these rules or the preelection agreements have affected the outcome of the election, the director may invalidate the election, order a new election, or take other appropriate remedial action.

AMENDATORY SECTION (Amending Order 57, filed 7/31/73)

WAC 356-42-043 UNION SHOP REQUIREMENTS. (1) Once an employee organization has been certified to a bargaining unit as union shop representative, all employees included in that unit, except for those employees who qualify for nonmembership on the basis of bona fide religious objection as stated in WAC 356-42-043(2), shall be required to become members of the employee organization within 30 calendar days following their start of employment or 30 calendar days after an employee organization wins certification as union shop representative, whichever is later. The 30 calendar days starts the first day of the employee's employment within the bargaining unit which has a certified union shop representative or starts the date of the director's certification of the election results, whichever is later.

(2) Employees who have a bona fide religious objection precluding them from membership in an employee organization, based on religious tenets or teachings, and who are members of the church or religious body holding such tenets or teachings, may satisfy the union shop requirement by paying to the union shop representative a union shop fee. This fee is an amount equivalent to the regular dues of the union shop representative, minus any monthly premiums for union sponsored insurance programs.

(3) Employees who wish the right of nonassociation from an employee organization, as provided in WAC 356-42-043(2), must submit their request to the union shop representative. If the union shop representative rejects the employee's request or fails to respond within ten working days, either the employee or the union shop representative may submit the issue to the director or his designee who shall investigate and confer with the parties in an effort to resolve the dispute. If agreement is not reached, the director shall issue a written decision which shall be final.

(4) Once an employee has qualified to pay the union shop fee, the employee may designate that the fee go to that program or programs within the functions of the union shop representative in harmony with the employee's individual conscience.

(5) An employee who pays a union shop fee shall be entitled to full and complete representation rights.

(6) Once an employee organization has been certified as union shop representative, the affected bargaining unit employees shall be required to pay membership dues or union shop fees to that employee organization. Payment of dues or fees may be required on a monthly or other periodic basis. Such employees shall not be required to make payment of initiation fees, reinstatement fees, or any other fees or fines. All employees included in a bargaining unit to which an employee organization is certified as union shop representative, and who are members of the certified employee organization, will have full and complete rights as members within that employee organization.

(7) Failure of an employee to become a member of the union shop representative or make payment of the union shop fee within 30 calendar days following the employee's start of employment or within 30 calendar days after an employee organization has been certified as union shop representative, whichever is later, shall cause that employee to be dismissed as hereinafter provided.

(8) Employees on leave of absence without pay for an entire calendar month shall not be required to pay dues or union shop fees to the

union shop representative during that month. When an employee returns from leave of absence to employment and pay status within the bargaining unit, he shall be considered included in the bargaining unit and required to pay the union dues or union shop fee.

(9) Once an employee organization has been certified by the director as a union shop representative, the affected appointing authority shall provide the employee organization with a monthly list of the employees in the bargaining unit.

(10) Upon written notification by the union shop representative that an employee has not complied with the union shop requirements, the appointing authority shall give written notification to the employee of 15 calendar days' notice of his or her dismissal for failure to join the union or pay union shop fees. If an employee complies with the union shop requirements within those 15 calendar days, the dismissal action shall be rescinded.

(11) The appointing authority shall notify affected employees of existing union shop provisions prior to their hire or transfer into a bargaining unit where such provisions are in effect.

AMENDATORY SECTION (Amending Order 69, filed 9/30/74)

WAC 356-42-045 UNION SHOP ELECTIONS. (1) ~~((PURPOSE --To provide that union shop elections are truly representative of the desires of the employees and that all employees eligible to vote have every opportunity to do so, employee participation in these elections will be encouraged to the greatest extent possible.~~

~~(2) The director or designee shall administer all union shop elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of union shop elections.)~~ An employee organization is eligible to petition for a union shop representation election if it is certified as exclusive bargaining representative for a bargaining unit in accordance with WAC 356-42-030.

~~((3))~~ (2) Upon ((submission of a timely filed)) receipt of a valid petition ((by an employee organization, which is) from the certified exclusive bargaining representative ((for a bargaining unit)), the director or designee shall order a union shop representation election. A petitioning employee organization will be certified as union shop representative((:)) if a majority of the employees who are included in the bargaining unit vote in favor of the union shop.

~~((4) An employee organization is eligible to petition for a union shop representation election if it is certified as exclusive bargaining representative in accordance with WAC 356-42-030.~~

~~(5) Upon being notified by the director or designee that a valid petition for a union shop election has been received, the affecting appointing authority shall submit to the director or designee and the petitioning employee organization a list of all employees included in the bargaining unit as of the preceding payroll period. This list shall contain the employee's names, job classifications, work locations, and mailing addresses.~~

~~(6) Upon receipt of a valid petition for a union shop election, the director or designee shall conduct a preelection conference which shall include the director or designee, the representatives of the appointing authority, and the representatives of the petitioning employee organization. At the preelection conference determinations will be made on such matters as absentee voting, eligibility of voters, locations, personnel at each election site, campaign activities and any other matter, that should be resolved concerning that election. Following the preelection conference, the director or designee will establish rules, regulations and procedures for the holding of each election.~~

~~(7) All on-site voting shall take place during the employee's regular work schedule and all eligible voters shall be given ample opportunity to vote during their work time.~~

~~(8) Employees on leave of absence without pay for the entire calendar month preceding the start of the balloting shall not be eligible to vote.~~

~~(9) Rules governing campaign activities shall be determined at the preelection conference. Employees included in the affected bargaining unit and representatives of the petitioning employee organization, shall have the right to conduct such activities on the employer's grounds during work hours so long as the work of the employee and the operation of the employer is not disturbed.)~~

(3) The election will be conducted under the general procedures outlined in WAC 356-42-042.

(4) All employees on the active payroll and employed within the bargaining unit on the date of the election will be eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot.

~~((10))~~ (5) The petitioning employee organization shall take great care to avoid making untrue statements concerning union shop election issues.

~~((11))~~ Within five calendar days of the date of the tally of ballots, the petitioning employee organization or an employee in the bargaining unit may file objections to the election. The director or designee shall investigate and determine an appropriate remedy if the objection is found to be meritorious.

~~((12))~~ The appointing authority shall cooperate with the director or designee to assure that eligible employees have a maximum opportunity to vote in union shop elections.

~~((13))~~ (6) The appointing authority, supervisors, and other representatives of management shall remain neutral on the questions, merits and issues of the union shop and the petitioning employee organization for the purposes of union shop elections; except that such individuals shall have the right to express their personal opinions and beliefs regarding the issues when their positions are included in the bargaining unit. If an objection is made by the petitioning employee organization or by an employee included in the bargaining unit to written or oral statements made by the appointing authority, supervisors or other representatives of management, the director or designee shall investigate the objection and determine the appropriate remedy if the objection is found to be meritorious.

(7) When the board pursuant to WAC 356-42-020, combines a new group of employees into an existing bargaining unit which has a union shop provision in place, such action shall effect an automatic request for a new union shop certification election to determine the desires of the employees of the new unit unless:

(a) The same employee organization is the certified union shop representative for each of the units being combined; or

(b) The results of the union shop election previously held still represent a majority vote in favor of the union shop provision in the new unit.

~~((14))~~ (8) No union shop election petition will be honored within twelve months following a prior union shop election or a prior union shop decertification election.

~~((15))~~ An employee who cannot appear at the voting site on the date of the vote, may vote by absentee ballot. A request for an absentee ballot must be submitted to the director or designee prior to the close of voting at the employee's voting site.

~~((16))~~ Any violation of these rules should be immediately reported to the director or designee. Upon receiving a complaint, the director or designee will immediately investigate, and if necessary, take steps to cause the violation to stop. If it is found by the director or designee that violations of these rules or the pre-election agreements have affected the outcome of the election, the director may invalidate the election, order a new election, or take other appropriate remedial action.)

NEW SECTION

WAC 356-42-049 DISCLAIMER OF INTEREST PETITION—DECERTIFICATION AS EXCLUSIVE REPRESENTATIVE. (1) If an employee organization with a current certification as exclusive representative of employees in a bargaining unit seeks to disclaim any interest in continuing to represent the affected employees as their exclusive representative, it may file a disclaimer of interest petition with the director; provided that if a valid collective bargaining agreement exists for the unit, any disclaimer of interest petition will only be valid if filed within ninety calendar days prior to the expiration date of that agreement.

(2) A disclaimer of interest petition must specifically state the reason(s) the director should grant the employee organization a decertification as exclusive representative.

(3) At least ten days prior to decertification, the director or designee will distribute a notice for posting in the work areas of affected employees. Such notice will inform the employees that within the ten calendar days, they may contest the decertification by disclaimer of interest petition and request that an election be held.

(4) Upon petition by no less than thirty percent of the employees of the bargaining unit, the director or designee will conduct a disclaimer of interest election.

(5) The director will decertify an employee organization as the exclusive representative on the basis of a disclaimer of interest petition when:

(a) The disclaimer of interest petition is not contested by at least thirty percent of the employees affected; or

(b) A majority of votes cast in a disclaimer of interest election are in favor of decertification.

(6) Another disclaimer of interest petition filed by the same employee organization concerning the same bargaining unit will not be honored within twelve months of the date of the last filing.

AMENDATORY SECTION (Amending Order 211, filed 11/20/84)

WAC 356-42-055 ARBITRATION—GRIEVANCE—PROCEDURE. Whenever arbitration of a grievance is requested of the personnel board pursuant to an agreement as authorized by WAC 356-42-050(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the personnel board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the relief sought.

(f) The signature and, if any, the title of the person filing the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) of this section. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) ~~(A copy of the original grievance and copies of subsequent written statements of the grievance and the agency's written responses dated prior to submission of the grievance to mediation shall be attached to the request for arbitration.)~~

~~((4))~~ The personnel board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) of this section. If the personnel board's hearings coordinator determines the request to be incomplete, he or she shall notify the person filing the request of the portions of the request which need to be supplemented or changed to comply with subsection (1) of this section. When the personnel board's hearings coordinator is satisfied that the request substantially complies with subsection (1) of this section he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the personnel board's hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the personnel board upon motion of the requesting party.

~~((5))~~ (4) Within twenty days of service of the request for arbitration, or within such longer period as the personnel board may allow, the party receiving the ~~((same))~~ request shall answer the allegations of fact and contentions set forth in the request by admitting, denying, or setting forth doubt as to the truth ~~((of))~~ or falsity of any particular alleged fact or contention. The answer shall be served on the grievant or if represented, on the grievant's representative, at the same time it is filed with the personnel board ~~((and served on the grievant, or, if represented, on the grievant's representative, all within the time provided))~~. Failure to answer an allegation of fact within the time required, or admission of a fact in the answer, shall constitute a waiver by the answering party of the right to contest the fact in the arbitration proceeding, unless for good cause shown, the personnel board provides otherwise. At the discretion of the personnel board for good cause shown, the request or the answer may be amended at any time prior to the end of the arbitration hearing.

~~((6))~~ (5) After receipt of the answer, or if no answer is timely filed, the personnel board's hearings coordinator shall set the matter for arbitration. At least twenty days notice shall be given of the time and date of the arbitration unless both parties agree to a shorter time.

~~((7))~~ (6) The grievant shall have the burden of proof and shall go forward with the evidence.

(7) The board may grant the grievant's request to waive the right to a hearing and thereafter require the parties to submit written evidence upon which the board may act without a hearing.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-42-082 FILING UNFAIR LABOR PRACTICE CHARGE. (1) A charge or charges that any employing agency or employee organization has committed an unfair labor practice, as defined in these rules and RCW 41.56.150, may be filed with the personnel board by any employee, group of employees, employee organization, employing agency, or their authorized agents.

(2) Unfair labor practice charges shall be filed with the director of personnel, as secretary to the personnel board, at the principal office of the department of personnel within sixty calendar days after the charging party becomes aware of the alleged unfair labor practice.

(3) Unfair labor practice charges shall be in writing in the form of a complaint of unfair labor practices, or on a form provided by the personnel board or its designee. The charge shall contain the following:

(a) The name, address and telephone number of the charging party, and the name, address and telephone number of the party's principal representative, if any.

(b) The name, address and telephone number of the party against whom the charge is being filed, and, if known, the principal representative of the charged party.

(c) Clear and concise statements of the facts constituting the alleged unfair labor practice(s), including times, dates, places and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-42-084 ANSWER TO COMPLAINT—UNFAIR LABOR PRACTICE. (1) The charged party shall have the right to file its answer to the unfair labor practice complaint with the personnel board within ~~((five))~~ twenty days of service of the complaint, ~~((exclusive of Saturdays, Sundays, and holidays))~~ or within such longer period as the personnel board may allow. After the expiration of such time period, the charged party shall no longer have the right to file an answer and may do so only if the personnel board, for good cause shown, permits an answer to be filed. The charged party shall serve its answer on the charging party when it files its answer with the personnel board.

(2) The answer shall specifically admit, deny or explain each of the facts alleged in the complaint. If the charged party is without knowledge sufficient to form a belief as to the truth or falsity of any specific allegation, that fact shall be so stated and shall operate as a denial of that allegation. Failure to answer all or any part of the complaint within the time required shall, except for good cause shown, be deemed an admission of such allegation(s) not answered.

(3) Facts admitted in the answer, either by specific admission or failure to answer as required, except for good cause shown, shall be considered true for purposes of the remainder of the unfair labor practice proceeding, and shall constitute a waiver by the charged party of a hearing as to the facts so admitted.

NEW SECTION

WAC 356-42-105 REQUESTS FOR MEDIATION AND ARBITRATION. Mediation and arbitration requests per WAC 356-42-050 and 356-42-055 shall not be allowed if the same charges or issues are pending before the personnel board for processing per WAC 356-42-082 or before the personnel appeals board for processing per Title 358 WAC.

AMENDATORY SECTION (Amending Order 177, filed 10/26/82)

WAC 356-42-082 FILING UNFAIR LABOR PRACTICE CHARGE. (1) A charge or charges that any employing agency or employee organization has committed an unfair labor practice, as defined in these rules and RCW 41.56.150, may be filed with the personnel board by any employee, group of employees, employee organization, employing agency, or their authorized agents.

(2) Unfair labor practice charges shall be filed with the director of personnel ~~((as secretary to the personnel board, at the principal office~~

~~of the department of personnel))~~ within six months of the date on which the charging party could reasonably be expected to have knowledge of the alleged unfair labor practice.

(3) Unfair labor practice charges shall be in writing in the form of a complaint of unfair labor practices, or on a form provided by the personnel board or its designee. The charge shall contain the following:

(a) The name, address and telephone number of the charging party, and the name, address and telephone number of the party's principal representative, if any.

(b) The name, address and telephone number of the party against whom the charge is being filed, and, if known, the principal representative of the charged party.

(c) Clear and concise statements of the facts constituting the alleged unfair labor practice(s), including times, dates, places and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

WSR 87-10-037

ADOPTED RULES

DEPARTMENT OF PERSONNEL
(Personnel Board)

[Order 274—Filed May 1, 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:

Amd	WAC 356-05-480	Work day.
Amd	WAC 356-05-500	Workweek.
Amd	WAC 356-15-030	Overtime provisions and compensation.
Amd	WAC 356-15-090	Schedule change and compensation.

This action is taken pursuant to Notice No. WSR 87-07-036 filed with the code reviser on [March 13, 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 209, filed 8/10/84)

WAC 356-05-480 WORK DAY. ~~((A 24-hour period beginning at a time determined by the appointing authority. For scheduled standard work period positions the work day begins at the scheduled starting time of the employee.))~~ One of seven 24-hour periods that start at the beginning of the workweek.

AMENDATORY SECTION (Amending Order 209, filed 8/10/84)

WAC 356-05-500 WORKWEEK. A regular recurring period of 168 hours beginning at a time determined by the appointing authority and continuing for seven consecutive 24-hour periods. ~~((For scheduled standard work period positions the workweek begins at the scheduled starting time of the first shift of the employee's uniform shifts.))~~

AMENDATORY SECTION (Amending Order 260, filed 10/10/86, effective 12/1/86)

WAC 356-15-030 OVERTIME PROVISIONS AND COMPENSATION. (1) The following conditions constitute overtime:

(a) For full-time employees, work in excess of the workshift within the work day.

(b) Work in excess of forty working hours in one workweek or eighty working hours in a scheduled fourteen consecutive day period as authorized under WAC 356-15-020 (2)(a)(ii).

(c) Work on a holiday (except Sunday when it is within the assigned workshift).

(d) Work on a scheduled day off.

(e) Time worked in excess of the 28-day work period by law enforcement positions.

(2) Scheduled work period employees shall receive overtime compensation for work which meets subsection (1)(a) through (d) of this section. ~~((However, an agency is not obligated to pay overtime due to a change in the work day or workweek, when such change is in response to a written request from an employee for employee convenience, and the employee still works no more than forty hours during a workweek.))~~

(3) Nonscheduled work period employees shall receive overtime compensation for work which meets subsection (1)(b) through (d) of this section and may be paid overtime compensation for work which meets subsection (1)(a) of this section.

(4) Law enforcement positions have a one hundred sixty-hour, twenty-eight-day work period, rather than a forty-hour workweek.

(a) When the combination of credited work hours (vacation, sick leave, holidays, or compensatory time) and actual work hours exceeds one hundred sixty hours, the employee shall be compensated at time and one-half rates in cash or compensatory time at the option of the agency.

(b) Overtime compensation for actual work in excess of one hundred seventy-one hours in a work period may be in the form of compensatory time off if the employee and the agency agree.

(c) Assigned, actual work on a holiday shall be considered as work in excess of one hundred sixty hours.

(d) For the positions receiving assignment pay for an extended work period, the following special provisions apply:

(i) These law enforcement classes or positions have a one hundred seventy-one-hour, twenty-eight-day work period, for which they receive four ranges (approximately ten percent) above the base salary range.

(ii) When the combination of credited work hours and actual work hours exceeds one hundred seventy-one hours, the employee shall be compensated at time and one-half rates. Compensation may be in the form of compensatory time off if the employee and the agency agree.

(iii) Assigned, actual work on a holiday shall be considered as work in excess of one hundred seventy-one hours.

(5) Exceptions work period employees are not required to be compensated beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.

(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed the overtime rate (WAC 356-05-231). As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.

(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed one hundred seventy-four hours. The exchange time accrual for incumbents in the class of youth development and conservation corps camp supervisor only may be increased to four hundred eighty hours by the employing agency.

(c) Employees must be allowed, and may be required, to use all exchange time in excess of eighty hours prior to each April 1 and October 1, or other semiannual dates fixed by an agency and made known to ~~((it[s]'))~~ its employees and the director of personnel by that agency's director. As an exception to the above, the director of personnel may establish a single annual date based on the special needs of the requesting agency. Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

(d) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.

(e) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.

(6) Overtime shall be compensated in accord with the provisions of WAC 356-14-230 through 356-14-265.

(7) Part time employees whose positions are in job classes designated as scheduled, nonscheduled, or law enforcement shall receive overtime compensation for

work which meets subsection (1)(b) or (c) of this section.

AMENDATORY SECTION (Amending Order 248, filed 5/28/86, effective 7/1/86)

WAC 356-15-090 SCHEDULE CHANGE AND COMPENSATION. (1) The appointing authority shall schedule the working days and hours of scheduled work period employees. This schedule shall remain in effect for at least seven calendar days, and may be changed only with seven or more calendar days notice. If seven calendar days notice is not given, a new schedule does not exist until the notice period expires. Agencies may notify employees of more than one future schedule change in a single notice.

The seven calendar days notice of changes in working days and/or hours must be given to the affected employees during their scheduled working hours. The day that notification is given shall constitute a day of notice.

(2) If the appointing authority changes the assigned hours or days of scheduled work period employees without giving them at least seven days notice of the change, employees will be paid for all time worked outside the scheduled hours or days at the overtime rate for the duration of the notice period.

(a) When changes in employees' assigned hours or days are made without proper notice, employees may work their scheduled hours or days unless the appointing authority deems that:

(i) The employees are unable to perform satisfactorily as the result of excessive overtime hours; or

(ii) The work which normally would have been performed within the scheduled hours or days cannot be performed.

(b) The state is not obligated to pay for those scheduled hours or days not worked, unless the employee is on an authorized leave of absence with pay.

(c) Overtime pay and shift or schedule change pay shall not be paid for the same incident.

(3) Regardless of whether advance notice is given, an agency is not obligated to pay overtime due to a change in work schedule, when such a change is in response to a request from an employee, provided the employee works no more than forty hours in a workweek.

When the majority of employees in a work unit ask, in writing, for such a change, and the work unit can function properly only if all employees in the unit work the proposed schedule or scheduling plan, the agency is authorized to approve the change for the entire unit as an employee-initiated change. A written request for a schedule change from the exclusive representative shall constitute a request of employees within a certified bargaining unit.

(4) If an agency, after providing seven days' notice, initiates a schedule change which causes a scheduled standard work period employee to begin work at an earlier point in time than was required under the old schedule, the employee will be paid at the overtime rate for the first hours worked in the new schedule which precede the next hours which the employee would have worked under the old schedule.

(5) Contingency scheduling is allowed for employees in scheduled work period positions having the following responsibilities: Highway snow, ice and avalanche control, grain inspection, horticulture inspection, and in the department of natural resources, forest fire suppression, "hoot owl," forest fuels management and aerial applications.

Therefore, for employees in scheduled work period positions, the appointing authority shall not be bound by the above scheduled shift change notice requirement, if the appointing authority notifies affected employees of the contingency schedule in writing when they enter the position or not less than 30 days prior to implementation.

When conditions mandate the activating of the contingency schedule, the appointing authority shall pay affected employees the overtime rate for all hours worked outside the original schedule at least for the employee's first shift of the contingency schedule and for other overtime hours covered by subsection ~~((4))~~ (6) of this section.

~~((4))~~ (6) When a scheduled or nonscheduled work period employee experiences a schedule change (within or between agencies) which causes an overlap in workweeks and requires work in excess of forty hours in either the old or the new workweek, the employee must receive overtime compensation at least equal to the amount resulting from the following calculations:

(a)(i) Starting at the beginning of the "old" workweek, count all hours actually worked before the end of that workweek, and calculate the straight-time pay and the overtime pay (based on "regular rate" as defined in WAC 356-05-353).

(ii) Starting at the conclusion of the "new" workweek, count back to include all hours actually worked since the beginning of that workweek, and calculate the straight time and overtime (based on "regular rate" as defined in WAC 356-05-353).

(iii) Pay the larger amount calculated under (a)(i) and (ii) of this subsection.

(b) If any other combination of straight-time and time-and-one-half-rate pay required by these rules results in an amount of pay, for either workweek, which is greater than the amount calculated in (a)(iii) of this subsection, then only the larger amount should be paid.

~~((5))~~ (7) If overtime is incurred as a result of employee movement between state agencies, the overtime will be borne by the receiving agency.

WSR 87-10-038

PROPOSED RULES

EVERETT COMMUNITY COLLEGE

[Filed May 1, 1987]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Washington State Community College District V intends to adopt, amend, or repeal rules concerning college facility use agreement, chapter 132E-137 WAC;

that the institution will at 3 p.m., Wednesday, June 10, 1987, in the Administrative Conference [Room], conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 16, 1987.

The authority under which these rules are proposed is chapter 28B.50 RCW and RCW 28B.19.020.

The specific statute these rules are intended to implement is RCW 28B.50.140(13).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 10, 1987.

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

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

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

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

President Robert J. Drewel
Everett Community College
801 Wetmore
Everett, WA 98201
(206) 259-7151 ext. 202

Dated: April 29, 1987

By: Robert J. Drewel
President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 132E-137 WAC, College facility use agreement.

Statutory Authority: Chapter 28B.50 RCW and RCW 28B.19.020.

Summary of the Rule(s): This notice proposes adoption of chapter 132E-137 WAC, College facility use agreement.

Description of the Purpose of the Rule(s): The board of trustees of Washington Community College District V proposes this adoption. The rule will allow for updated guidelines for college facility use.

Reasons Supporting the Proposed Rule(s): The new rule will allow for better guidelines for use of college facilities by outside groups.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: President Robert J. Drewel, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151 ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Community College District V.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Chapter 132E-137 WAC COLLEGE FACILITY USE AGREEMENT

WAC

132E-137-010	General policy covering the use of the facilities.
132E-137-020	Licensee's responsibility.
132E-137-030	Attendants needed.
132E-137-040	Restrictions.
132E-137-050	Nonassignment and cancellation.
132E-137-060	Release of claims/holds harmless.
132E-137-070	Use fees.

NEW SECTION

WAC 132E-137-010 GENERAL POLICY COVERING THE USE OF THE FACILITIES. (1) The parties to this agreement are the Washington State Community College District 5, acting under specific authority granted to its board of trustees by the laws of the state of Washington, to contract for the use of the facility at Everett Community College, hereinafter referred to as the college and the organization contracting to use the college facilities, hereinafter referred to as the licensee.

(2) Before a college facility may be used, this college facility use agreement must be completed and signed by the college president or his designee. Forms may be obtained from the college president's office or college student activities office. All information received on agreements not completed at least fourteen school days prior to the date of intended use may be denied. A single use agreement should be made for a series of similar meetings. A separate agreement must be made for each meeting which varies from the series.

(3) The building and grounds of the college are primarily for educational purposes. No other use shall be permitted to interfere with the primary purpose for which these facilities are intended. Facilities shall not be made available for any use which might result in any undue damage or wear. The college reserves the right to reject any application for use of college facilities.

(4) Every possible opportunity will be provided for the use of college facilities by citizens of the district community college service area, provided that the purpose of the meeting is in harmony with public interest and welfare, subject to the laws of the state of Washington and rules and regulations prescribed by the District 5 board of trustees for the operation of the college.

(5) It is the present policy of the college to permit organizations considered closely affiliated with college-related educational purposes to use facilities of the college at the lowest possible charge.

(6) College facilities may be used by other public or private educational institutions only insofar as they meet a community educational need not being fulfilled by the community college district.

(7) The college does not wish to compete with private enterprise. Therefore, the use of buildings for commercial-type entertainment, banquets, luncheons, and money raising events is discouraged.

(8) The college reserves the right to prohibit the use of college facilities by groups, or activities, which are secret, which are of a private nature, or which restrict membership or attendance, in a manner inconsistent with the public and nondiscriminatory character of the college set forth in its written policies and commitments. Subversive organizations as defined and listed by the Attorney General of the United States shall not be eligible to use college facilities.

(9) Use agreements shall not be entered into for any use which, in the judgment of the college may be in any way prejudicial to the best interest of the college or the educational program, or for which satisfactory sponsorship or adequate adult supervision is not provided. Proper police and fire protection shall be provided by the organization when required by the college.

NEW SECTION

WAC 132E-137-020 LICENSEE'S RESPONSIBILITY. (1) Those wishing to use college facilities must complete the use agreement form and submit it to the college president's office or his designee. The licensee shall accept responsibility for any damage done to the college's property. Completion of the college facility use agreement

shall constitute acceptance by the licensee of the responsibilities stated herein and willingness to comply with all rules and regulations regarding the use of college facilities as prescribed by the college. If the use of the facility is not as represented on the agreement form, an additional charge may be made. In the event of property damage, the licensee shall accept and pay the college's estimate of the amount of damage. The college may require posting of a bond.

(2) Adult leaders of using organizations shall remain with their groups during all activities, and be responsible for the conduct of their group.

(3) All organizations and groups eligible for waiver of use fee will be required to clean and put in order any facility utilized prior to leaving the facility. Custodial services will be provided by the college. The college reserves the right to charge custodial fees to the licensee, if additional clean up or maintenance is required.

(4) In the event of cancellation, licensee may be required to reimburse the college for preparation expenses.

NEW SECTION

WAC 132E-137-030 ATTENDANTS NEEDED. (1) The college reserves the right to require that college staff member(s) be present at any meeting or event held in college facilities.

(2) A custodian or other authorized member of the college staff shall be available on campus at all times when college facilities are in use by any group. He/she should be contacted to correct problems in the operation of any facility in use. He/she will be alert to discover any damage or misuse of the premises and will report same immediately to the licensee and college. If custodial services beyond that normally scheduled is required as a result of any meeting, such time shall be paid by the licensee at the currently established rate, which may include overtime.

(3) When the use of special facilities or equipment makes it necessary that supervision or technical assistance be provided, a college-employed supervisor or technician shall be assigned as required by the college. Such services shall be paid for by the licensee at the currently established rate, which may include overtime.

(4) The college reserves the right to require a campus security officer to be present at a scheduled event.

(5) The college reserves the right to charge for costs incurred for providing these services.

NEW SECTION

WAC 132E-137-040 RESTRICTIONS. (1) No decorations or the application of materials to walls, ceilings, or floors shall be permitted which will mar, deface, or injure these surfaces. The licensee is required to arrange for the disposal of decorations, materials, equipment, furnishings, or rubbish left after the use of college facilities; otherwise they will be billed for any expense involved.

(2) Profane or other improper language, or the use of intoxicating beverages, drugs, or other controlled substances, or any other conduct which is objectionable in the judgment of the college shall not be allowed. Smoking shall be limited to those areas which are specified by the college.

(3) Games of chance and lotteries shall not be permitted except as prescribed by law and with prior approval of the college.

(4) Standard approved gym shoes shall be required for all indoor activity type games such as basketball, volleyball, badminton, etc.

(5) Keys to buildings or facilities shall not be issued or loaned on any occasion to the licensee. Doors will be opened and locked by custodians, or other authorized college personnel.

(6) College-owned equipment shall not be removed from buildings. Organizations wishing to use special equipment such as projectors may do so, if used on the campus, provided the college is satisfied that a competent operator is in charge. Charges for equipment rental and operation may be required.

(7) All shifting of furniture and equipment shall be done under supervision of a college custodian.

(8) Use of the facilities or premises shall be in full compliance with federal and state law, as well as county and city rules or ordinances; any use to the contrary shall be grounds for immediate cancellation of this agreement.

NEW SECTION

WAC 132E-137-050 NONASSIGNMENT AND CANCELLATION. (1) This use agreement shall be nonassignable. Only the licensee as named in the use agreement shall use the facilities.

(2) The college reserves the right to cancel this agreement at any time and to refund any payment made to the college for the use of the college facilities and equipment when it deems such action advisable and in the best interests of the college.

(3) Events scheduled more than one academic quarter (3 months) in advance, may be cancelled by the college for scheduling of priority college events.

NEW SECTION

WAC 132E-137-060 RELEASE OF CLAIMS/HOLDS HARMLESS. (1) In consideration of the permission granted to licensee and the minimal fee charged by the college for the use of its facilities, licensee hereby and forever releases the college and its agents, employees, or officers from all debts, claims, demands, damages, actions, and causes of action whatsoever, which licensee may now have or may hereafter have, as a result of the uses of said facility.

(2) The licensee further agrees to protect, indemnify, and hold harmless the district, college, and its agents, employees, and officers from any claims, demands, actions, damages, or causes of action directly or indirectly arising out of the use of the facilities or premises contemplated by this application.

NEW SECTION

WAC 132E-137-070 USE FEES. (1) The use fee depends on the purpose of the activity and the nature of the group using the facility.

(2) Specialized areas such as laboratories, shops, or other specialized facilities require special arrangements. The rates and conditions will be based upon careful analysis by the college of the needs, experience, and capabilities of the licensee.

	NONPROFIT	FUND-RAISING
(3) Fee category:	ACTIVITIES	ACTIVITIES
College Related or College Sponsored Groups	Fee Waived	Fee Waived
Public, Nonprofit Organizations	Category I	Category I Plus 10%
Private, Profit Organizations	Category II	Category II Plus 30%

(4) Fee waived means that no charge will be made for use of the facilities, but additional charges may be made for specific services, equipment and/or as the college's rental fee schedule dictates.

(5) Category I or Category II charges will be determined by the college after evaluating the nature of the proposed activity. The college's rental fee schedule shows the fee rates for Category I and Category II.

(6) Additional charges may be added to any of the above three categories and include supervision and/or security staff, above normal or overtime custodial help when required, above normal set up costs, hauling or handling equipment, use of projectors or other equipment, audio visual equipment, equipment operators, repair or damage, or other costs as determined by the college.

(7) All charges shall be paid to the college facilities office. All basic and service charges shall be paid in advance. Additional charges for damages shall be billed directly to the licensee. College employees are paid directly by the college, not the licensee.

WSR 87-10-039
PROPOSED RULES
EVERETT COMMUNITY COLLEGE
 [Filed May 1, 1987]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Washington State Community College District V intends to adopt, amend, or repeal rules concerning policies on use of college facilities, chapter 132E-136 WAC;

that the institution will at 3 p.m., Wednesday, June 10, 1987, in the Administrative Conference Room, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 16, 1987.

The authority under which these rules are proposed is chapter 28B.50 RCW and RCW 28B.19.020.

The specific statute these rules are intended to implement is RCW 28B.50.140(13).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 10, 1987.

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

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

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

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

President Robert J. Drewel
 Everett Community College
 801 Wetmore
 Everett, WA 98201
 (206) 259-7151 ext. 202

Dated: April 29, 1987

By: Robert J. Drewel
 President

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 132E-136 WAC, Policies on use of college facilities.

Statutory Authority: Chapter 28B.50 RCW and RCW 28B.19.020.

Summary of the Rule(s): This notice proposes a repeal of chapter 132E-136 WAC, Policies on use of college facilities. A facilities use agreement will replace this chapter.

Description of the Purpose of the Rule(s): The board of trustees of Washington Community College District V proposes this repeal. The rule will be replaced by new chapter 132E-137 WAC and adopted in the Washington Administrative Code.

Reasons Supporting the Proposed Rule(s): A new college facilities use agreement will replace this administrative rule and will be adopted in the Washington Administrative Code.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule: President Robert J. Drewel, Everett Community College, 801 Wetmore, Everett, WA 98201, (206) 259-7151 ext. 202.

Name of Person or Organization Whether Private, Public, or Governmental, that is Proposing the Rule: Washington Community College District V.

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

The rule is not necessary to comply with a federal law or a federal or state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132E-136-010 EVERETT COMMUNITY COLLEGE PUBLIC USE OF COLLEGE FACILITIES.

WAC 132E-136-020 EVERETT COMMUNITY COLLEGE PUBLIC USE OF COLLEGE FACILITIES—PERMISSION GRANTED BY PRESIDENT.

WAC 132E-136-030 EVERETT COMMUNITY COLLEGE PUBLIC USE OF COLLEGE FACILITIES—COMMERCIAL ACTIVITY ON CAMPUS.

**WSR 87-10-040
 NOTICE OF PUBLIC MEETINGS
 URBAN ARTERIAL BOARD**

[Memorandum—May 4, 1987]

SPECIAL MEETING
 SEA-TAC OFFICE CENTER
 13 COINS BUILDING (SOUTH TOWER)
 18000 PACIFIC HIGHWAY SOUTH (SUITE 500)

WORK SESSION

Beginning at 8:30 a.m., Friday, May 29, 1987.

SPECIAL MEETING

Beginning at 1:00 p.m., Friday, May 29, 1987.

**WSR 87-10-041
 PROPOSED RULES
 DEPARTMENT OF PERSONNEL
 (Personnel Board)**

[Filed May 4, 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 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements.
- New WAC 356-30-255 Separations—Immigration Reform and Control Act;

that the agency will at 10:00 a.m., Thursday, June 11, 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 June 9, 1987.

Dated: May 4, 1987
By: Leonard Nord
Secretary

STATEMENT OF PURPOSE

Amending WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements.

Purpose: To establish guidelines for removing candidates from an employment register to comply with the requirements of the Federal Immigration Reform and Control Act.

Statutory Authority: RCW 41.06.150.

Summary: Allows removal from the register of candidates who do not meet the personal identification and work authorization requirements of the Federal Immigration Reform and Control Act.

Reasons: To allow the state to comply with federal requirements.

New WAC 356-30-255 Separations—Immigration Reform and Control Act.

Purpose: Guidelines to separate an employee who does not comply with federal requirements.

Statutory Authority: RCW 41.06.150.

Summary: Provides for the separation of employees who do not meet the personal identification and work authorization requirements of the Federal Immigration Reform and Control Act.

Reasons: To allow the state to comply with federal requirements.

Responsibility for Drafting: Christina Valadez, Department of Personnel, 600 South Franklin, Mailstop FE-11, Olympia, WA 98504, phone 586-1769; Implementation and Enforcement: Department of Personnel.

Proposed by: Department of Personnel, governmental agency.

Comments: None.

Result of Federal Law or Federal or State Court Action: Federal Immigration Reform and Control Act.

AMENDATORY SECTION (Amending Order 267, filed 1/2/87, effective 2/1/87)

WAC 356-26-040 REGISTERS—NAME REMOVAL FOR CAUSE—GROUNDS ENUMERATED—REQUIREMENTS. (1) The director of personnel or designee may remove the name of an eligible from a register for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived the first offer of employment, or a candidate from a promotional register has twice waived consideration for a position in the class for which the register was established.

(e) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(f) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(g) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of protected group members.

(h) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(i) If the appointing authority reports that the eligible was offered employment but could not comply with the personal identification and work authorization requirements of the federal Immigration Reform and Control Act (I.R.C.A.).

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b) or (c) of this section. The director of personnel or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the personnel board upon appeal.

NEW SECTION

WAC 356-30-255 SEPARATIONS—IMMIGRATION REFORM AND CONTROL ACT. Employees must comply with the personal identification and work authorization reporting requirements of the federal Immigration Reform and Control Act ("I.R.C.A."). Upon written notification by the appointing authority that an employee does not appear to be in compliance with those requirements, the employee must provide proof of compliance within five working days. If an employee complies or demonstrates proof of compliance within five working days, no separation from state employment for failure to comply with I.R.C.A. shall occur. If an employee does not comply or demonstrate proof of compliance with I.R.C.A. within five working days, that employee shall be notified in writing by the appointing authority of the employee's separation from state employment, effective one full working day after the date of such notification. Such separations shall be based solely on lack of compliance with I.R.C.A., shall not be considered a separation for disciplinary reasons, and shall not be based on national origin, race, physical characteristics or appearance, or other factors prohibited by law.

WSR 87-10-042

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed May 4, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning the amending of WAC 16-657-025 to allow the posting of the credit card price or the cash price in the metering device of a motor fuel dispenser.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Monday, May 18, 1987.

The authority under which these rules are proposed is chapter 19.94 RCW.

The specific statute these rules are intended to implement is chapter 19.94 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 30, 1987.

This notice is connected to and continues the matter in Notice No. WSR 87-07-019 filed with the code reviser's office on March 12, 1987.

Dated: May 4, 1987
By: James E. Wommack
Assistant Director

WSR 87-10-043
ADOPTED RULES
LOTTERY COMMISSION
[Order 101—Filed May 4, 1987]

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

Amd	WAC 315-04-070	License charges.
Amd	WAC 315-04-090	License issuance eligibility.
New	WAC 315-11-250	Definitions for Instant Game Number 25 ("Triple Header").
New	WAC 315-11-251	Criteria for Instant Game Number 25.
New	WAC 315-11-252	Ticket validation requirements for Instant Game Number 25.
New	WAC 315-11-260	Definitions for Instant Game Number 26 ("Summer Doubler").
New	WAC 315-11-261	Criteria for Instant Game Number 26.
New	WAC 315-11-262	Ticket validation requirements for Instant Game Number 26.
New	WAC 315-11-270	Definitions for Instant Game Number 27 ("Cash Harvest").
New	WAC 315-11-271	Criteria for Instant Game Number 27.
New	WAC 315-11-272	Ticket validation requirements for Instant Game Number 27.

This action is taken pursuant to Notice Nos. WSR 87-07-050 and 87-07-051 filed with the code reviser on March 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 67.70.040 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 1, 1987.

By Scott Milne
Deputy Director

AMENDATORY SECTION (Amending Order 97, filed 12/16/86)

WAC 315-04-070 LICENSE ((FEES)) CHARGES. (1) ~~((The fee for a license application shall be \$15.00))~~ A charge of twenty-five dollars shall be assessed for each license application submitted to the lottery. This charge is to reimburse the lottery for processing costs incident to licensure and re-licensure.

(2) ~~((The fee for a background check shall be \$10.00 regardless of the number of individuals listed on the license application for whom background checks are required. A background check will be required and this fee~~

~~will be charged when an application for a license lists an individual who does not have on file with the lottery current "personal history information" and "criminal history information" forms.~~

~~((3)) All fees established in this section or other sections of this title are not refundable ((with the exception of the fees in subsection (1) of this section which may be refunded if a license is not issued and in subsection (2) of this section which may be refunded if a background check has not been initiated)).~~

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-04-090 LICENSE ISSUANCE ELIGIBILITY. (1) The director may issue a license to any person to act as a lottery retailer who meets the eligibility criteria established by chapter 7, Laws of 1982 2nd ex. sess., and these rules.

(2) Before issuing a license, the director shall consider:

(a) The financial responsibility and security of the person and its business or activity;

(b) The background and reputation of the applicant in the community for honesty and integrity;

(c) The type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people and the operation and integrity of the lottery;

(d) The conformance of businesses located in residential areas to local land use and zoning codes, regulations, and ordinances;

(e) The accessibility of the applicant's place of business or activity to the public;

~~((f))~~ (f) The sufficiency of existing licenses to serve the public convenience;

~~((g))~~ (g) The volume of expected sales;

~~((h))~~ (h) The veracity of the information supplied in the application for a lottery retailer license; and

~~((i))~~ (i) The applicant's indebtedness to the state of Washington, local subdivisions of the state and/or the United States government.

(3) The director may condition the issuance of any license upon the posting of a bond in such terms and conditions as the director may require.

(4) The director shall establish procedures to assure that approval of the appropriate local governmental unit is obtained prior to issuance of a license to a business located in a residential area which is a nonconforming use under local land use and zoning codes, regulations, and ordinances.

NEW SECTION

WAC 315-11-250 DEFINITIONS FOR INSTANT GAME NUMBER 25 ("TRIPLE HEADER"). (1) Play symbols: The following are the "play symbols": "0"; "1"; "2"; "3"; "4"; "5"; "6"; "7"; and "9". One of these symbols appears under each of the three rub-off spots in the "your score" column and under each of the three rub-off spots in the "their score" column in the play field on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which corresponds with and verifies that play symbol. The caption is a spelling out in full or in abbreviated form of the play symbol. One and only one caption appears under each play symbol. For Instant Game Number 25, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZERO
1	ONE
2	TWO
3	THR
4	FOUR
5	FIVE
6	SIX
7	SEV
9	NINE

(3) Prize symbols: The following are the "prize symbols": "FREE", "\$2.00", "\$5.00", "50.00", "\$500", and "5000". One of these prize symbols appears for each game (row) in the prize column on the front of the ticket which has the word "WIN \$5000 INSTANTLY" printed on the latex covering.

(4) Prize symbol captions - The small printed characters appearing below the prize symbol which verifies and corresponds with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 25, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
ENTRY	ENTRY
FREE	TICKET
\$2.00	TWO \$
\$5.00	FIVE
50.00	FIFTY
\$500	FIVEHUN
5000	5-THOU

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

(6) Pack-ticket number: The ten-digit number of the form 5000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 25 constitute the "pack number" which starts 5000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

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

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

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

NEW SECTION

WAC 315-11-251 CRITERIA FOR INSTANT GAME NUMBER 25. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having a play symbol in the "your score" column that is a larger number than the play symbol in the "their score" column in the same game (row) shall win the prize shown in the prize column for that game (row). Play symbols and prize symbols in different games (rows) may not be combined to win a prize.

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 25 set forth in WAC 315-11-252, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There will be a total of six regional and one headquarters drawings held in conjunction with the Instant Game Number 25. The regional drawings will be held between June 22 and June 27, 1987. The headquarters drawing will be held on July 16, 1987. They will be conducted at times and places and pursuant to procedures to be established and announced by the director. These drawings shall be part of the Instant Game Number 25 prize structure only to the extent that "ENTRY" is a prize symbol. The prizes awarded at these drawings are not part of the Instant Game Number 25 prize structure. The following prizes will be awarded at the drawings: each regional drawing - twenty seven \$1,000 prizes, five \$5,000 prizes, four \$10,000 prizes and two \$25,000 prizes; headquarters drawing - thirty-three \$1,000 prizes, five \$5,000 prizes, four \$10,000 prizes, and two \$25,000 prizes. In the event that an entry is not included in this drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent drawing process.

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

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

(ii) Have a valid Instant Game Number 25 ticket with an "ENTRY" play symbol.

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

(iv) Place the entry tickets in an envelope that is not larger than 4 1/2" x 10 3/8" (legal size). An envelope which is oversized or contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.

(v) To enter any of the regional drawings or the headquarters drawing, deliver it in person during normal business hours to lottery headquarters or any of the regional offices at the address listed in the player's brochure, or mail the envelope with proper postage and a legible return address of the entrant to:

- (A) Spokane Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box C-14020,
Spokane, Washington 99214-0020.
- (B) Yakima Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box 22630,
Yakima, Washington 98907-2630.
- (C) Tukwila Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box 580808,
Tukwila, Washington 98188-9608.
- (D) Olympia Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box 19005,
Olympia, Washington 98507-9005.
- (E) Vancouver Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box C-023,
Vancouver, Washington 98668-0023.
- (F) Everett Region drawing.
"TRIPLE HEADER BONUS DRAWING,"
P.O. Box C-3099,
Everett, Washington 98203-1099.
- (G) Headquarters drawing.
"TRIPLE HEADER LAST CHANCE DRAWING,"
Tumwater, Washington 98502.

(vi) Entries must be received at all regional offices not later than 9:00 a.m., Monday, June 22, 1987 to be included in that region's drawing. All entries received after that date but prior to 5:00 p.m., July 10, 1987 will be forwarded to lottery headquarters for inclusion in the headquarters drawing.

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

(c) An entry which contains a stolen ticket will be disqualified by the director or the director's designee.

(d) A nonconforming entry, at the sole discretion of the director or the director's designee, may be disqualified.

(e) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered to the addresses listed in subsection (5)(a)(v) of this section. All mail not drawn will be destroyed unopened.

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

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

(a) Vary the length of Instant Game Number 25: and/or

(b) Vary the number of tickets sold in Instant Game Number 25 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-252 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 25. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 25 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the three rub-off spots in the "your score" column and under each of the three rub-off spots in the "their score" column on the front of the ticket.

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

(c) Exactly one prize symbol for each of the three games (rows) must appear under the rub-off material covering the prize column on the front of the ticket.

(d) Each of the three prize symbols must have a caption below and each must agree with its caption.

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

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

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

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-250(1); each of the captions must be exactly one of those described in WAC 315-11-250(2); the prize symbol must be exactly one of those described in WAC 315-11-250(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-250(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

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

NEW SECTION

WAC 315-11-260 DEFINITIONS FOR INSTANT GAME NUMBER 26 ("SUMMER DOUBLER"). (1) Play symbols: The following are the "play symbols": "0"; "1"; "2"; "3"; "4"; "5"; "6"; "7"; "9"; and "\$\$". One of these symbols appears under each of the three rub-off spots in the "your number" column and under each of the three rub-off spots in the "their number" column in the play field on the front of the ticket.

(2) Play symbol captions: The small printed characters appearing below each play symbol which corresponds with and verifies that play symbol. The caption is a spelling out in full or in abbreviated form of the play symbol. One and only one caption appears under each play symbol. For Instant Game Number 26, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZERO
1	ONE
2	TWO
3	THR
4	FOUR
5	FIVE
6	SIX
7	SEV
9	NINE
\$\$	DBL

(3) Prize symbols: The following are the "prize symbols": "FREE", "\$2.00", "\$5.00", "10.00", "50.00", and "\$2500". One of these prize symbols appears for each row in the prize column under each of the three rub-off spots on the front of the ticket.

(4) Prize symbol captions - The small printed characters appearing below the prize symbol which verifies and corresponds with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under the prize symbol. For Instant Game Number 26, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
FREE	TICKET
\$2.00	TWO \$
\$5.00	FIVE
10.00	TEN \$
50.00	FIFTY
\$2500	25-HUN

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

(6) Pack-ticket number: The ten-digit number of the form 6000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 26 constitute the "pack number" which starts at 6000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(7) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 26, the retailer verification codes is a three-letter code, with each letter appearing in a varying three of six locations among the play symbols and prize symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TIC	FREE TICKET
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00

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

NEW SECTION

WAC 315-11-261 CRITERIA FOR INSTANT GAME NUMBER 26. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having a play symbol in the "your number" column that is identical to the play symbol in the "their number" column in the same row shall win the prize shown in the prize column for that row. The bearer of a ticket having a "doubler" play symbol (\$\$) in the "your number" column shall win double the prize shown in the prize column for that row. Play symbols and prize symbols in different rows may not be combined to win a prize.

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 26 set forth in WAC 315-11-262, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

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

(a) Vary the length of Instant Game Number 26: and/or

(b) Vary the number of tickets sold in Instant Game Number 26 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-262 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 26. (1) In addition to meeting all other requirements in

these rules and regulations, to be a valid instant game ticket for Instant Game Number 26 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the three rub-off spots in the "your number" column and under each of the three rub-off spots in the "their number" column on the front of the ticket.

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

(c) Exactly one prize symbol must appear under each of the three rub-off spots in the prize column on the front of the ticket.

(d) Each of the three prize symbols must have a caption below and each must agree with its caption.

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

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

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

(g) Each of the play symbols must be exactly one of those described in WAC 315-11-260(1); each of the captions must be exactly one of those described in WAC 315-11-260(2), the prize symbol must be exactly one of those described in WAC 315-11-260(3); and the prize symbol caption must be exactly one of those described in WAC 315-11-260(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

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

NEW SECTION

WAC 315-11-270 DEFINITIONS FOR INSTANT GAME NUMBER 27 ("CASH HARVEST").

(1) Play symbols: The following are the "play symbols": "FREE"; "\$2.00"; "\$5.00"; "10.00"; "20.00"; "50.00"; and "5000". One of these symbols appears in each of the six blocks under the scratch-off material covering the game play data.

(2) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 27, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
FREE	TICKET
\$2.00	TWO \$
\$5.00	FIVE
10.00	TEN \$
20.00	TWENTY
50.00	FIFTY
5000	5-THOU

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

(4) Pack-ticket number: The ten-digit number of the form 7000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 27 constitute the "pack number" which starts at 7000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners below \$25. For Instant Game Number 27, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TIC	FREE TICKET
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

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

NEW SECTION

WAC 315-11-271 CRITERIA FOR INSTANT GAME NUMBER 27. (1) The price of each instant game ticket shall be \$1.00.

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

(a) The bearer of a ticket having the following play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

- Three FREE play symbols – Win Free Ticket
- Three \$2.00 play symbols – Win \$2.00
- Three \$5.00 play symbols – Win \$5.00
- Three 10.00 play symbols – Win \$10.00
- Three 20.00 play symbols – Win \$20.00
- Three 50.00 play symbols – Win \$50.00
- Three \$5000 play symbols – Win \$5,000

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 27 set forth in WAC 315-11-272, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

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

(a) Vary the length of Instant Game Number 27 and/or

(b) Vary the number of tickets sold in Instant Game Number 27 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-272 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 27. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 27 all of the following validation requirements apply.

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

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

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

Play Symbols	Mead 15 point archer font
Captions	Mead 5 x 11 Archer font
Pack-Ticket Number	Mead 9 x 12 Matrix font
Validation Number	Mead 9 x 12 Matrix font
Retail Verification Code	Mead 7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-270(1) and each of the captions must be exactly one of those described in WAC 315-11-270(2).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

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

WSR 87-10-044
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
 [Memorandum—May 5, 1987]

The Washington Department of Ecology is seeking comment on the proposed Federal Priority Rating System and FY 88 Federal Project Priority List for municipal wastewater construction grants. The Federal Priority Rating System is a system to rate and rank projects for federal municipal wastewater construction grants and is required by the Federal Water Quality Act of 1987. The Project Priority List identifies projects scheduled to receive federal grant assistance in federal fiscal year 1988 beginning October 1, 1987.

A hearing will be held Friday, July 24, 1987, at 1:30 p.m. to receive testimony. Location for the hearing is:

EFSEC Hearing Room
 Rowsix Building Complex
 4224 Sixth Avenue Southeast
 Building #1
 Lacey, Washington 98503

The proposed Federal Priority Rating System fact sheet and FY 88 Project Priority List will be available on June 24, 1987, from Ms. Erin Guthrie, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504; or by telephone (206) 459-6068.

The department encourages all interested parties to provide testimony. Written comments will be accepted until July 31, 1987. Persons unable to attend the hearing may mail comments to the Washington Department of Ecology, Erin Guthrie, Mailstop PV-11, Olympia, Washington 98504.

WSR 87-10-045
PROPOSED RULES
CLARK COLLEGE
 [Filed May 5, 1987]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Clark Community College, District No. 14, intends to adopt, amend, or repeal rules concerning reduction in force procedure;

that the institution will at 4:00 p.m., Wednesday, June 24, 1987, in the Board Room, Baird Administration Building, Clark College, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 22, 1987.

The authority under which these rules are proposed is RCW 28B.50.140(13).

The specific statute these rules are intended to implement is RCW 28B.50.861 and 28B.50.873.

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

Dated: April 27, 1987

By: Earl P. Johnson
 President

STATEMENT OF PURPOSE

Title: Reduction in force procedure.

Description of Purpose: To provide an orderly means to reduce faculty positions in case of lack of funding, lack of sufficient enrollment, or program modification.

Statutory Authority: RCW 28B.50.140(13).

Specific Statute Rule is Intended to Implement: RCW 28B.50.861 and 28B.50.873.

Summary of Rule: Reduction in force means layoff or placement on leave without pay of any persons holding tenured or probationary faculty appointments by reason of sufficient cause for the reduction of one or more faculty positions.

Reasons Supporting Proposed Action: To revise the existing code to conform to the current negotiated agreement between Clark College and the Clark College Association for Higher Education, and on the advice of legal counsel.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: College president.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Clark College, a public agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

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

Small Business Economic Impact Statement: No.

AMENDATORY SECTION (Amending Order 74-6, filed 5/23/74)

WAC 132N-128-080 PROCEDURES. Reduction in force means ~~((nonrenewal of contract of probationary or tenured faculty))~~ layoff or placement on leave without pay of any persons holding tenured or probationary faculty appointments by reason of sufficient cause for the reduction of one or more ((employment)) faculty positions and is to be distinguished from nonrenewal ((solely by reason of personal shortcoming of an individual, such as insubordination or incompetency)) of probationary faculty and dismissal for cause. For purposes of ((a)) reduction in force, ((a)) sufficient cause shall include((-but not be limited to)) a lack of sufficient funding and/or ((a)) lack of sufficient enrollment and/or ((a revision of program offerings)) elimination, reduction, or modification of programs. The following procedures apply to all cases of reduction in force, provided that in the case of a reduction in force initiated pursuant to a declaration of financial emergency by the state board for community college education pursuant to RCW 28B.50.873, such reduction in force shall be accomplished in accordance with the procedures set forth in RCW 28B.50.873 in which case (1) the college shall be treated as one reduction in force unit notwithstanding WAC 132N-128-085; and (2) the provisions of this reduction in force policy shall not apply except for the following provisions: WAC 132N-28-100 (1) and (2) and WAC 132N-128-120.

Reviser's note: RCW 28B.19.077 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 132N-128-085 REDUCTION IN FORCE UNITS. Whenever a reduction in force is being contemplated the reduction in force units shall be departments as listed in the most recent policy and procedures manual (Section 600, Appendix 9).

AMENDATORY SECTION (Amending Order 77-2, filed 5/5/77)

WAC 132N-128-090 THE NEED FOR REDUCTION IN FORCE. (1) If the president anticipates the need for a reduction in force, he/she ~~((shall))~~ will begin a ((thorough)) process of information-gathering including discussions and consultations with the ((Dean of Faculty, Dean of Students/Administrative Services)) vice president, the deans, and other appropriate administrators, and with three faculty members designated by the ((executive council of the association)) senate of the Clark College Association of Higher Education as early as possible but no later than seven (7) weeks before the end of winter quarter. ((The association will then have the right to meet as often as is necessary to offer full consultation to the President.)) At least one of these discussions and consultations shall include all these persons together in a joint session. The dean of faculty shall keep the instructional advisory council informed and solicit views from its members. Other relevant campus committees ~~((shall))~~ may be ((available for consultation)) consulted by the president.

(2) The president shall provide for use in these discussions and consultations the following information:

(a) Enrollment and budget data for the preceding three years, ~~((shown))~~ by divisions and departments;

(b) The number and duties of each faculty member ~~((by division and department))~~ in the affected division and department, and enrollment projections, if possible;

(c) Lists of forthcoming faculty vacancies due to retirement, resignation, or leave;

(d) ~~((Other data requested by those he/she is consulting~~

~~((e)))~~ Brief written statement of ((his/her)) reasons in support of ((his/her tentative assumption of a)) the need for reduction in force.

(3) The president after such discussion and consultation will, no later than ~~((four))~~ five (5) weeks before the end of winter quarter, ((issue a written report giving his/her conclusions as to whether or not there is a need for reduction in force, and including a summary of his/her supporting evidence)) notify any persons holding tenured faculty appointments who are to be laid off. ~~((If the))~~ The president ((decides that a reduction in spending is necessary, he/she will, if possible propose that the dollar cutback be achieved by)) will propose granting up to three years leave (without pay) in lieu of ~~((non-renewal))~~ layoff. Self payment of benefits will be permitted in accord with State Employee Insurance Board rules and Washington Administrative Code.

Reviser's note: RCW 28B.19.077 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 77-2, filed 5/5/77)

WAC 132N-128-100 SPECIFIC IMPLEMENTATION. (1) ~~((If the president then decides to initiate))~~ The following order of layoff or placement in leave-without-pay status will be used after all temporary part-time faculty have been terminated within the reduction in force unit((-he/she will, after discussion with the deans of the instructional advisory council, decide which faculty member's contract will not be renewed for the following year)). ((Layoff shall be accomplished on the basis of)) First, probationary appointees starting with those with the least seniority; ~~((as set forth herein. Provided, That affirmative action employment related practices required by law or federal contract shall prevail and be complied with concurrently))~~ second, full-time tenured faculty members starting with those with the least seniority.

(2) ~~((The following order of layoff will be used provided there are qualified))~~ Seniority shall be determined by establishing the date of the signing of the first contract for the most recent period of continuous professional service for Clark College, which shall include leaves of absence, remunerated leaves, and periods of layoffs. (This shall also include professional services for the Vancouver School District No. 37 prior to 1967.) In instances where faculty members ((to replace and perform all the needed duties of the faculty members to be laid off; First, part-time faculty members, second, probationary appointees with the least seniority; third, full-time tenured faculty members with the least seniority)) have the same beginning date for full-time professional employment, seniority shall be determined in the following order:

(a) First date of the signature evidencing acceptance of employment;

(b) First date of application for employment.

(3) ~~((Seniority shall be determined by establishing the date of the signing of the first full-time contract for the most recent period of continuous professional service for Clark College, which shall include~~

leaves of absence, sabbatical leaves and periods of layoffs. (This shall include professional services for the Vancouver School District No. 37 prior to 1967.) In instances where faculty members have the same beginning date for full-time professional employment, seniority shall be determined in the following order: (1) First date of the signature evidencing acceptance of employment (b) First date of application for employment)) Tenured faculty, who have been given notice of layoff or leave without pay and wish to secure a transfer to another department, must request in writing such reassignment within three (3) working days after receipt of such notice. The employee must meet the minimum qualifications required of employees of that department as determined by the vice president or dean in consultation with the appropriate division and department chairs. This determination, as to whether faculty members to be laid off meet the minimum qualifications to be assigned to another department(s), shall be made, taking into account WAC 131-16-080, 131-16-091, the screening criteria used for the most recent hiring in the department(s), and current and former faculty assignments within the college. The dean or vice president must inform the faculty member in writing of this determination within three (3) working days of receipt of the request.

(4) ~~((Clark college shall be one employment unit and an employee must meet minimum qualifications, as determined by the dean of faculty, appropriate division chairpersons and department chairpersons to instruct in other departments. This determination, as to whether faculty members to be laid off meet the minimum qualifications to instruct in another department, shall be made by the dean of faculty with the counsel of the respective division or department where the individual wishes to be considered for professional employment)) Placement within a department shall be based on seniority as determined in Section 2.~~

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 76-3, filed 2/1/77 [2/18/77])

WAC 132N-128-110 REDUCTION IN FORCE REVIEW COMMITTEE. (1) ~~((Before final action by the appointing authority in not renewing a faculty contract for reason of reduction in force, each case must be reviewed by a review)) No later than 5 working days after notification as provided in section (3) WAC 132N-128-090, affected employees may request a hearing by a committee consisting of one administrator appointed by the president, one full-time student selected by the ~~((council of representatives of the))~~ Associated Students of Clark College, and three faculty members elected by the ~~((faculty acting in a body))~~ senate of Clark College Association of Higher Education. ~~((One board member may serve as ex officio if desired. Such)) All such reduction in forces cases ((may)) will be consolidated for hearing purposes before the same review committee.~~~~

~~((2) The reduction in force review committee, to which the matter is referred, shall then conduct proceedings to determine if cause exists and at the conclusion of such proceedings shall develop and make detailed recommended findings of fact and make an appropriate recommendation through the president to the appointing authority regarding the nonrenewal of contract.~~

~~(3) If the review committee, to which a proceeding is referred, fails to make a recommendation through the president to the appointing authority prior to the last day of winter quarter the matter shall be submitted to the appointing authority and it is assumed the reduction in force committee supports the president's recommendation.~~

~~(4) The only exception to the last day of winter quarter deadline permitted would be legislative exigency in which case the appointing authority would have the authority to suspend the deadline date.))~~

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

Reviser's note: RCW 28B.19.077 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 132N-128-112 HEARING OFFICER-APPOINTMENT. Upon receipt of a request for a hearing from affected employee(s), the president shall notify the Board of Trustees and request that the Board appoint an impartial hearing officer from the State Office of Administrative Hearings.

NEW SECTION

WAC 132N-128-114 HEARING OFFICER-DUTIES. It shall be the role of the hearing officer to conduct the hearing in accordance with RCW 28B.19.120 and any procedural rules adopted by the college. The duties of the hearing officer include:

(1) Deciding, with advice from the review committee, whether the hearing shall be open to the educational community, or whether particular persons should be permitted or excluded from attendance.

(2) Administering oaths and affirmations, examining witnesses, and receiving evidence, and ensuring that no person shall be compelled to divulge information which he/she could not be compelled to divulge in a court of law.

(3) Issuing subpoenas.

(4) Taking or causing depositions to be taken pursuant to rules promulgated by the college;

(5) Regulating the course of the hearing;

(6) Holding conferences for the settlement or simplification of the issues by consent of the parties;

(7) Disposing of procedural requests or similar matters;

(8) Making all rulings regarding the evidentiary issues presented during the course of the review committee hearings;

(9) Appointing a court reporter, who shall operate at the direction of the hearing officer and shall record all testimony, receive all documents and other evidence introduced during the course of the hearing, and shall record any other matters related to the hearing as directed by the hearing officer.

(10) Allowing the review committee to hear testimony from all interested parties, including but not limited to faculty members and students, and reviewing any evidence offered by same.

(11) Preparing his or her proposed findings of fact and conclusions of law and a recommended decision as soon as reasonably practicable, but in no event longer than 30 calendar days after the conclusion of the formal hearing. The written recommendation of the hearing officer will be presented to the president, review committee, affected faculty member(s) and the Board of Trustees.

(12) Preparing and assembling a record for review by the Board of Trustees which shall include:

(a) All pleadings, motions and rulings;

(b) All evidence received or considered;

(c) A statement of any matters officially noted;

(d) All questions and offers of proof, objections and rulings thereon;

(e) His or her proposed findings, conclusions of law, and a recommended decision;

(f) A copy of the recommendations of the review committee.

(13) Assuring that a transcription of the hearing is made, if necessary, and that a copy of the record or any part thereof is transcribed and furnished to any party to the hearing upon request and payment of costs.

(14) Consolidating individual reduction in force hearings into a single hearing.

(15) Taking any action authorized by rule consistent with this chapter.

NEW SECTION

WAC 132N-128-116 RESPONSIBILITIES OF REVIEW COMMITTEE. The responsibilities of the committee shall be:

(1) To review the case of the proposed layoff.

(2) To attend the hearing and, at the discretion of the hearing officer, call and/or examine any witnesses.

(3) To hear testimony from all interested parties, including but not limited to other faculty members and students, and review any evidence offered by same.

(4) To arrive at its recommendations in conference on the basis of the hearing. As soon as reasonably practicable, but in no event longer than 45 calendar days after the conclusion of the formal hearing, the written recommendations of the committee will be presented to the hearing officer, president, the affected faculty member(s), and the Board of Trustees.

NEW SECTION

WAC 132N-128-118 FINAL DECISION BY THE BOARD OF TRUSTEES. The case shall be reviewed by the Board of Trustees as follows:

(1) Board review shall be based on the record of the hearing and on any record made before the Board of Trustees.

(2) The Board may permit an opportunity for oral or written argument or both by the parties or their representatives.

(3) The Board may hold such other proceedings as it deems advisable.

(4) The final decision to layoff shall rest, with respect to both the facts and the decision, with the Board of Trustees after giving reasonable consideration to the recommendations of the review committee and the hearing officer. The review committee's recommendations and the findings, conclusions, and recommended decision of the hearing officer shall be advisory only and in no respect binding in fact or law upon the Board of Trustees. The Board of Trustees shall, within a reasonable time following the conclusion of its review, notify the affected faculty member in writing of its rationale, final decision, and the effective date of layoff.

AMENDATORY SECTION (Amending Order 74-6, filed 5/23/74)

WAC 132N-128-120 REEMPLOYMENT AND OTHER CONSIDERATIONS. (1) The college president shall use his/her best efforts in attempting to procure similar employment in another community college district within the states of Washington and Oregon for any faculty member (~~(reduced)~~) laid off under the provisions of this article (~~(in another community college district within the states of Washington and Oregon)~~). Recall shall be accomplished on the basis of (~~(reverse)~~) seniority as set forth herein (~~(-Provided, That affirmative action employment related practices required by law or federal contract shall prevail and be complied with concurrently)~~).

(2) Faculty members (~~(nonrenewed)~~) terminated under this section shall be considered as being "on-layoff" or on leave of absence without pay.

(a) A full-time tenured faculty member (~~(whose contract was not renewed)~~) laid off or placed on leave without pay as a result of this faculty (~~(staff)~~) reduction procedure has a right to recall to any (~~(teaching)~~) full-time faculty position, either a newly created one or a vacancy, (~~(providing)~~) provided he/she is qualified as determined by (~~(the dean of instruction)~~) following the procedure above in WAC 132N-128-100, section (~~(4)~~) (3). The recall shall be (~~(reversed)~~) by seniority, the most senior first. The right (~~(of)~~) to recall shall extend three (3) years from the date of layoff.

(b) While a layoff continues no new full-time faculty will be hired into the RIF unit except in (~~(the unique)~~) circumstances where:

(i) There are no employees on layoff or leave without pay qualified by retraining to fill a vacant position, or

(ii) All qualified faculty members on layoff or leave without pay decline the offer to fill the vacancy.

(c) Faculty members on layoff or leave without pay shall receive a written (~~(notice)~~) offer of any open full-time faculty position and within (~~(at least)~~) twenty (20) calendar days (~~(in advance of the deadline for determining whether to)~~) must exercise their recall rights or decline the offer. The notices sent to the (~~(employees)~~) employee(s) must also be submitted to the association.

(d) Once an individual on layoff or leave without pay status declines an offer to fill a (~~(vacancy)~~) full-time position for which he/she is qualified, he/she will be removed from layoff and/or leave without pay status and will no longer have any (~~(priority)~~) rights to recall.

(e) Any individual on layoff or leave without pay will be given first consideration for any part-time (~~(position)~~) assignments for which he/she is qualified (~~(for)~~).

(3) Full-time tenured faculty members who have been laid off will retain (~~(all)~~) accrued benefits(;) including but not limited to (~~(sick leave)~~) seniority and (~~(seniority)~~) sick leave. Upon recall they shall be placed at least at the next higher increment on the salary schedule than at the time of layoff and will retain their tenured status.

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 87-10-046

PROPOSED RULES

DEPARTMENT OF GENERAL ADMINISTRATION

(Division of Banking)

[Filed May 5, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration intends to adopt, amend, or repeal rules concerning the establishment, operation and regulation of the Washington land bank, implementing the provisions of chapter 31.30 RCW;

that the agency will at 10:30 a.m., Tuesday, June 9, 1987, in the Office of the Director, Room 218, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.30.010.

The specific statute these rules are intended to implement is chapter 31.30 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 9, 1987.

Dated: May 4, 1987

By: Mary Faulk

Director

STATEMENT OF PURPOSE

Title: Washington land bank.

Description of Purpose: To implement the provisions of chapter 31.30 RCW by establishing the requirements and guidelines for the establishment, incorporation, operation and regulation of the borrower-owned corporate entity to be known as the Washington land bank.

Statutory Authority: RCW 31.30.010.

Specific Statute Rule is Intended to Implement: This rule is promulgated pursuant to RCW 31.30.010 and is intended to administratively implement the provision of chapter 31.30 RCW.

Summary of Rule: Establishes the requirements and guidelines necessary to comply with statutory provisions in establishing, incorporating, operating and regulating the Washington land bank.

Reasons Supporting Proposed Action: The legislature has authorized the director of the Department of General Administration to establish a rule pursuant to RCW 31.30.010 providing for the establishment, incorporation, operation and regulation of the Washington land bank. This rule is intended to carry out this legislative authorization.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Director of the Department of General Administration and the Supervisor of Banking.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of General Administration, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Not applicable.

Small Business Economic Impact Statement: Small businesses (farmers) will benefit from the establishment of the borrower-owned corporation known as the Washington land bank because it creates another source that the farmer can obtain long-term operating funds with their land held as collateral.

Chapter 50-52 WAC
WASHINGTON LAND BANK

WAC

50-52-010
50-52-020
50-52-030

Purpose.
Establishment.
Definitions.

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NEW SECTION

WAC 50-52-010 PURPOSE. The purpose of this chapter shall be to provide regulations for the implementation of chapter 31.30 RCW which was adopted as amended on March 5, 1986. This chapter shall establish requirements and guidelines necessary to comply with statutory provisions in establishing, incorporating, operating, and regulating the borrower-owned corporate entity to be known as the Washington land bank.

NEW SECTION

WAC 50-52-020 ESTABLISHMENT. The Washington land bank shall be patterned after the federal land banks organized under the Farm Credit Act of 1971, as amended, within state constitutional limits. The Washington land bank shall be an institution organized by eligible borrowers to provide long-term credit to farmers, ranchers, and producers of privately cultured aquatic products, and their close family members and related legal entities as provided herein.

NEW SECTION

WAC 50-52-030 DEFINITIONS. (1) Person - A "person" means (a) an individual who is a citizen of the United States or who has been lawfully admitted into the United States for permanent residence and is so domiciled and is a bona fide resident of the state of Washington; or (b) a legal entity in which essentially all of the outstanding stock or equity and voting control is directly or indirectly owned by, or held for the benefit of, a person or persons.

(2) Legal entity - A "legal entity" means any partnership, corporation, estate, trust, or other entity which is established pursuant to the laws of the United States, or any state thereof, including the Commonwealth of Puerto Rico or the District of Columbia, and which is legally vested with the authority to conduct a business.

(3) Affiliated legal entity - A legal entity in which essentially all of the voting stock or equity and voting control is directly or indirectly owned by, or held for the benefit of, a person.

(4) Bona fide farmer, rancher, or producer of privately cultured aquatic products - A person who owns and/or operates agricultural or aquacultural property, and is engaged, directly or through a close family member or an affiliated legal entity, in the production of agricultural products, including privately cultured aquatic products under controlled conditions.

(5) Close family member - Means a spouse, sibling, child, grandchild, parent, grandparent, fathers-in-law or mothers-in-law, and sons-in-law or daughters-in-law.

(6) "Supervisor" shall mean the supervisor of banking of the state of Washington.

(7) "Aquaculture" shall have the meaning set forth in RCW 15.85.020.

(8) "Aquatic farmer" shall have the meaning set forth in RCW 15.85.020.

(9) "Privately cultured aquatic product" shall have the meaning set forth in RCW 15.85.020.

ORGANIZATION AND POWERS

NEW SECTION

WAC 50-52-040 INCORPORATORS. When authorized by the supervisor, as herein provided, the Washington land bank may be organized, in the manner herein prescribed, by any group of three or more persons eligible to borrow money from the bank. The bank shall not incorporate for a lesser amount nor commence business unless it has a paid-in capital stock, surplus and undivided profits in the amount as may be determined by the supervisor after consideration of

the proposed location, management, the size and economic characteristics of the market area, the proposed activities and operation of the bank, and other factors deemed pertinent by the supervisor. The proposed bank shall, before commencing business, have subscribed and paid into it in the same manner as is required for capital stock, an additional amount equal to at least ten percent of the capital stock above required, which shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company. Any sum not so used shall be transferred to the capital stock of the bank before any dividend shall be declared to the stockholders.

NEW SECTION

WAC 50-52-050 NOTICE OF INTENTION TO ORGANIZE. Eligible persons desiring to incorporate the Washington land bank shall file with the supervisor a notice of their intention to organize the bank containing the following information, which shall be organized and submitted under the following basic general headings or factors with appropriate supporting schedules, statements, and data:

- (1) Financial history and condition.
 - (a) Pro forma statement of condition – beginning of business.
 - (b) Premises to be occupied by proposed bank. Detailed description of form of ownership, costs, from whom purchased or leased, insurance coverage, and estimated annual depreciation.
 - (c) Details as to proposed investment in and rental of furniture, fixtures, and equipment.
 - (d) Relationships and associations with proposed bank of any of the sellers or lessors of land, buildings, or equipment, either directly or indirectly.
 - (e) Organization expenses: A complete and detailed accounting is required for all income and expenses related to organization, including a detailed account of actual legal accounting and consulting expenses, together with any additional costs anticipated prior to opening or costs incurred or work performed during the organization period for which disbursement has been deferred beyond the opening date.
- (2) Adequacy of the capital structure.
 - (a) Source of capital funds and proposed allocations within total capital structure.
 - (i) Amount of paid-in capital stock (No. shares x par value.)
 - (ii) Amount of paid-in surplus.
 - (iii) Amount of paid-in undivided profits.
 - (iv) Amount of other segregations, including the organization or expense fund, if planned.
 - (b) The adequacy of the proposed capital structure shall be discussed in the notice, and will be evaluated, in part, in relation to:
 - (i) The size and economic characteristics of the market to be served.
 - (ii) Ratio the projected net total capital structure will bear to the estimated volume of debt at the end of each of the first six years of operations.
- (3) Future earnings prospects. A detailed projection of earnings and expenses is to be submitted showing the breakdown of income and expenses for each of the first six years of operations. Provision should be made for loan losses and a bad debt reserve based upon a realistic evaluation of anticipated losses to be sustained in each of the major types of loan demands the proposed bank expects to serve and total loans expected by the end of each of the first six years of operations.
- (4) General character of management.
 - (a) A financial report and a biographical report of each proposed officer and director is required together with a report by each officer and director stating the proposed compensation of such officer, director, and any other financial interest such officer or director shall have or expect to have in the bank.
 - (b) The subscribers (proposed shareholders) for each class of stock are to be listed alphabetically with name and address, occupation and number of shares being purchased indicated by number of shares being purchased indicated by number of shares and total subscription price. The list should indicate "D" for the directors designee, "O" for officers.
 - (c) For any subscribers for five percent or more of any class of the proposed capital stock, the same financial information shall be provided as is required for directors and officers.
 - (d) The membership of the committees of the directorate if any, are to be designated and duties outlined, including:
 - (i) Loan and/or executive committee.
 - (ii) Investment committee.
 - (iii) Audit committee.

(e) The notice shall state the amount of anticipated surety bond coverage and the basis upon which it was determined that this amount is sufficient and conforms with generally accepted banking practices.

(f) Any changes contemplated in the proposed directorate or active management during the first year are to be reported, or, if none, so state.

(5) Convenience and needs of the community to be served.

(a) Applicants have the responsibility of developing as fully as possible the proposed business plan, together with economic support and justification for the proposed bank, including the trade or market area which the proposed bank will serve (which will be the state of Washington), including the manner in which various regions, markets, and producers of particular agricultural products are to be served. This shall identify the location of branch offices or other direct sources of providing services to borrowers, such as agent banks or other agency or loan production offices.

(b) The notice shall state the total indebtedness anticipated, and the nature and term thereof anticipated during the early period of operations together with totals expected by the end of each of the first six years. The economic characteristics of the trade territory specified above for the most recent five-year period where possible – including manufacturing, agricultural, and other industrial data, construction activity, retail and wholesale sales, housing starts, school population, census figures and projections.

(c) The notice shall provide information relevant to the economic characteristics of the agricultural community for the most recent five-year period, together with projections for the ensuing six-year period indicating support for and viability of the proposed bank. In the event an economic survey or feasibility study has been prepared it may provide much of the needed information.

(6) Articles and bylaws. The proposed articles of incorporation and bylaws for the bank shall be submitted as part of the notice.

Investigation. When the notice of intention to organize and propose articles of incorporation complying with the foregoing requirements have been received by the supervisor, together with the fees required by law, he shall ascertain from the best source of information at his command and by such investigation as he may deem necessary, whether the character, responsibility, and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the business of the proposed bank will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter; whether the resources of the market to be served afford a reasonable promise of adequate support for the proposed bank; whether the operation of the bank in the manner proposed offers a reasonable promise of viability and continued financial safety and soundness of the proposed bank; and whether the proposed bank is being formed for other than the legitimate objects covered by this chapter.

Notice to file articles—Articles approved or refused—Hearing. After the supervisor shall have satisfied himself of the above facts, and, within three months of the date the notice of intention to organize has been received in his office, he shall notify the incorporators to file executed and acknowledged articles of incorporation with him in triplicate. Unless the supervisor otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with him within ten days of such notice. Within ten days after the receipt of such articles of incorporation, he shall endorse upon each of the triplicates thereof, over his official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal he shall forthwith return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended.

Approved articles to be filed and recorded—Organization complete. In case of approval the supervisor shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his own office, and shall transmit another triplicate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation, approved as aforesaid by the supervisor, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by chapter 31.30 RCW

and this chapter, and whose existence shall continue from the date of the filing of such articles for the term mentioned in its articles of incorporation unless sooner terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority as provided herein.

Certificate of authority—Issuance—Contents. Before the Washington land bank shall be authorized to do business, and within ninety days after approval of the articles of incorporation, it shall furnish proof satisfactory to the supervisor that such corporation has a paid-in capital in the amount fixed by its articles of incorporation, that any requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If so satisfied, and within ten days after receipt of such proof, the supervisor shall issue under his hand and official seal, in triplicate, a certificate of authority for such corporation. The certificate shall state that the corporation therein named has complied with the requirements of law, that it is authorized to transact at the place designated in its articles of incorporation the business of the Washington land bank. One of the triplicate certificates shall be transmitted by the supervisor to the corporation and the other two shall be filed by the supervisor in the same offices where the articles of incorporation are filed and shall be attached to said articles of incorporation, and the one filed with the secretary of state shall be recorded.

Failure to commence business—Effect—Extension of time. In the event the Washington land bank shall have failed to organize and commence business within six months after the certificate of authority to commence business has been issued by the supervisor, it shall forfeit its rights and privileges as such corporation, which fact the supervisor shall certify to the secretary of state, and such certificate of forfeiture shall be filed and recorded in the office of the secretary of state in the same manner as the certificate of authority; however, the supervisor may, upon showing of cause satisfactory to him, issue an order under his hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the office of the secretary of state and filed and recorded therein.

NEW SECTION

WAC 50-52-060 ARTICLES OF INCORPORATION. (1) The articles of incorporation shall set forth:

(a) The name of the corporation, which shall be "The Washington Land Bank."

(b) The period of duration, which may be perpetual or for a stated term of years.

(c) That the purposes for which the corporation is organized shall be to engage in the lending and borrowing of money and any or all lawful business which may be allowed to it under chapter 31.30 RCW, or subsequent amendments thereto.

(d) That the voting stock of the Washington land bank shall be held only by borrowers who are farmers or ranchers, which stock shall not be transferred, pledged, or hypothecated except to other eligible borrowers.

(e) The aggregate number of shares which the corporation shall have the authority to issue and if such shares are to be divided into classes, the number of shares of each class.

(f) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class.

(g) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(h) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(i) The address of its initial registered office and the name of its initial registered agent at such address.

(j) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors have been elected and qualified. Not less than a majority of such directors shall be persons eligible to borrow from the Washington land bank.

(k) The name and address of each incorporator.

(2) The articles shall be accompanied by a statement signed by each of the organizers of Washington land bank establishing his eligibility to borrow from the Washington land bank.

(3) In addition to the provisions required under this section, the articles of incorporation may also contain provisions not inconsistent with law regarding:

(a) The direction of the management of the business and the regulation of the affairs of the corporation;

(b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares;

(c) The par value of any authorized shares or class of shares; and

(d) Any provision which under this title is required or permitted to be set forth in the bylaws.

NEW SECTION

WAC 50-52-070 ORGANIZATION MEETING OF DIRECTORS. After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers, and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least three days' notice thereof by mail to each director so named, unless such notice is waived in writing, which notice shall state the time and place of the meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director signs an instrument which states the action so taken.

NEW SECTION

WAC 50-52-080 AMENDMENT TO ARTICLES OF INCORPORATION. With the approval of the supervisor, the Washington land bank may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment. Not less than ten days before the proposed adoption of any such amendments a written notice setting forth the proposed amendment shall be given to the supervisor for approval.

NEW SECTION

WAC 50-52-090 STOCK/VOTING STOCK. The Washington land bank shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. Voting stocks shall be issued to and held only by borrowers who are farmers or ranchers or producers of privately cultured aquatic products, which stock shall not be transferred, pledged, or hypothecated except to other eligible borrowers.

NEW SECTION

WAC 50-52-100 ISSUANCE OF SHARES. Subject to any restrictions in the articles of incorporation:

(1) Shares may be issued for such consideration as shall be authorized by the board of directors.

(2) Upon authorization by the board of directors, the Washington land bank may issue its own shares in exchange for or in conversion of its outstanding shares, or distribute its own shares, pro rata to its shareholders or the shareholders of one or more classes or series, to effectuate stock dividends or splits, and any such transaction shall not require consideration. However, such issuance of shares of any class or series shall not be made to the holders of shares of any other class or series unless it is either expressly provided for in the articles of incorporation, or is authorized by an affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class or series in which the distribution is to be made.

(3) The board of directors shall from time to time authorize the issuance of additional capital stock so that borrowers purchasing stock or participation certificates therein may be eligible for loans from the bank.

NEW SECTION

WAC 50-52-110 PAR VALUE—DETERMINATION OF PRICE—PAYMENT FOR SHARES. (1) The voting stock of Washington land bank shall be divided into shares of par value of not less than five dollars each.

(2) The capital stock of Washington land bank may be of such classes as its board of directors may determine.

(3) Consideration for shares may consist of cash, promissory notes, services performed, contracts for services to be performed, or any other tangible or intangible property. If shares are issued for other than cash, the board of directors shall determine the value of the consideration. Shares issued when the Washington land bank received the consideration determined by the board are validly issued, fully paid, and nonassessable. A good faith judgment of the board of directors as to the value of the consideration received for shares is conclusive. Washington land bank may place shares issued for a contract for future services or a promissory note in escrow, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed or the note is paid. If the services are not performed or the note is not paid, the shares escrowed or restricted and the distributions credited may be cancelled in whole or in part.

NEW SECTION

WAC 50-52-120 BYLAWS. The initial bylaws of Washington land bank shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws, subject to repeal or change by action of the shareholders, shall be vested in the board of directors unless reserved to the shareholders by the articles of incorporation except that the power to amend any bylaw relating to compensation of officers or directors shall be reserved to shareholders. The bylaws may contain any provisions for the regulation and management of the affairs of Washington land bank not inconsistent with law or the articles of incorporation.

NEW SECTION

WAC 50-52-130 BYLAWS AND OTHER POWERS IN EMERGENCY. The board of directors of Washington land bank may adopt emergency bylaws, subject to repeal or change by action of the shareholders, operative during any emergency in the conduct of the business of Washington land bank resulting from an attack on the United States or any nuclear or atomic disaster. The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency.

NEW SECTION

WAC 50-52-140 MEETINGS OF SHAREHOLDERS. Meetings of shareholders may be held at such place within this state as may be stated in or fixed in accordance with the bylaws. If no place is stated or so fixed, meetings shall be held at the principal place of business of Washington land bank.

An annual meeting of the shareholders shall be held at such time as may be stated in or fixed in accordance with the bylaws. If the annual meeting is not held within any thirteen-month period the superior court may, on the application of any shareholder for a writ of mandamus, summarily order a meeting to be held.

Special meetings of the shareholders may be called by the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the bylaws.

NEW SECTION

WAC 50-52-150 NOTICE OF SHAREHOLDER MEETINGS. Written notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten or more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of Washington land bank with postage thereon prepaid.

NEW SECTION

WAC 50-52-160 RECORD OF SHAREHOLDERS ENTITLED TO VOTE. The officer or agent having charge of the stock transfer books for shares of Washington land bank shall make, at least ten days before each meeting of shareholders, a complete record of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each, which record, for a period of ten days prior to such meeting, shall be kept on file at the registered office of Washington land bank. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the record of shareholders, or keep it on file for a period of ten days, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such failure to the extent of such damage.

NEW SECTION

WAC 50-52-170 QUORUM OF SHAREHOLDERS. (1) A quorum at a meeting of shareholders is constituted by the representation in person or by proxy of:

(a) The percentage of shares entitled to vote set forth in the articles of incorporation, except that no such percentage shall be less than ten percent; or

(b) In the absence of any provision in the articles of incorporation, a majority of shares entitled to vote.

(2) If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this title or the articles of incorporation or bylaws.

NEW SECTION

WAC 50-52-180 VOTING OF SHARES. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Unless the articles of incorporation otherwise provide, at each election for directors every shareholder entitled to vote at such election shall have the right, in person or by proxy, to cast one vote for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors shall equal, or by distributing such votes on the same principle among any number of such candidates.

Shares standing in the name of a corporation, domestic or foreign, may be voted by such officer, agent, or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

NEW SECTION

WAC 50-52-190 BOARD OF DIRECTORS. All corporate powers shall be exercised by or under authority of, and the business and affairs of Washington land bank shall be managed under the direction of, a board of directors. Directors shall be residents of this state and

not less than a majority of the directors shall be persons eligible to borrow from the Washington land bank. The articles of incorporation or bylaws may prescribe other qualifications for directors. The shareholders shall have authority to fix the compensation of directors, which shall be set forth in the bylaws.

NEW SECTION

WAC 50-52-200 DUTIES OF DIRECTORS. A director shall perform the duties of a director, including the duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of Washington land bank, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of Washington land bank whom the director believes to be reliable and competent in the matter presented;

(2) Counsel, public accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, duly designated in accordance with a provision in the articles of incorporation or bylaws, as to matters within its designated authority, which committee the director believes to merit confidence; so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

NEW SECTION

WAC 50-52-210 NUMBER AND ELECTION OF DIRECTORS. The board of directors of Washington land bank shall consist of five or more members. The number of directors shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to or in the manner provided in the articles of incorporation, but no decrease shall have the effect of shortening the term of any incumbent director nor shall the number of directors be reduced to less than five. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such personnel shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and qualified. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this title. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

NEW SECTION

WAC 50-52-220 CLASSIFICATION OF DIRECTORS. In lieu of electing the whole number of directors annually, the articles of incorporation may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be two classes, or until the third succeeding annual meeting, if there be three classes. No classification of directors shall be effective prior to the first annual meeting of shareholders.

NEW SECTION

WAC 50-52-230 VACANCIES. Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by

the board of directors for a term of office continuing only until the next election of directors by the shareholders.

NEW SECTION

WAC 50-52-240 REMOVAL OF DIRECTORS. At a meeting of shareholders called expressly for that purpose, directors may be removed in the manner provided in this section. Any director of the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors.

If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against his removal would be sufficient to elect such director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

NEW SECTION

WAC 50-52-250 QUORUM OF DIRECTORS. (1) Except as provided in subsection (2) of this section:

(a) A majority of the number of directors fixed by the articles of incorporation shall constitute a quorum for the transaction of business.

(b) The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by the articles of incorporation or the bylaws.

(2) A transaction with Washington land bank in which a director or an officer has a direct or indirect interest shall be authorized, approved, or ratified only in the manner prescribed for approval of a loan to such director in chapter 50-52 WAC, and only directors with no direct or indirect interest in the transaction shall be eligible to vote thereon.

NEW SECTION

WAC 50-52-260 DISSENT BY DIRECTORS. A director of Washington land bank who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file this written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Washington land bank immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

NEW SECTION

WAC 50-52-270 EXECUTIVE AND OTHER COMMITTEES. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority to: (1) Authorize distributions, except at a rate or in periodic amount determined by the board of directors, (2) approve or recommend to shareholders actions or proposals required by this title to be approved by shareholders, (3) fill vacancies on the board of directors or any committee thereof, (4) amend the bylaws, or (5) appoint other committees of the board of directors or the members thereof.

NEW SECTION

WAC 50-52-280 PLACE AND NOTICE OF DIRECTORS' OR DESIGNATED COMMITTEE MEETINGS—PRESENCE. Meetings of the board of directors, regular or special, shall be held within the state of Washington.

Regular meetings of the board of directors or of any committee designated by the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors or

any committee designated by the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

NEW SECTION

WAC 50-52-290 LOANS TO DIRECTORS—GUARANTEES OF OBLIGATIONS OF DIRECTORS. (1) The Washington land bank may not lend money to, or lend money upon the guaranty of, or guarantee the obligation of, a director of the bank unless the particular loan or guarantee is approved by the affirmative vote of at least a majority of the directors of the Washington land bank. Neither the benefited director nor any other director having a direct or indirect interest in the transaction may vote for approving such a loan.

(2) The fact that a loan is made to or guaranteed by a director in violation of this section does not affect the borrower's or guarantor's liability on the loan.

NEW SECTION

WAC 50-52-300 OFFICERS. The officers of Washington land bank shall consist of a president, one or more vice presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors, or chosen in such other manner, as may be prescribed by the bylaws.

NEW SECTION

WAC 50-52-310 REMOVAL OF OFFICERS. Any officer or agent may be removed by the board of directors whenever in its judgment the best interests of Washington land bank will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of an officer or agent and shall not of itself create contract rights.

NEW SECTION

WAC 50-52-320 BOOKS, RECORDS AND MINUTES. Washington land bank shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders and board of directors, and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the share held by each. Any books, records, and minutes may be in written form or any other form capable of being converted into written form within a reasonable time.

LENDING

NEW SECTION

WAC 50-52-330 ELIGIBILITY. (1) To be eligible to borrow, a person must be a bona fide farmer, rancher, or producer of privately cultured aquatic products, as defined in WAC 50-52-030(4), which status shall be established as a part of the application for credit.

(2) When the borrower does not own the real estate pledged as collateral, the loan shall be made on the following basis:

- (a) The borrower must be a bona fide farmer or rancher.
- (b) The loan shall be secured by the agricultural land on which the borrower is farming.
- (c) The land shall be leased to the borrower on a long term basis.

(d) The owner of the land shall sign a hypothecation agreement for the purpose of securing the bank's interest in the collateral for the loan.

(3) A legal entity shall meet the requirements in subsection (1) of this section and the following qualifications to be eligible to borrow:

(a) A majority of the shares of its outstanding voting stock or equity must be owned by the individuals conducting the farming, livestock, or aquatic operation.

(b) It shall own assets primarily related to the production of agricultural products or production of privately cultured aquatic products.

(c) A majority of its income must originate from its production of agricultural products or production of privately cultured aquatic products.

(4) A legal entity engaged in agriculture or production of privately cultured aquatic products for the primary purpose of conducting its operation at a loss to absorb taxable income from nonagricultural or nonaquatic sources shall not be eligible. The legal entity shall demonstrate compliance with this subsection.

NEW SECTION

WAC 50-52-340 COMBINED OPERATIONS. Where applications include a combination of farming or producing privately cultured aquatic products, the determination of eligibility can be made on the basis of the criteria set out for either or any combination of these operations.

NEW SECTION

WAC 50-52-350 ASSUMPTION OF LOANS. Loans made by the Washington land bank may be assumed by a person eligible to borrow from the Washington land bank. Loans may not be assumed without the prior approval of the Washington land bank. A person proposing to assume a loan shall submit an application in the form designated by the board of directors. In approving or denying approval of such assumption, the Washington land bank shall apply the same standards applied by the Washington land bank to comparable loans then being made by Washington land bank.

NEW SECTION

WAC 50-52-360 LONG-TERM REAL ESTATE MORTGAGES. Washington land bank may make, or participate with other lenders in, only long-term loans to eligible farmers, ranchers, or producers of privately cultured aquatic products, as defined in WAC 50-52-030(4), for a term of not less than five years nor more than forty years, which loans must be secured by a first lien in real property located in the state of Washington, conveyed to Washington land bank by mortgage executed by all parties necessary, in the opinion of Washington land bank counsel, for the proper conveyance thereof. Subject to limitations applicable to making long-term real estate mortgage loans, Washington land bank may make continuing commitments to make such loans under specified circumstances. Policies established by the bank's board shall be followed in making loans and in making commitments for loans. Borrowers shall be permitted to make advance payments on their loans or, under agreement with Washington land bank, to make advance conditional payments for the purpose of establishing reserves to pay off the loan upon maturity or to make these funds available to the borrowers as needed. Washington land bank may pay interest on advance conditional payments at a rate not to exceed the rate charged on related loans.

NEW SECTION

WAC 50-52-370 NONDISCRIMINATION IN LENDING AND OTHER SERVICES. Washington land bank shall not, because of the race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract) of an eligible person, deny a loan, or refuse to allow, receive, or consider any application, request, or inquiry with respect to a loan, or refuse to perform any other service it customarily makes available to borrowers, applicants, and members, or discriminate in fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of a loan or other service on any such basis.

NEW SECTION

WAC 50-52-380 NONDISCRIMINATORY ADVERTISING. Washington land bank advertising shall not use words, phrases, symbols, directions, forms, or models in such advertising which imply or suggest a policy of discrimination or exclusion in violation of the provisions of Title VIII of the Civil Rights Act of 1968.

NEW SECTION

WAC 50-52-390 DEFERRAL OF PAYMENTS. With the approval of the Washington land bank, during the first five years after the loan is originated, the borrower may elect to defer payment of all or any portion of the principal or interest due from the borrower if the following conditions are met:

(1) If approved, deferral of such payment shall be made on the date such payment is due during the first five years after the loan is originated.

(2) The deferral of such payment shall not cause or allow the principal and accrued interest on the outstanding loan, including interest accruing during the period of deferral, to exceed sixty-five percent of the original appraised value or the current appraised value of the collateral, whichever is less. Values of the collateral shall be determined according to the appraisal standards set forth in WAC 50-52-440.

(3) The borrower shall notify Washington land bank of its intention to defer payments not more than ninety nor less than thirty days prior to making such election, and shall have received approval of such deferral in writing. If the outstanding principal and accrued interest exceeds, or would during the deferral period exceed, sixty-five percent of the appraised value, the borrower shall make partial payments until such principal, accrued interest, and interest which will accrue during the deferral period are reduced to comply with subsection (2) of this section. Application of such payments shall be first made against accrued interest and any other charges or fees and then to reduction of outstanding principal.

(4) The repayment of the principal amount and all interest accrued and to accrue, including any and all interest charges or fees earned during the period of deferral and thereafter, shall be recomputed and amortized over a term equal to the original term of the loan. Interest rate or rates may vary from time to time during the repayment period of the loan, in accordance with the interest rates and charges policy set forth in WAC 50-52-460.

(5) In connection with a request to defer repayment, the borrower shall provide to Washington land bank such current financial statements, budgets and projections, current land appraisal and other loan documentation as Washington land bank may require.

NEW SECTION

WAC 50-52-400 BASIS OF LOAN. Loans made by the Washington land bank shall be made on the basis of long-term profitability rather than short-term cash flow. For this purpose, the term "long-term profitability" shall mean the ability of the borrower to repay the money borrowed and all accrued interest and the charges during the term of the loan as written including deferral periods as allowed herein, from the borrower's existing resources and from reasonably anticipated future income and resources based upon the borrower's demonstrated abilities, as disclosed by the loan application and supporting documentation. The board of directors shall establish written lending policies, which shall set forth the criteria which shall be applied in granting or extending credit, and the relative weight to be accorded to each factor. The factors shall include, in addition to collateral value, the ability and willingness of the borrower to meet the repayment terms, the borrower's financial condition, the borrower's reputation, and the borrower's earning projections from farming operations and other sources. Lending policies shall include provisions for adequate collateral and loan documentation.

NEW SECTION

WAC 50-52-410 BORROWER LIABILITY. All primary borrowers shall be fully liable for loans obtained from Washington land bank. Where personal guaranty is required, each guarantor shall be fully liable unless the primary borrower or other guarantors provide adequate financial strength to result in a sound loan even though the personal liability of an individual guarantor may be limited.

NEW SECTION

WAC 50-52-420 LOAN TERMS AND CONDITIONS. (1) Loans may be made for not less than five years nor more than forty years. The written loan approval prepared by Washington land bank shall set out the terms and conditions under which a loan is approved. To assure proper understanding, provide needed controls, and protect the lender, a formal written loan agreement shall be entered into between the borrower and the bank. The Washington land bank may participate in loans with other lenders, provided that such loans would be lawful loans if made directly by Washington land bank.

(2) The outstanding loan balance, including all accrued and unpaid interest, costs, and fees, on any loan shall not at any time during the life of the loan exceed sixty-five percent of the appraised value established by the appraisal of the primary real estate security made at the time the loan was originated or at the time of any subsequent deferral of payment, whichever is less. This shall not, however, prohibit the Washington land bank from advancing taxes, advancing insurance premiums with respect to the real estate, capitalizing past due interest, rescheduling loan payments, or granting partial releases of security interests in the real estate when, (a) there is adequate collateral to support the total amount of the outstanding debt without exceeding the sixty-five percent loan to value ratio, and such action will increase the ability of the debtor to repay the debt, or, (b) if there is not adequate collateral to support the debt, litigation is in process for the collection of the debt, the actions are in connection with such litigation, and the actions are considered by Washington land bank to be necessary to protect the financial interest of Washington land bank in the collateral.

NEW SECTION

WAC 50-52-430 SECURITY REQUIREMENTS. The primary security for a Washington land bank loan shall consist of a first lien on interests in real estate located in the state of Washington comprising agricultural property, or real estate used as an integral part of an eligible aquatic operation. The real estate interest must be mortgageable under deeds or leases which would allow the bank to have first lien security interest in the property and all parties who are necessary, in the opinion of Washington land bank counsel, for the proper conveyance of a first mortgage on said property shall join in the execution of all necessary instruments. Fixtures which are an integral part of, and normally sold with, the real estate may be included in the appraised value of property upon which the loan is based, provided that Washington land bank shall receive a first lien in such fixtures. The board of directors shall develop policies to assure that the appraised value of nonagricultural assets such as mineral deposits, commercial buildings, and improvements are properly identified in the report.

NEW SECTION

WAC 50-52-440 APPRAISALS. Appraised value shall be the basis for valuing all collateral. The board of directors shall establish written appraisal standards for the Washington land bank, which shall be utilized in determining the present value of the property. Value shall be determined by a qualified appraiser, as established by the board of directors, utilizing methods and procedures generally recognized in the industry for determining the fair market value of real estate. All appraisal reports or values shall be rendered in writing, setting forth the appraiser's opinion as to value and the basis, including all relevant facts and assumptions, upon which such value is determined.

NEW SECTION

WAC 50-52-450 ADDITIONAL SECURITY. When necessary to protect the interest of the Washington land bank after a loan has been made, or to prevent default in the repayment or allow reasonable forbearance in collection of a delinquent loan, additional security may be required to supplement primary real estate security. Such additional security shall be considered only for additional collateral protection, and may not be included as part of the value of the security upon which the loan or any deferral is based. Recovery value shall be the basis for measuring the collateral worth of such additional security. Recovery value is defined as the anticipated sale price expected to be received in a liquidation sale of such collateral, less any selling or maintenance costs and any prior liens and encumbrances.

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 50-52-460 INTEREST RATES AND CHARGES POLICY. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the cost of money, necessary reserves and expenses, capital requirements, and services provided to borrowers and members.

NEW SECTION

WAC 50-52-470 INTEREST RATES. Loans made by Washington land bank shall bear interest at a rate or rates as may be determined by the board of directors. The board shall set interest rates or establish in writing the basis for the setting of rates by management. Any interest rate plan shall set loan-pricing policies and objectives, provide guidance regarding the circumstances under which management may adjust rates, and provide the upper and lower limits on management authority. The board of directors may not delegate its ultimate responsibilities for setting interest rates, and any interest rate plan adopted shall be reviewed on at least a quarterly basis by the bank's board, as well as in conjunction with its review and approval of the bank's annual fiscal plan and long-range financial plan.

NEW SECTION

WAC 50-52-480 INTEREST ON PAST DUE LOANS. Provisions may be made in the approved interest rate program for the collection of interest at a higher rate after maturity of a loan or installment if provision is made in the note or loan document.

NEW SECTION

WAC 50-52-490 OTHER CHARGES AND FEES. Washington land bank may impose reasonable charges or fees in connection with loans, deferral of payments, and other services rendered.

NEW SECTION

WAC 50-52-500 INTEREST RATE PROGRAMS. (1) The following types of interest rate programs may be employed:

(a) Fixed rates. The rate of interest specified in the note or loan document shall be the rate chargeable to the borrower during the period of the loan.

(b) Variable rates. The interest rate(s) on outstanding loan balances may be changed from time to time during the period of the loan, if appropriate provisions are made in the note or loan document.

(c) Fixed interest spread. Interest rates shall be expressed in terms of a percentage to be added to the cost of money to the Washington land bank.

(2) Differential rates. Differential interest rates may be established for loans based on type, purpose, amount, quality, funding, or operating costs, any combination of these factors, or such other factors as may be approved by the board of directors.

NEW SECTION

WAC 50-52-510 PARTICIPATIONS. Washington land bank may enter into loan participation agreements with one or more other lenders, including Federal Land Banks existing under the Farm Credit Act of 1971, as amended, provided the loan participation results in significantly beneficial or improved loan terms or conditions or services to the borrower which could not be obtained as a result of a direct loan. Such benefits to the borrower shall be documented in the loan file. All participations must be in loans which, in all respects, would be lawful for Washington land bank to make.

NEW SECTION

WAC 50-52-520 LENDING LIMITS. The total amount of loans, advances, commitments, financial assistance, or other extension of credit, including the purchase of loan participation(s) and the retained portion of any participations sold without recourse, which Washington land bank may have outstanding to any one borrower shall not exceed twenty percent of the capital and surplus of the bank.

NEW SECTION

WAC 50-52-530 COMPUTATION OF OBLIGATION FOR LENDING LIMIT DETERMINATION. The obligation of an individual or legal entity shall be the total unpaid principal amount of loans or extensions of credit by Washington land bank which the individual or entity is liable to repay, including any direct or indirect advance of funds to a person made on a basis of any obligation of that person to repay the funds, or repayable from specific property pledged by or on behalf of a person. The term "loans or extension of credit" includes a renewal, modification, or extension of the maturity date of a loan or extension of credit but shall include only that portion of any participation loans held by the Washington land bank.

NEW SECTION

WAC 50-52-540 NOTICE OF ACTION ON LOAN APPLICATION. Every applicant for a loan from Washington land bank is entitled to a prompt notice of action on his application and, if the loan is denied or reduced, the reason for such action.

NEW SECTION

WAC 50-52-550 APPLICANT'S RIGHT TO APPEAL. An applicant who has reason to believe he was denied credit or was offered credit in a reduced amount because Washington land bank failed to take into account facts pertinent to his application, or misinterpreted or failed to properly apply the rules and regulations governing his application, shall be entitled to an informal hearing. That informal hearing shall be in person before the loan committee, or officer, or employee of Washington land bank authorized to act on that application. The applicant must make the request for such a hearing in writing within thirty days of notice of the original action. Promptly after such a hearing he shall be notified of the decision reached and the reasons therefor.

NEW SECTION

WAC 50-52-560 RECORDS. Washington land bank shall maintain a complete file of all such written requests for hearing, along with all other written inquiries from applicants or borrowers concerning credit denials.

NEW SECTION

WAC 50-52-570 SPECIAL LENDING PROGRAMS. To provide the best possible credit service to farmers, ranchers, and producers of cultured aquatic products, the board may adopt policies permitting Washington land bank to enter into agreements with other entities, including cooperative associations, to facilitate the making of loans to eligible farmers, ranchers, and producers of privately cultured aquatic products. Entities who are the originating lenders shall be responsible for the servicing of the loans they make. However, loan participation agreements may designate specific loan servicing efforts to be accomplished by a participating institution. The board of directors shall direct Washington land bank to adopt loan servicing policies and procedures to assure that loans will be serviced fairly and equitably for the borrower while minimizing the risk for Washington land bank. Procedures shall include specific plans which help preserve the quality of loans and which help resolve credit deficiencies as they develop.

BORROWING/SECURITIES/INVESTMENTS

NEW SECTION

WAC 50-52-580 BORROWINGS FROM COMMERCIAL BANKS. The board of directors by resolution, shall authorize all commercial bank borrowings.

NEW SECTION

WAC 50-52-590 BORROWINGS FROM FINANCIAL INSTITUTIONS OTHER THAN COMMERCIAL BANKS. The Washington land bank may borrow from other financial institutions, such as insurance companies, thrift institutions or other public or private sources upon such terms and in such amounts as may be determined by the board of directors.

NEW SECTION

WAC 50-52-600 RESOLUTION REQUIRED. The board of directors shall by resolution authorize the issuance of notes, bonds, debentures, and similar obligations in such amounts as may be required to meet the Washington land bank's needs. Such resolution shall specify the maximum amount of obligations which shall be outstanding at any one time, as well as the amount, maturities, and rates of interest in each issue, and shall authorize the president of the bank, the executive committee or appropriate officers to do all things necessary and proper to issue such obligations.

NEW SECTION

WAC 50-52-610 DEBT POLICY. The board of directors shall adopt a written policy regarding the management of its debt, and the sources of funding for the repayment of such debt.

NEW SECTION

WAC 50-52-620 SECURITIES ISSUANCE—REGISTRATION AND DISCLOSURE. In connection with the offering or sale of any "security," as defined by RCW 21.20.005(12) or any federal securities law, the Washington land bank shall comply with the provisions of the Securities Act of Washington, chapter 21.20 RCW, and any other applicable federal or state securities law.

NEW SECTION

WAC 50-52-630 INVESTMENTS. Washington land bank is authorized to hold investment portfolios for the purposes of maintaining sufficient liquidity, investing short-term surplus funds, and managing short-term debt. The bank is not authorized to maintain investment portfolios primarily as a means of generating additional income.

The board of directors shall adopt a policy regarding the management of its investments. Within this policy, the following items shall be addressed:

- (1) The purpose of the bank's investments.
- (2) The portfolio objectives.
- (3) The bank's liquidity needs.
- (4) The portfolio size and quality.
- (5) Maturity guidelines.
- (6) Authorization to manage investment activities.
- (7) Reporting and monitoring requirements.

Additional areas may be addressed in the policy as deemed appropriate.

NEW SECTION

WAC 50-52-640 DEBT TO CAPITAL RATIOS REQUIREMENTS. Washington land bank shall not incur aggregate liabilities exceeding twelve times its capital and surplus.

The term "capital and surplus" as used in this section, represents total net worth including undistributed earnings or losses but excluding valuation reserves and liability reserves. The term "aggregate liabilities" as used in this section, represents all amounts owed to others.

WSR 87-10-047**ADOPTED RULES****DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Banking)**

[Order 67—Filed May 5, 1987]

I, Thomas H. Oldfield, director of the Division of Banking, Department of General Administration, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the determination of requested states' possession of reciprocal interstate acquisition laws, creating one new section WAC 50-48-100, Interstate acquisition reciprocity—States possessing.

This action is taken pursuant to Notice No. WSR 87-08-071 filed with the code reviser on April 1, 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 30.04.232 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 5, 1987.

By Thomas H. Oldfield
Supervisor

NEW SECTION

WAC 50-48-100 INTERSTATE ACQUISITION RECIPROCITY—STATES POSSESSING. The supervisor of banking, having reviewed the laws of the following states as they relate to a domestic (Washington) bank holding company acquiring more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association the principal operations of which are conducted within such states, has determined, pursuant to RCW 30.04.232, that the laws of such states allow a domestic bank holding company to acquire a bank, trust company, or national banking association, the principal operations of which are conducted within such states, and permit the operation of the acquired bank, trust company, or national banking association within such states on terms and conditions no less favorable than other banks, trust companies, or national banking associations doing a banking business within such states: (1) Alaska, (2) New York, and (3) Oregon.

WSR 87-10-048**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed May 5, 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 amendment to chapter 16-101 WAC and adding new sections;

that the agency will at 10:00 a.m., Tuesday, May 26, 1987, in the Large Conference Room, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 29, 1987.

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

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

This notice is connected to and continues the matter in Notice No. WSR 87-09-032 filed with the code reviser's office on April 10, 1987.

Dated: May 5, 1987
 By: James E. Wommack
 Assistant 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, and nutritional labeling requirements must be met.

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 which is a dietary source of calcium, approved by the department, to a level of more than 500 mg per 8 fluid ounce serving. The principal display panel shall prominently bear the statement "a dietary source of calcium". All additives shall be listed in the ingredient statement, and nutritional labeling requirements must be met.

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 which is a dietary source of calcium, approved by the department, to a level of more than 500 mg per 8 fluid ounce serving. The principal display panel shall prominently bear the statement "a dietary source of calcium". All additives shall be listed in the ingredient statement, and nutritional labeling requirements must be met.

WSR 87-10-049
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
 [Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning Affirmative action rules—Noncompliance, WAC 251-23-015;

that the agency will at 9:00 a.m., Friday, June 19, 1987, in the Sexton Hall, Room 716, Wenatchee Valley College, Wenatchee, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

This notice is connected to and continues the matter in Notice No. WSR 87-06-053 filed with the code reviser's office on March 4, 1987.

Dated: May 6, 1987
 By: John A. Spitz
 Director

WSR 87-10-050
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
 [Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning availability, WAC 251-01-040;

that the agency will at 9:00 a.m., Friday, June 19, 1987, in the Sexton Hall, Room 716, Wenatchee Valley College, Wenatchee, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

Dated: May 6, 1987
 By: John A. Spitz
 Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on May 6, 1987, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-01-040 Availability.

Description of Purpose: To specify definition of term and provide method of determination availability of those capable of acquiring requisite skills and abilities.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100(22) and 49.74.010 through 49.74.040.

Summary of Rule: Amend word definition to provide meaning in the context that it is used in the rules.

Reasons Supporting Proposed Action: Substitute Senate Bill 3346 mandated the Higher Education Personnel Board to adopt rules on affirmative action as it relates to higher education institutions/related boards.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is not the result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 147, filed 4/22/86, effective 5/22/86)

WAC 251-01-040 AVAILABILITY. An estimate, based on the best data available, of the number of women, racial/ethnic minorities, persons in the protected age category, Vietnam-era and disabled veterans, and handicapped persons of disability who have the skills and abilities required for employment in a particular job group, or who are capable of acquiring them, as determined from an analysis of relevant data. The determination of the availability of protected group members who are capable of acquiring the requisite skills and abilities shall be based upon an analysis of:

(1) The external availability of protected group members who are receiving training in the requisite skills, in training institutions in an area in which the institution can reasonably recruit, for employment into positions in job classes/groups/categories where underutilization exists.

(2) The internal availability of promotable and transferable protected group member employees, and those protected group member employees who are being trained in the requisite skills by the institution, for the purposes of promotion or transfer into positions in job classes/groups/categories where underutilization exists.

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 87-10-051

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning periodic increment date, amending WAC 251-08-100;

that the agency will at 9:00 a.m., Friday, June 19, 1987, in the Sexton Hall, Room 716, Wenatchee Valley College, Wenatchee, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

Dated: May 6, 1987

By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on May 6, 1987, and is filed pursuant to RCW 34.04.025.

Title: WAC 251-08-100 Periodic increment date.

Description of Purpose: Subsection (2)(a), to clarify that the periodic increment date of new employees or

probationary employees who are appointed to a new class during the probationary period shall be established upon completion of six months in the class if appointed at the first step in the salary range; subsection (2)(b), housekeeping change to make language consistent with subsection (2)(a); and subsection (3)(d), housekeeping change regarding WAC reference.

Statutory Authority: RCW 28B.16.100.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Summary of Rule: Subsections (2)(a) and (b) of the rule specify when the periodic increment date for employees will be established.

Reasons Supporting Proposed Action: To clarify when the periodic increment date for employees will be established and to ensure that all employees are treated equally by receiving increment increases based on length of service as specified in the RCW.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule and Whether Public, Private, or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is not the result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 134, filed 7/31/85, effective 9/1/85)

WAC 251-08-100 PERIODIC INCREMENT DATE. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of ~~((the probationary period))~~ six months in the class for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months ~~(=service)~~ in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080 (1)(a) of an employee who is at the top step of the current salary range, the employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-165(5), 251-22-180, and 251-18-381;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When a cyclic year position leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on

a month-for-month basis. Provisions of WAC 251-08-100 (3)(d) shall apply to that period exceeding the ninety calendar days. Cyclic year position employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100 (3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

WSR 87-10-052

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed May 6, 1987]

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

Amd	WAC 251-22-070	Vacation leave—Use.
Amd	WAC 251-22-110	Sick leave—Use.
New	WAC 251-22-117	Leave due to child care emergencies;

that the agency will at 9:00 a.m., Friday, June 19, 1987, in the Sexton Hall, Room 716, Wenatchee Valley College, Wenatchee, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

Dated: May 6, 1987

By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on May 6, 1987, and is filed pursuant to RCW 34.04.025.

Description of Purpose: To modify purposes for which employees may use leave and/or compensatory time.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Title and Summary of Rule: WAC 251-22-070 Vacation leave—Use, to add an additional rationale for the use of vacation leave; 251-22-110 Sick leave—Use, to further specify criteria which justify use of sick leave;

and 251-22-117 Leave due to child care emergencies, to specify uses for leave not previously delineated.

Reasons Supporting Proposed Action: The legislature mandated a review of the HEPB law and rules to determine where they could be made more supportive to state employees who are parents. The proposed modifications address areas where we determined the rules could be modified as a result of that study.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1201 [1202] Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Patra Leaming, (206) 633-4088 or scan 323-1001 on behalf of the following employee organizations: Classified Staff Association, District 925; National Union of Hospital and Health Care Employees, AFL-CIO, District 1199 NW; United Food and Commercial Workers, Local 1001; Washington State Nurses Association; and Washington Public Employees Association (private).

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is not the result of federal law or state or federal court action.

AMENDATORY SECTION (Amending Order 113, filed 3/30/84, effective 5/1/84)

WAC 251-22-070 VACATION LEAVE—USE. (1) Vacation leave may not be taken until an employee has completed six months of continuous employment. An employee bringing an accrued balance from another state agency may use the previously accrued vacation leave during the institutional probationary or trial service period.

(2) All requests for vacation leave must be approved by the employing official or designee in advance of the effective date unless used for emergency child care as provided in WAC 251-22-117.

(3) Vacation leave shall be scheduled by the employing department at a time most convenient to the work of the department, the determination of which shall rest with the employing official. As far as possible, leave will be scheduled in accordance with the wishes of the employee in any amount up to the total of his/her earned leave credit.

(4) Paid vacation leave may not be used in advance of its accrual.

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 63, filed 11/22/77, effective 12/22/77)

WAC 251-22-110 SICK LEAVE—USE. (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness or injury of a ((in the immediate)) family member 15 years of age and over that requires the presence of the employee to provide immediate necessary care of the patient or to make arrangements for extended care. ((immediate family shall be defined as in WAC 251-22-112.)) The personnel officer may authorize sick leave use as provided in this subsection for other than ((immediate)) family members. The applicability of "emergency", "necessary care" and "extended care" shall be made by the personnel officer.

(d) Because of illness or injury of a child (as identified in WAC 251-01-208) under the age of 15 when the employee's presence is required to provide care or to make arrangements for extended care.

(e) Because of illness or injury of a family member who is a person of disability and requires the employee's presence to provide care or to make arrangements for extended care.

(f) To provide emergency child care for the employee's child (as identified in WAC 251-01-208). Such use of sick leave is limited to three days in any calendar year, unless extended by the personnel officer, and shall be used only as specified in WAC 251-22-117.

~~((d))~~ (g) Because of a family member's death (~~in the immediate family of the employee~~) that requires the assistance of the employee in making arrangements for interment of the deceased.

~~((e))~~ (h) For ~~(the purpose of)~~ personal medical, dental, or optical appointments or for family members' appointments when the presence of the employee is required, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

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 251-22-117 LEAVE DUE TO CHILD CARE EMERGENCIES. (1) Absence due to child care emergencies as defined shall be charged to one of the following:

- (a) Compensatory time;
- (b) Vacation leave;
- (c) Sick leave;
- (d) Personal holiday;
- (e) Leave of absence without pay.

(2) Use of any of the above leave categories is dependent upon the employee's eligibility to use such leave. Accrued compensatory time shall be used before any other leave is used.

(3) Use of vacation leave, sick leave, and leave of absence without pay for emergency child care is limited to a maximum of three days each per calendar year.

(4) The employee upon returning from such leave shall designate in writing to which leave category the absence will be charged. For the purpose of this rule, advance approval or written advance notice of vacation leave, personal holiday, and/or leave of absence without pay shall not be required.

WSR 87-10-053

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed May 6, 1987]

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

New	WAC 251-01-057	Child care emergency.
New	WAC 251-01-208	Family members.
Amd	WAC 251-22-110	Sick leave—Use.
Amd	WAC 251-22-112	Bereavement leave.
New	WAC 251-22-117	Leave due to child care emergencies.
Amd	WAC 251-22-200	Leave of absence without pay;

that the agency will at 9:00 a.m., Friday, June 19, 1987, in the Sexton Hall, Room 716, Wenatchee Valley College, Wenatchee, 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 28B.16.100.

The specific statute these rules are intended to implement is RCW 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

Dated: May 6, 1987

By: John A. Spitz

Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on May 6, 1987, and is filed pursuant to RCW 34.04.025.

Description of Purpose: To modify purposes for which employees may use leave and/or compensatory time and to define new terms.

Specific Statute this Rule is Intended to Implement: RCW 28B.16.100.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Title and Summary of Rule: WAC 251-01-057 Child care emergency, to identify types of situations which might be considered child care emergencies; 251-01-208 Family members, to identify individuals considered to be family members; 251-22-110 Sick leave—Use, to further specify criteria which justify use of sick leave; 251-22-112 Bereavement leave, housekeeping change to bring language into conformance with new definition and to remove definition; 251-22-117 Leave due to child care emergencies, to specify uses for leave not previously delineated; and 251-22-200 Leave of absence without pay, to specify an additional rationale for leave of absence without pay.

Reasons Supporting Proposed Action: The legislature mandated a review of the HEPB law and rules to determine where they could be made more supportive to state employees who are parents. The proposed modifications address areas where we have determined the rules could be modified as a result of that study.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: John A. Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Higher Education Personnel Board staff, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: The change is not the result of federal law or state or federal court action.

NEW SECTION

WAC 251-01-057 CHILD CARE EMERGENCY. A situation causing an employee's inability to report for or continue scheduled work because of emergency child care requirements ("child" as identified in WAC 251-01-208), such as unexpected absence of regular care provider, unexpected closure of child's school, or unexpected need to pick up child at school earlier than normal.

NEW SECTION

WAC 251-01-208 FAMILY MEMBERS. Individuals considered to be members of the family are mother, father, sister, brother, mother-in-law, father-in-law, husband, wife, grandparent, grandchild, son, daughter, stepchild, a child in the custody of and residing in the home of an employee.

AMENDATORY SECTION (Amending Order 63, filed 11/22/77, effective 12/22/77)

WAC 251-22-110 SICK LEAVE—USE. (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness or injury of a ~~((in the immediate))~~ family member fifteen years of age and over that requires the presence of the employee to provide immediate ((necessary)) care of the patient or to make arrangements for extended care. ((Immediate family shall be defined as in WAC 251-22-112.)) The personnel officer may authorize sick leave use as provided in this subsection for other than ~~((immediate))~~ family members. The applicability of "emergency", "necessary care" and "extended care" shall be made by the personnel officer.

(d) Because of illness or injury of a child (as identified in WAC 251-01-208) under the age of fifteen, when the employee's presence is required to provide care or to make arrangements for extended care.

(e) Because of illness or injury of a family member who is a person of disability and requires the employee's presence to provide care or to make arrangements for extended care.

~~((f))~~ (f) Because of a family member's death ~~((in the immediate family of the employee))~~ that requires the assistance of the employee in making arrangements for interment of the deceased.

~~((g))~~ (g) For ~~((the purpose of))~~ personal medical, dental, or optical appointments, or for family members' appointments when the presence of the employee is required, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

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 61, filed 8/30/77, effective 10/1/77)

WAC 251-22-112 BEREAVEMENT LEAVE. Sick leave in addition to that as provided in WAC 251-22-100 shall be granted for bereavement as follows:

(1) One day of bereavement leave shall be granted for each death ~~((in the immediate))~~ of a family member. Bereavement leave may be extended to a maximum of three days with the approval of the employing official and the personnel officer.

~~((2))~~ For the purposes of this rule, the immediate family is defined as mother, father, sister, brother, mother-in-law, father-in-law, husband, wife, children, grandparents, and grandchildren.)

NEW SECTION

WAC 251-22-117 LEAVE DUE TO CHILD CARE EMERGENCIES. (1) Absence due to emergency child care requirements as defined in WAC 251-01-057 shall be charged to one of the following in the order listed:

- (a) compensatory time;
- (b) vacation leave or personal holiday.

(2) Use of any of the above leave categories is dependent upon the employee's eligibility to use such leave.

(3) Use of vacation leave for emergency child care is limited to four instances per calendar year unless extended by the personnel officer.

(4) Notwithstanding (1), a permanent employee may request a leave of absence without pay for child care emergencies per WAC 251-22-200.

AMENDATORY SECTION (Amending Order 134, filed 7/31/85, effective 9/1/85)

WAC 251-22-200 LEAVE OF ABSENCE WITHOUT PAY. (1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Maternity leave;

(c) Educational leave;

(d) Leave for government service in the public interest;

(e) Child care emergencies;

~~((f))~~ (f) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 251-18-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

WSR 87-10-054**PROPOSED RULES****THE EVERGREEN STATE COLLEGE**

[Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that The Evergreen State College intends to adopt, amend, or repeal rules concerning parking regulations, amending WAC 174-116-010 through 174-116-127;

that the institution will at 1:45 a.m. [p.m.], Wednesday, June 10, 1987, in the Board of Trustees Room, Library 3112, TESC Campus, Olympia, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 28B.40.120.1 subsection 11 [28B.40.120(11)].

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 1, 1987.

Dated: May 5, 1987

By: Joseph D. Olander
President

STATEMENT OF PURPOSE

Campus parking regulations.

To provide for greater efficiency through the development of revised campus parking regulations.

Statutory Authority: WAC 174-116-010 through 174-116-127.

Summary of Rule: Establishes regulations which expedite college business, provide maximum safety and assure access at all times for emergency vehicles and personnel, and publish and revise the cost of some fines.

Agency Personnel Responsible: Ken Jacob, Director of Facilities, The Evergreen State College, Olympia, WA 98505, TA-00, 866-6000, ext. -6120.

The Evergreen State College, a public educational institution, higher education system of the state of Washington, Olympia, WA 98505.

Chapter 174-116 WAC
 PARKING (~~AND TRAFFIC RULES~~) REGULATIONS

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-010 PURPOSE. (1) To expedite college business, protect state property, provide maximum safety and convenience for all.

(2) To assure access at all times for emergency vehicles and personnel.

(3) To provide funds to obtain and maintain suitable campus parking facilities.

(4) To protect and control (~~(pedestrian and)~~) vehicular traffic.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-020 AUTHORITY. (1) The Evergreen State College through its board of trustees is authorized to establish traffic and parking regulations as stated in RCW 28B.10.560. The board of trustees reserves the right to add, delete or modify portions of these regulations including the appended fee and fine and penalty schedules in accordance with its regulations and applicable laws. Administration and enforcement of these parking regulations will be delegated to the security and parking offices.

(2) The Evergreen State College (~~(security and)~~) parking office is authorized to issue annual, quarterly, daily, car-pool, housing and special permits to park upon the campus. Special permits are issued pursuant to the provisions of these regulations. All outstanding campus parking violations must be satisfactorily settled before a special permit will be issued or renewed.

(3) The authority and powers conferred upon the security chief and director of facilities by these regulations shall be subject to delegation by him/her to subordinates.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-030 ENFORCEMENT. (~~(Security office personnel shall be responsible for enforcing traffic regulations on the campus. This shall include all college parking regulations and "rules of the road" as set forth in Title 46 of the Revised Code of the state of Washington.)~~)

Whenever an unattended vehicle is observed in violation of the regulations herein set forth, the parking or security personnel shall take the registration number and other identifiable information and shall affix to such vehicle a parking infraction in a conspicuously visible location.

AMENDATORY SECTION (Amending Order 85-1, Resolution No. 85-5, filed 1/14/85)

WAC 174-116-040 PARKING PERMITS—GENERAL INFORMATION. (1) Parking permits are issued by the (~~(security and)~~) parking office following application and the payment of the appropriate fees. All privately-owned motor vehicles parked or left standing unattended on college property are required to display a currently valid Evergreen parking permit during the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday (~~(and at such other times as the college may designate)~~).

(2) Fees for parking permits are as follows:

	Automobile	Motorcycle
Quarterly	22.00	11.00
Annual	54.00	27.00
Daily	.75	.75

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-041 PARKING PERMITS—VISITORS AND GUESTS. All visitors, including guests, salespersons, maintenance or service personnel and all other members of the public will park in available space as established by The Evergreen State College parking (~~(and traffic)~~) regulations and will pay the established parking fee except as noted below:

(1) Federal, state, county, city, school district, and similar governmental personnel, on official business in vehicles with tax exempt licenses, will be admitted without charge.

(2) Vehicles owned by contractors and their employees working on campus construction may be parked within available construction sites or designated areas without charge but must have a permit to do so.

(3) Members of the press, television, radio and wire services, on official business, may park without charge, (~~(but)~~) and must (~~(have)~~) obtain a permit (~~(authorized by)~~) at the parking (~~(office to do so)~~) booth.

(4) Taxis and commercial delivery vehicles may enter the campus without payment of the parking fee only for pick up and delivery of passengers, supplies and equipment.

(5) Visitors and guests attending special college events may be parked without charge if prior arrangement has been made with the parking office.

(6) Visitors invited to the campus for the purpose of rendering uncompensated services to The Evergreen State College may be parked without charge, provided prior notification is given to the parking office.

(7) Persons utilizing campus facilities may park for up to one hour in the B-lot visitor stalls.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-042 PARKING PERMITS—SPECIAL PERMITS. (1) (~~(Physically disabled faculty members, staff personnel, visitors, and students may apply through the security and parking office for a special parking permit in a reserved area. Such individuals must obtain a certificate from a physician indicating that special parking assignment is essential in order for them to perform their assigned duties or to attend classes. Such persons, however, must also display on their vehicle a valid daily, quarterly or annual parking permit. State of Washington handicapped "overtime parking" permits will be honored as valid on campus.)~~) Physically challenged users must display a valid TESC parking permit and a state of Washington "disabled person parking permit." Temporary permits must be approved by The Evergreen State College affirmative action office.

(2) Salespersons, maintenance and service personnel, persons serving the college without pay, and other visitors who must frequently visit the campus on college business, may be issued a parking permit from the parking office, upon request from the division benefiting from the services provided, subject to approval by the (~~(security and)~~) parking office. Parking on campus will not be provided to persons intending to make personal solicitations from or personal sales to college employees or students.

(3) Overnight or extended period permits may be (~~(obtained)~~) purchased from the (~~(security and)~~) parking office for disabled vehicles, field trips or other valid reasons that may necessitate the operator's leaving the vehicle on campus.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-043 PARKING PERMITS—ISSUANCE AND DISPLAY. (1) All parking permits must be positioned so that they are clearly visible and readable from the outside of the vehicle.

(2) Car pool permits may be purchased by faculty, staff and students. One transferable permit will be issued by the (~~(security and)~~) parking office for each car pool. This permit is transferable only among the registered members of the car pool. The permit must be displayed on the dashboard or in the left corner in front of the driver (~~(on a registered car pool vehicle)~~).

(3) Annual and quarterly parking permits must be affixed to the vehicle's rear window with the following exceptions:

(a) On convertibles and trucks they may be affixed in the lower left corner of the front windshield.

(b) On station wagons and cars with heated rear windows, permits (~~(must)~~) may be affixed in the left rear side window.

(c) Motorcycle permits must be affixed (~~(in a conspicuous place)~~) to the left front fork.

(4) Daily parking permits shall be placed on the dash board with date stamp facing up, so as to be clearly visible from the exterior of the vehicle.

(5) A parking permit application is required to be on file for each vehicle displaying a permit. Ownership of permits is not transferable

except when approved by the ~~((security and))~~ parking office. ~~((The security and parking office can approve replacement of or transfer of a permit under the following conditions:~~

- ~~(a) The person relinquishing ownership and the purchaser appear in person at the parking office when requesting a transfer.~~
- ~~(b) The former owner relinquishes all ownership or claims to said permit.~~
- ~~(c) The purchaser qualifies for ownership.~~
- ~~(d) The new owner completes a new application form for the permit.~~
- ~~(e)) If the vehicle is sold, and for any reason a replacement permit is requested, the old permit must be removed and presented to the ~~((security and))~~ parking office to be eligible for a replacement or a refund.~~

(6) Faculty, staff and students may be issued a duplicate car permit for another vehicle either personally owned, family owned, or owned by their employer. Proof of ownership or authorization from the owner for all ~~((additional))~~ vehicles must be presented. However, two vehicles bearing the same numbered permit may not be parked on campus at the same time unless one also displays a valid daily permit.

(7) Any permit holder may obtain a temporary permit at the ~~((security and))~~ parking ~~((office))~~ booth without charge for another vehicle when the vehicle for which a permit was purchased is unavailable due to repair or for another valid reason.

AMENDATORY SECTION (Amending Order 84-2, Resolution No. 84-28, filed 6/19/84)

WAC 174-116-044 PARKING PERMITS—VALIDITY PERIODS. (1) Annual parking permits shall be valid from the date of issue until the first day of the following fall quarter.

(2) Quarterly parking permits shall be valid from the date issued each academic quarter until the first day of the following academic quarter.

(3) Daily permits shall be valid from the time purchased until ~~((7:00))~~ 5:00 p.m. on the date of purchase.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-045 PARKING PERMITS—HOUSING RESIDENTS. Under the following conditions, college housing residents will, upon request, receive a parking permit at no charge.

- (1) Permits must be renewed quarterly.
- (2) Housing residents must show proof of ownership before permit will be issued.
- (3) Free parking will be discontinued when residents terminate their contract with housing.
- (4) Housing will verify residency status to the ~~((security and))~~ parking office.

(5) Only one permit per resident will be issued free. ~~((Additional permits may be purchased through regular procedures:))~~

(6) Resident parking permits will only be valid for parking in the modular parking areas or in "F" lot. A regularly purchased permit is required for use in all other parking areas.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-050 RESPONSIBILITY AND PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. The registered owner or permit holder shall be responsible for all parking violations involving the vehicle on which the permit is displayed.

In any review, appeal or hearing alleging the violation of any parking regulation, proof that the particular vehicle described was stopping, standing or parked in violation of any such regulation together with proof that the person named in the complaint or infraction at the time of such violation was the registered owner or permit holder of such vehicle shall constitute in evidence a prima facie presumption that the owner was the person who parked or placed such vehicle in the location the violation occurred.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-071 PARKING—PROHIBITED PLACES AND FINES. (1) No person shall stop, stand or park any vehicle so as to obstruct traffic along or upon any street or sidewalk.

(2) No vehicle shall park or stand except momentarily to pick up or discharge passengers~~(:)~~.

- ~~((a) At any place where official signs prohibit parking;~~
- ~~(b) Within 15 feet of a fire hydrant or in fire lanes;~~
- ~~(c)) (3) No vehicle shall be parked on any lawn or grass areas except as required for maintenance or construction authorized by the director of facilities(:);~~

- ~~((d) In excess of posted time limits;~~
- ~~(e) Within an intersection;~~
- ~~(f) So as to block a curb cut or driveway;~~
- ~~(g) Adjacent to a painted curb;~~
- ~~(h) Within 30 feet of an intersection;~~
- ~~(i) In a handicapped zone;~~
- ~~(j) In a bus zone:))~~

(4) The following schedule of fines for violations is hereby established:

<u>(a) No valid permit</u>	<u>5.00</u>
<u>(b) Overtime parking</u>	<u>5.00</u>
<u>(c) Improper position</u>	<u>5.00</u>
<u>(d) Parked where signs prohibited</u>	<u>10.00</u>
<u>(e) Parked within fifteen feet of hydrant</u>	<u>15.00</u>
<u>(f) Handicapped zone</u>	<u>15.00</u>
<u>(g) Blocking driveway</u>	<u>10.00</u>
<u>(h) Parked at painted curb</u>	<u>10.00</u>
<u>(i) Parked in prohibited zone</u>	<u>10.00</u>
<u>(j) Obstructing traffic</u>	<u>10.00</u>
<u>(k) Parked in bus zone</u>	<u>15.00</u>
<u>(l) Parked in fire lane</u>	<u>15.00</u>
<u>(m) Altered permit</u>	<u>25.00</u>

~~((3))~~ (5) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the violator to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-072 IMPOUNDING OF VEHICLES. (1) No disabled or inoperative vehicle shall be parked on the campus for a period in excess of ninety-six hours. Vehicles which have been parked for periods in excess of ninety-six hours and which appear to be disabled or inoperative may be impounded and stored at the expense of the registered owner. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from impounding and/or storage services provided by a private vendor. Notice of intent to impound will be posted on the vehicle twenty-four hours prior to impound. In any case, the owner or operator of a disabled vehicle should notify the security ~~((and))~~ or parking office of the vehicle's location and estimated time of removal or repair.

(2) Any vehicle parked upon property of The Evergreen State College in violation of these regulations, including the motor vehicle and other traffic laws of the state of Washington, may be impounded or immobilized and taken to such place for storage as the chief of security and director of facilities selects. The expense of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by him/her prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such impounding and/or storage services provided by a private vendor.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-091 SPECIAL PARKING ~~((AND TRAFFIC))~~ REGULATIONS AND RESTRICTIONS AUTHORIZED. ~~((+)) During special conditions causing additional heavy traffic and during emergencies, the security chief is authorized to impose additional traffic and parking regulations and restrictions for the achievement of the specified objectives of these regulations and provide appropriate notice thereof whenever possible.~~

~~((2) The director of facilities is authorized to erect signs, barricades and other structures and to paint marks and other directions aids upon the streets and roadways for the regulation of traffic and parking upon state lands devoted mainly to the educational, recreational, or parking activities of The Evergreen State College.~~

~~((3)) No person without authorization from the director of facilities shall move, deface, or in any way change a sign, barricade, structure, marking or direction so placed, or previously placed, for the purpose of regulating traffic or parking.~~

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-092 **PARKING OF MOTORCYCLES ((AND SCOOTERS))**. (1) Motorcycles(~~(, motorized bicycles and scooters))~~) are for the purpose of these regulations considered to be motor vehicles and are subject to all (~~(traffic and))~~ parking (~~(rules and))~~ regulations (~~((controlling other motor vehicles))~~).

(2) Motorcycles(~~(, motorized bicycles and scooters))~~) may be parked in designated areas in addition to the regular parking lots.

(3) Motorcycles(~~(, motorized bicycles and scooters))~~) are not permitted on paths, sidewalks, in buildings or in pedestrian areas at any time.

AMENDATORY SECTION (Amending Order 84-2, Resolution No. 84-28, filed 6/19/84)

WAC 174-116-119 **FINES**. (1) Payment.

(a) Persons cited for violation of these regulations may respond by paying a fine within ten days of the date of notice of infraction. However, persons cited for "no valid permit" or for "overtime parking" which are designated as five dollar fines, may pay a reduced fine of two dollars, if the citation is attached to the two dollar payment and deposited in the parking booth drop box on the same day the citation is issued. Such payment shall constitute a waiver of the right to request a review as described in WAC 174-116-121.

(b) All fines are payable to The Evergreen State College cashier. Fines may be paid in person or by mail by sending the notice of infraction and amount of fine to The Evergreen State College cashier. The cashier will not discuss the appropriateness of the fine with the payor.

(2) Unpaid.

If any fine remains unpaid after ~~((sixty))~~ ninety days from the date of the notice of infraction, the following action may be taken by The Evergreen State College:

(a) All services on campus may be withheld including academic registration for the following quarter.

(b) Transcripts may be withheld for any persons having outstanding unpaid fines.

(c) Unless payment of the fine has been made, the amount of the fine may be deleted from an employee's paycheck after notice from the controller.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-121 **ELECTION TO PAY OR CONTEST A NOTICE OF INFRACTION**. The notice of infraction issued pursuant to these regulations shall direct the alleged violator that he/she may elect either to pay the fine applicable to the violation(s) charged or to request a review with the infraction review committee within ten days of the date of the infraction.

(1) If the alleged violator chooses to contest, a written request for a review will be filed with the chairperson of the infraction review committee, through the ~~((security chief))~~ parking office. Requests for review forms are available at the ~~((security and))~~ parking office and at the parking booth. Requests for a review may be submitted without posting of the fine within ten days after date of infraction.

(2) The infraction review committee will review the written request for review and notify the ~~((alleged violator of their))~~ appellant by mail of its decision ((within ten class days)).

AMENDATORY SECTION (Amending Order 84-2, Resolution No. 84-28, filed 6/19/84)

WAC 174-116-122 **APPEAL/HEARING PROCEDURE**. (1) If the decision of the infraction review committee is not supportive of the alleged violator's request, the alleged violator may request a hearing before the review committee to present his/her case in person. The infraction review committee will meet a minimum of once a month (usually the first Wednesday of the month) to hear such appeals.

(2) Persons requesting a hearing before the infraction review committee must make such requests to the chairperson of the ~~((infraction review))~~ said committee within ten class days of notification of the initial review decision.

(3) The appellant will be notified by the chairperson of the infraction review committee of the time and date of such hearing. Decisions rendered by the infraction review committee on appeals heard shall be binding(~~(, except as provided by RCW 28B-10-560))~~).

AMENDATORY SECTION (Amending Order 85-4, Resolution No. 85-32, filed 10/18/85, effective 1/1/86)

WAC 174-116-123 **ESTABLISHMENT OF INFRACTION REVIEW COMMITTEE**. The Evergreen State College infraction review committee is hereby established, the members of which shall be composed of the following:

- (1) One faculty member chosen by the vice-president and provost;
- (2) One exempt staff member chosen by the president;
- (3) One classified staff member chosen by the vice-president for ~~((business))~~ development and administrative services;
- (4) Two currently enrolled students chosen by the vice-president for student affairs;
- (5) ~~((The chief of security will serve as a nonvoting member, and~~
- (6)) A nonvoting secretary chosen by the ~~((chief of security))~~ director of facilities.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-126 **APPEAL/HEARING—PROCEDURE—REVIEW DECISION**. Upon conclusion of the review and/or appeal, the chairperson of the infraction review committee shall render the decision of the review committee ~~((as to guilty or not guilty and shall assess fines or penalties not in excess of the schedule of fines set forth in WAC 174-116-260))~~ as to appropriateness of the assessed fines. The decision shall be recorded in the records maintained by the ~~((security and))~~ parking office and the ((chairperson)) secretary of the infraction review committee shall endorse his/her signature therein, certifying the record to be correct.

AMENDATORY SECTION (Amending Order 83-4, Resolution No. 83-42, filed 9/22/83)

WAC 174-116-127 **APPEAL/HEARING—MITIGATION AND SUSPENSION OF FINES**. Upon the showing of good cause or mitigating circumstances, the infraction review committee may impose any lesser fine than those established in WAC 174-116-260 of these regulations or may dismiss the fine. The chairperson may grant an extension of time within which to comply with the review and/or appeal decision. A person charged with a parking infraction who deems himself or herself aggrieved by the final decision in an internal adjudication may, within ten days after written notice of the final decision, appeal by filing a written notice thereof with the ~~((college or university police force))~~ parking office. Documents relating to the appeal shall immediately be forwarded to the district court in the county in which the offense was committed, which court shall have jurisdiction over such offense and such appeal shall be heard de novo.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 174-116-070 **SPEED**.
WAC 174-116-190 **PEDESTRIAN RIGHT OF WAY**.
WAC 174-116-260 **FINES AND PENALTIES**.

WSR 87-10-055**ATTORNEY GENERAL OPINION**

Cite as: AGO 1987 No. 15

[May 5, 1987]

COUNTY—LAW ENFORCEMENT AGENCY—POLYGRAPH EXAMINATIONS—AUTHORITY TO ADMINISTER POLYGRAPH EXAMINATION TO NEW EMPLOYEES

The security committee of the Grant County dispatch center, consisting of the representatives of the law enforcement agencies of Grant County, has the authority under RCW 49.44.120 to require polygraph examinations of those current employees of the dispatch center

who have never been under the control of a law enforcement agency prior to commencing employment at the dispatch center.

Requested by:

Honorable Paul Klasen
Prosecuting Attorney
County of Grant
P.O. Box 37
Ephrata, Washington 99923

WSR 87-10-056

PROPOSED RULES

COMMISSION FOR VOCATIONAL EDUCATION

[Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Commission for Vocational Education intends to adopt, amend, or repeal rules concerning repealing the financial security requirement (surety bond, assignment of account, etc.) and implementing the tuition recovery fund (amending rules previously filed December 31, 1986);

that the agency will at 9 a.m., Thursday, June 18, 1987, in the Main Building, Seattle Central Community College, 1701 Broadway, Seattle, WA 98122, 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 1987 Law, Senate Bill 5880.

The specific statute these rules are intended to implement is 1987 Law, Senate Bill 5880.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

Dated: May 6, 1987

By: Merritt D. Long
Executive Director

STATEMENT OF PURPOSE

Title: Chapter 490-800 WAC.

Description of Purpose: Revision.

Statutory Authority: Senate Bill 5880.

Specific Statute Rule is Intended to Implement: Senate Bill 5880.

Summary of Rule: Replace financial security provisions with Tuition Recovery Fund Act.

Reasons Supporting Proposed Action: Emergency clause in Tuition Recovery Fund Act goes into effect upon signing by the governor.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Special Programs Division, 753-5673.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Commission for Vocational Education.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: N/A.

Whether Rule is Necessary as Result of Federation Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: N/A.

AMENDATORY SECTION (Amending Resolution No. 86-81-3, filed 12/31/86)

WAC 490-800-100 APPLICATION CONTENTS. (See RCW 28C.10.050 and 28C.10.060.) Any entity desiring to operate a private vocational school shall apply for license to the agency on forms provided by the agency which shall include the following information attested to by the school's chief administrative officer.

(1) Owners, shareholders, and directors:

(a) The complete legal name of the school, current telephone number, current mailing address, the school's physical address, and date of establishment;

(b) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, prior school affiliations and capacities, and any other appropriate information of all those with ten percent or more ownership interest;

(d) A school which is a corporation or a subsidiary of another corporation shall submit to the agency as part of the school's application current evidence that the corporation is registered with the Washington secretary of state's office and the name, address and telephone number of the corporation's registered agent;

(e) "Ownership" of a school means:

(i) In the case of a school owned by an individual, that individual;

(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more ownership interest;

(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(2) Additional instruction site(s). Application for a license to operate shall identify locations of all separate instructional facilities operated by the entity. All locations at which education is offered by entities licensed to operate shall be deemed a location of the private vocational school, provided that the private vocational school provides the course curriculum and guidelines for teaching at each location and that a single location is identified as the principle facility for recordkeeping. All licenses shall specify the instructional location(s) for which the license is valid. Licenses shall be valid only for those locations listed in the initial application and renewal forms.

(3) Agents of institutions. Each agent's name, address, phone number, territory, date of birth, prior school affiliations and capacities, and any other appropriate information.

~~(4) ((Surety bond or assignment of account. Each school shall have on file with the agency an approved surety bond or other security in lieu of a bond as specified by RCW 28C.10.080 and WAC 490-800-180.~~

~~(5))~~ Financial statement. Each school must annually disclose to the agency information reflecting the financial condition of the school at the close of its most recent fiscal or calendar year to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Entities operating a private vocational school must submit:

(a) The fiscal year dates utilized for the school's operations;

(b) A financial statement showing gross tuition fee and income (excluding refunds, books, tools, and supplies) for the last completed fiscal year, certified by the school's chief administrative officer. This may be accomplished by submitting one of the following:

(i) A copy of an external audit prepared by a certified public accountant or a state audit agency; or

(ii) A financial statement in the format provided by the agency;

(c) Institutions just starting operations at the time of initial licensing must substitute a proposed operating budget for the succeeding twelve months' period in lieu of a financial statement.

~~((6))~~ (5) Financial references. The name of a bank or other financial institution that may be consulted as a financial reference for the entity and school.

~~((7))~~ (6) Catalog.

~~((8))~~ (7) Enrollment agreement/contract.

~~((9))~~ (8) Administrators/instructors educational and occupational records. Names, addresses, phone numbers, positions, education, experience, prior school affiliations, birthdates, and any other appropriate information.

AMENDATORY SECTION (Amending Resolution No. 86-81-3, filed 12/31/86)

WAC 490-800-130 FINANCIAL STANDARDS. (See RCW 28C.10.060 (1)(a).) The school must demonstrate that it has sufficient financial resources to:

- (1) Fulfill its commitments to students;
- (2) Follow a uniform state-wide cancellation and refund policy as specified in these rules;
- (3) Meet the school's financial obligations;
- (4) Furnish and maintain (~~surety bonds or other security as required in these rules~~) contributions to the tuition recovery fund as required under WAC 490-800-180.

AMENDATORY SECTION (Amending Resolution No. 86-81-3, filed 12/31/86)

WAC 490-800-180 (~~(SURETY BOND OR OTHER SECURITY)~~) TUITION RECOVERY FUND. (~~(See RCW 28C.10.080.)~~) (1) Computation. The security posted by an entity to comply with the provisions of this chapter shall be based on the following scale:

Gross Annual Tuition Income	Bond/Security
\$0.00 to \$50,000	\$ 5,000
\$50,001 to \$75,000	\$ 7,500
\$75,001 to \$100,000	\$ 10,000
\$100,001 to \$150,000	\$ 15,000
\$150,001 to \$200,000	\$ 20,000
\$200,001 to \$250,000	\$ 25,000
\$250,001 to \$500,000	\$ 50,000
\$500,001 to \$750,000	\$ 75,000
\$750,001 to \$1,000,000	\$100,000
\$1,000,001 to \$1,250,000	\$125,000
\$1,250,001 to \$1,500,000	\$150,000
\$1,500,001 to \$1,750,000	\$175,000
\$1,750,001 and above	\$200,000

~~PROVIDED, That the bond or other security posted shall be based on tuition income derived from gross annual tuition income for in-state schools and, for out-of-state schools, the bond shall be based on gross annual tuition income received from or on behalf of Washington state residents, during the institution's preceding fiscal year of operation, as evidenced in the financial statement required by WAC 490-800-100(5); PROVIDED FURTHER, That the bond or other security posted shall be at least five thousand dollars but no more than two hundred thousand dollars; AND PROVIDED FURTHER, That institutions not yet in operation or otherwise lacking a full year's financial data prior to initial licensing shall post bond or other security based upon the same gross annual tuition estimate employed under WAC 490-800-120.~~

(2) Cash deposit or other negotiable security. The following types of deposits are acceptable:

(a) Escrow account which provides the state of Washington with a recourse against the assets in the account as it would have against an insurance company on a bond.

(b) Certificate of deposit or government securities with a power of attorney which authorizes the state of Washington to have a full recourse to the assets of the instrument as it would to an insurance company on a bond. The bank will assume the responsibility of keeping the instrument safe and will not release same to the owner or school unless the agency, executive director, or his/her designee, advises for a release.

(c) Irrevocable letter of credit from a bank, made payable to the commission and deposited with the agency.

(d) Any other negotiable security acceptable to the executive director.

(3) Upon expiration of the bond or other security, the license shall be automatically revoked.) (1) Establishment of fund liability limits. The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be based on the following scale:

Gross Annual Tuition Income:

Liability Limit:

\$0.00 to \$50,000	\$ 5,000
\$50,001 to \$75,000	\$ 7,500
\$75,001 to \$100,000	\$ 10,000
\$100,001 to \$150,000	\$ 15,000
\$150,001 to \$200,000	\$ 20,000
\$200,001 to \$250,000	\$ 25,000
\$250,001 to \$350,000	\$ 35,000
\$350,001 to \$500,000	\$ 50,000
\$500,001 to \$750,000	\$ 75,000
\$750,001 to \$1,000,000	\$100,000
\$1,000,001 to \$1,250,000	\$125,000
\$1,250,001 to \$1,500,000	\$150,000
\$1,500,001 to \$1,750,000	\$175,000
\$1,750,001 and above	\$200,000

Provided, that the calculation of gross annual tuition for a school located outside the state of Washington shall include only that income derived from residents of this state during the entity's preceding fiscal year of operation, as evidenced in the financial statement required by WAC 490-800-100(5); however institutions not yet in operation or otherwise lacking a full year's financial data prior to initial licensing, shall have a liability limit calculated on the basis of the gross annual tuition estimate that institution supplies under the provisions of WAC 490-800-120; however no liability established in any circumstance shall be less than five thousand dollars or more than two hundred thousand dollars.

(2) Matrix for calculating pro rata deposits and other recovery fund obligations:

Level of Liability (Section 1):	Prorated Participatory Share:
\$ 5,000	\$ 0.15%
\$ 7,500	\$ 0.23%
\$ 10,000	\$ 0.30%
\$ 15,000	\$ 0.46%
\$ 20,000	\$ 0.61%
\$ 25,000	\$ 0.76%
\$ 35,000	\$ 1.07%
\$ 50,000	\$ 1.52%
\$ 75,000	\$ 2.28%
\$100,000	\$ 3.05%
\$125,000	\$ 3.81%
\$150,000	\$ 4.57%
\$175,000	\$ 5.33%
\$200,000	\$ 6.10%

(3) Initial capitalization. Within thirty days after enactment of Senate Bill No. 5880, 1987 regular session, each entity licensed under this chapter shall submit to the agency in cash, or by check or money order, the following amounts for deposit into the tuition recovery fund, those being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling two hundred thousand; however an amount calculated in like manner shall be remitted by each entity applying for licensure thereafter as a condition to the reissuance of such license:

Level of Liability (Section 1):	Capitalization Deposit:
\$ 5,000	\$ 305
\$ 7,500	\$ 457
\$ 10,000	\$ 609
\$ 15,000	\$ 914
\$ 20,000	\$ 1,219
\$ 25,000	\$ 1,523
\$ 35,000	\$ 2,133
\$ 50,000	\$ 3,046
\$ 75,000	\$ 4,570
\$100,000	\$ 6,093
\$125,000	\$ 7,616
\$150,000	\$ 9,139
\$175,000	\$10,663
\$200,000	\$12,186

(4) Five-year contribution schedule. As a condition to remaining licensed under this chapter, each entity shall, commencing six months after the due date of its initial payment and thereafter, remit to the agency for deposit into the tuition recovery fund semiannual payments in cash, or by check or money order, payments in accordance with the following schedule, such amounts being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling one million dollars; however the calculation of final payment may be adjusted to cover total remittances to equal the total amount of deposit due.

<u>Level of Liability (Section 1):</u>	<u>Semiannual Deposit Required:</u>
\$ 5,000	\$ 122
\$ 7,500	\$ 183
\$ 10,000	\$ 244
\$ 15,000	\$ 366
\$ 20,000	\$ 487
\$ 25,000	\$ 609
\$ 35,000	\$ 853
\$ 50,000	\$1,219
\$ 75,000	\$1,828
\$100,000	\$2,437
\$125,000	\$3,046
\$150,000	\$3,656
\$175,000	\$4,265
\$200,000	\$4,874

(5) The agency will prepare and mail to each licensee semiannual notices of the due dates and amounts of deposits required under subsection (4) of this section. The fee for late filings under WAC 490-800-120(3) of this chapter shall apply to late payments of deposits into the fund for a period cumulating to thirty days. Failure to make a deposit within thirty days is a violation of RCW 28C.10.050 (1)(f).

(6) Each notice conforming to subsection (5) of this section shall include therein at least once each year:

(a) A notation showing the licensee's aggregated prior deposits into the fund;

(b) A notation showing the licensee's balance of remaining payments, based on the most recent deposit received;

(c) A notation showing the cumulated balance existing in the fund at the most recent half-year accounting; and

(d) A summary showing any disbursements made from the fund to satisfy claims in the period since the last such similar summary was disseminated.

(7) Only when disbursements made to settle claims reduce the operating balance below two hundred thousand dollars following such disbursements, the agency shall assess each licensee a pro rata share of an amount required to restore the deficiency created by such disbursements, employing for calculations of each respective share the same percentages established by the matrix appearing under subsection (2) of this section. In the event that the amount of any single such assessment equals or is less than the semiannual amount of deposit established for a licensee under subsection (4) of this section, the assessment shall be paid within thirty days of notice. In the event any single assessment exceeds the amount of its semiannual deposit, the entity may apply to the agency for a schedule of deferred payments. The agency shall grant such deferrals on application, but in no case shall the time extended exceed one year beyond the date of an assessment.

(8) Funds disbursed to settle claims against a current licensee shall be recovered by the agency under a schedule to be negotiated with the affected entity on a case-by-case basis following such disbursement. To secure deferral of payment more than thirty days after demand for recovery is made, the burden to prove manifest hardship rests on the entity but in no case shall the time extended exceed one year beyond the date of the initial demand notice.

AMENDATORY SECTION (Amending Resolution No. 86-81-3, filed 12/31/86)

WAC 490-800-250 DEGREE-GRANTING PRIVATE VOCATIONAL SCHOOLS—APPLICABLE RULES. (See RCW 28C.10.040(4).) (1) Institutional accredited degree-granting private vocational schools.

(a) Pursuant to rules adopted by the higher education coordinating board, that agency will exempt from compliance with chapter 28B.85

RCW those degree programs that are covered by the institution's accreditation. For purposes of this exemption, the board recognizes those national and regional institutional accrediting agencies recognized by the council on postsecondary accreditation.

(b) The commission for vocational education or its successor agency will process the application of an institutionally accredited degree-granting private vocational school which offers nondegree programs in accordance with chapter 28C.10 RCW. The license fee and bond or other security shall be based on the income derived from nondegree programs.

(2) Nonaccredited degree granting private vocational schools:

(a) The higher education coordinating board will process the application and collect the fee of nonaccredited degree-granting private vocational institutions when the majority of programs offered are degree programs. Nondegree programs will be reviewed by the commission for vocational education or its successor agency, as will student complaints regarding nondegree programs. A single surety bond or other security based on total tuition will be required and will name both agencies as obligees.

(b) The commission for vocational education or its successor agency will license nonaccredited degree-granting private vocational schools when the majority of programs offered are nondegree programs and collect fees based on annual income from nondegree programs; PROVIDED, That the minimum initial fee shall be eight hundred dollars and the minimum renewal fee shall be four hundred dollars. Degree programs will be reviewed by the higher education coordinating board, as will student complaints regarding degree programs. ~~((A single surety bond or other security based on total tuition will be required and will name both agencies as obligees.))~~ Contributions to the tuition recovery fund will be required under WAC 490-800-180.

(3) If either the commission for vocational education or its successor agency or the higher education coordinating board revokes, suspends or fails to renew the license or authorization of an institution, it immediately will notify the other of such action.

**WSR 87-10-057
PROPOSED RULES
UNIVERSITY OF WASHINGTON
[Filed May 6, 1987]**

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the University of Washington intends to adopt, amend, or repeal rules concerning the amending of chapter 478-116 WAC, the parking and traffic regulations of the University of Washington, specifically the following sections: WAC 478-116-080, 478-116-240, 478-116-250, 478-116-260, 478-116-270, 478-116-290, 478-116-350, 478-116-370, 478-116-390, 478-116-450, 478-116-520, 478-116-582, 478-116-584, 478-116-588, 478-116-590, 478-116-600 and 478-116-601;

that the institution will at 11:30 a.m., Thursday, June 11, 1987, in Rooms 200-A,B,C, Student Union Building, University of 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 22, 1987.

The authority under which these rules are proposed is RCW 28B.10.560 and 28B.20.130.

The specific statute these rules are intended to implement is RCW 28B.10.560 and 28B.20.130.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before June 1, 1987.

Dated: May 4, 1987
By: Elsa Kircher Cole
Assistant Attorney General

STATEMENT OF PURPOSE

Statutory Authority: RCW 28B.10.560 and 28B.20.130.

Purpose of the Rule(s): The UW parking and traffic regulations regulate parking, and pedestrian and vehicular traffic on the university campus.

Summary of the Rule(s): Parking restrictions, fees, and fines are imposed to control traffic, minimize traffic disturbances, facilitate the work of the university by assuring access to its vehicles, and to assure the most efficient use of limited parking space to a wide range of users, including faculty, staff, students, and visitors.

Reasons Which Support the Proposed Action: To clarify and update current sections to conform with existing laws and practices; to increase fees to assure an adequate level of revenues to support parking system operations; to adjust fines to more closely follow those of the city of Seattle; and to eliminate zonal distinctions among lots to simplify operations and the parking fee schedule.

Name of Person or Organization Proposing the Rule(s): Tallman Trask III, Vice President for Finance and Administration, governmental.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s): Tallman Trask III, Vice President for Finance and Administration, (206) 543-6410.

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 Matters Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 86-3, filed 8/11/86)

WAC 478-116-080 BICYCLE PARKING AND TRAFFIC REGULATIONS. (1) The primary aim of the bicycle control program is safety, and this aim will be achieved by keeping bicycles out of buildings, away from building exits, and parking them off paths and sidewalks. All bicycle owners are encouraged to register their bicycles at the university police department.

(2) Bicycles shall be parked in racks. At no time shall a bicycle be parked in a building, near a building exit, on a path or sidewalk, in planted areas nor chained or otherwise secured to trees, lamp standards or sign posts. Except for racks adjacent to the residence halls, bicycle racks in campus areas are for parking and shall not be used for overnight storage.

(3) Bicycles may be ridden any place where vehicles are permitted. They may be ridden on sidewalks, though pedestrians always have the right of way. Bicycles shall not be ridden on paths or streets where signs indicate such is prohibited. An audible signal shall be used by bicycle operators to warn pedestrians of oncoming bicycles.

(4) Moving a bicycle into any unauthorized area is prohibited.

(5) Impounding for illegal parking.

(a) Bicycles parked in violation of WAC 478-116-080(2) will be subject to seizure and impounding by the university.

(b) A bicycle abandoned or parked on university land for twenty-one calendar days or longer is subject to seizure and impound by the university. A bicycle will not be considered abandoned when the owner/operator is unable to remove it and so notifies the university police department.

(c) Impounded bicycles will be stored at the university police department. Bicycles will be released at specified times and upon presentation of proof of ownership and payment of a ~~((53.00))~~ \$5.00 fine. Owners of impounded bicycles, if identifiable, will be notified as soon as reasonably possible after impoundment and must reclaim the bicycle within ~~((seven))~~ fifteen calendar days. Bicycles unclaimed after ~~((seven))~~

~~days will be released to the sole custody and control of the Seattle police department)) sixty calendar days will be subject to sale at a public auction conducted by the university police department. The university and its officers, employees and agents shall not be liable for loss or damage of any kind resulting from such immobilization, impounding and storage.~~

AMENDATORY SECTION (Amending Order 84-3, filed 4/30/84)

WAC 478-116-240 VISITOR PARKING. All visitors, including guests, salespersons, ~~((hospital or health center))~~ patients ~~((and in-patient visitors))~~, maintenance or service personnel, contractors, consultants, and all other members of the public shall park only in available space as directed by the parking division and ~~((shall pay the established parking fee))~~ the established parking fee shall be paid, except as noted below:

(1) ~~((Federal, state, county, city, school district and similar governmental personnel on official business either in vehicles with tax exempt licenses or by prior arrangements with the parking division shall be admitted to the campus without charge.~~

~~((2) Vehicles owned by contractors and their employees working on campus construction may be parked in designated construction work areas as shown on the construction project drawings without charge. A valid construction parking permit must be visibly displayed in these vehicles.~~

~~((3))~~ University of Washington licensed vehicles.

(2) Members of the ~~((press, television, radio and wire services))~~ media on official business may park in designated spaces without charge.

~~((4))~~ (3) Taxis, tow trucks, and commercial delivery vehicles may enter the campus without payment of the parking fee for pickup or delivery of passengers, supplies and equipment only.

(4) School buses and tour buses.

(5) ~~((Visitors and guests attending special university-wide events such as commencement will be parked without charge. Parking fees shall be charged for college and departmental events such as open houses, symposiums, social and cultural events, unless exempted elsewhere in these regulations.~~

~~((6) Visitors invited))~~ Individuals coming to the campus for the purpose of rendering uncompensated services to ~~((departmental areas))~~ the University of Washington will be parked in designated areas without charge. In such event, the department or administrative unit receiving the uncompensated service will pay the parking fee ~~((from its operating budget))~~ at the departmental commuter ticket rate.

~~((7) Persons invited to the campus for the purpose of rendering uncompensated services to the University of Washington, as identified by the office of the president, will be parked in designated areas without charge.~~

~~((8) Persons holding emeritus or similar appointments who do not elect reemployment in a compensated status after retirement will be parked in designated areas without charge.))~~ (6) Persons holding emeritus or similar appointments will, upon request, be issued complimentary commuter ticket books. These ticket books shall not be valid during any quarter in which the emeritus person is employed by the university; in such cases, the retiree rate as provided in WAC 478-116-600 (1)(a)(vii) shall apply.

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-250 SPECIAL PERMITS. (1) Temporary or part-time employees, salespersons, maintenance and service personnel, persons serving the university without pay, and other visitors who must frequently visit the campus on university business, shall be issued parking permits at the regular annual or quarterly fee or at a rate based on the regular annual fee, subject to the approval of the manager of the parking division. Parking on the campus will not be provided to persons intending to make personal solicitations from or personal sales to university employees or students.

(2) Complimentary drive-through permits may be issued to parents of young children registered in university sponsored programs. Drive-through permits do not include parking privileges.

(3) The manager of the parking division will assist university departments which sponsor functions such as conferences, seminars, dinners, and similar events in arranging for parking and the collection of parking fees. Such fees will be deposited in the parking fund.

(4) Self-sustaining university departments may requisition parking for their events in the same manner as they do other services furnished by the university and the parking fees collected will be deposited in the parking fund.

(5) Reserved parking areas may be assigned for use by the president, vice presidents, deans, department directors, or their equivalents. Additionally, reserved parking areas may be assigned for use by physically handicapped individuals where need and condition therefor are demonstrated to the manager of the parking division. The transportation officer is authorized to make exceptions to these restrictions if it is determined that such reserved status is required in the conduct of university business. Reserved parking area permits will be issued only by the manager of the parking division and upon payment of the prescribed fee. Such parking areas will be reserved ~~((only))~~ usually between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday.

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-260 ATHLETIC EVENT PARKING. The parking fee established in WAC 478-116-600~~((2))~~ will be charged for each vehicle parked for athletic events, except:

- (1) Vehicles displaying valid university parking permits;
- (2) Vehicles of visiting teams, coaches and bands;
- (3) Vehicles of persons presenting permits for prepaid athletic parking. The agency or office issuing the permit will reimburse the parking fund at the established fee for each vehicle parked.

AMENDATORY SECTION (Amending Order 86-3, filed 8/11/86)

WAC 478-116-270 EVENING PERMITS. Evening permits will allow ~~((daily))~~ parking during the period of time printed on the permit, as well as on Saturdays or Sundays in assigned areas, except ~~((football))~~ for scheduled athletic and other special events parking.

AMENDATORY SECTION (Amending Order 79-3, filed 8/2/79)

WAC 478-116-290 TEMPORARY AND REPLACEMENT PERMITS. (1) Any permit holder may obtain without charge a temporary permit at the parking division office for an unregistered vehicle when necessary due to nonavailability of his or her registered vehicle.

(2) Any permit holder may obtain ~~((at a charge of one dollar))~~ a replacement permit upon completion of a signed certificate as provided in WAC 478-116-600(2) when his or her assigned permit has been lost, stolen or destroyed.

~~((3) Any permit holder may obtain at a charge of one dollar a replacement permit upon delivery of the scrapings of his or her assigned permit when his or her vehicle has been sold. Without the scrapings a replacement fee of two dollars will be charged as provided in WAC 478-116-600(2).))~~

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-350 METERED PARKING. Any vehicle other than university owned vehicles ~~((occupying))~~ with tax exempt license or a vehicle displaying a disability permit or license issued by the state department of licensing which occupies metered space is subject to payment of the meter fee in accordance with the hours posted, even though the vehicle may display a valid permit.

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-370 RECALL OF PERMITS. Permits are the property of the university, and may be recalled by the manager of the parking division for any of the following reasons:

- (1) When the purpose for which the permit was issued changes or no longer exists;
- (2) When a permit, area designator or gate key card is used by or on an unregistered vehicle or by an unauthorized person;
- (3) Falsification on a parking permit application;
- (4) Nonpayment of parking fees;
- (5) Counterfeiting or altering of permits, area designators or gate key cards;
- (6) Failure to comply with a final judgment of the university parking court;
- (7) Vehicles displaying recalled permits will be subject to impound on sight and the permit confiscated for return to the manager of the parking division.

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-390 SCHEDULE OF FEES. Fees for parking are those provided in WAC 478-116-600~~((2))~~.

AMENDATORY SECTION (Amending Order 79-3, filed 8/2/79)

WAC 478-116-450 ELECTION TO FORFEIT OR CONTEST.

(1) The summons or parking violation notice issued pursuant to WAC 478-116-440 shall advise the alleged violator that he or she may elect either to pay and forfeit the fine applicable to the violation(s) charged or to contest the matter(s) in the university parking court.

(2) If the alleged violator chooses to forfeit the fine(s) he or she may do so by mail, forwarding the appropriate amount by check or money order or bringing such amount in cash to the university parking violations division. Such forfeiture shall constitute a waiver of the right to a hearing.

(3) If the alleged violator chooses to contest, he or she may do so by contacting the parking violations division and requesting a date to appear in court. Such request may be made by telephone, mail or in person.

(4) If an alleged violator has received one or more parking violation notice(s) amounting to ~~((12.00))~~ \$20.00 or more and has neither paid the fines nor requested a court date, the parking violations division shall send a notice of election to forfeit or contest to the alleged violator not less than seven ~~((business))~~ calendar days following service of the unanswered summons or parking violations notice. This notice shall direct the individual to either (a) pay the fine in the amount specified or, (b) request an appearance before the university parking court. Such action must be taken within ten ~~((business))~~ calendar days of the date the notice of election to forfeit or contest was posted. Failure to comply with either (a) or (b) within the specified time limit will result in a default judgment, and the university parking judge may impose such penalty or fines appropriate under the schedule of fines established pursuant to WAC 478-116-520.

(5) Failure of an alleged violator to appear in the university parking court on the date set or to apply for a continuance of the hearing date or to pay and forfeit fines prior to the hearing date shall, unless lawful excuse is established before the university parking court, constitute a plea of guilty to the complaint or information and such penalty or fine may be imposed by the parking judge as is appropriate under the schedule of fines established pursuant to WAC 478-116-520.

AMENDATORY SECTION (Amending Order 79-3, filed 8/2/79)

WAC 478-116-520 FINES AND PENALTIES. (1) The fines or penalties which may be assessed for violations of these regulations are those detailed in WAC 478-116-601.

(2) Fines.

(a) Persons cited for violation of these regulations may respond either by arranging for a university parking court date or by paying and forfeiting a fine within ~~((seven))~~ fifteen calendar days of service of the citation in accordance with WAC 478-116-450. Forfeitures submitted by mail must be postmarked within ~~((seven))~~ fifteen calendar days of the date of issue of the citation in order to avoid additional penalties.

(b) An additional fine of ~~((5.00))~~ \$7.00 per offense shall be assessed for each parking citation which is not responded to within the ~~((seven))~~ fifteen calendar day limit provided in WAC 478-116-520 (2)(a).

(c) The manager of the parking division shall cause these regulations or a reasonable summary thereof to be:

(i) Published in the University of Washington Daily at least twice each calendar year.

(ii) Prominently displayed in the offices of the university parking violations division, the university police department, and the parking division.

(d) The fine schedule shall be printed on the parking violation notices served on alleged violators.

(3) In any case where an alleged violator within a period of three months or less has a combined total of five or more violations with respect to which he/she has either forfeited the fine or been convicted of the violation, the parking judge may, in addition to whatever fines are appropriate under the applicable fine schedule, impose the following sanctions:

(a) Suspension of permit parking privileges on campus for a specified time;

(b) Direct a report of the offense to be forwarded to the appropriate dean or administrative officer.

AMENDATORY SECTION (Amending Order 86-3, filed 8/11/86)

WAC 478-116-582 IMPOUNDMENT FOR FAILURE TO PAY FINES. Any vehicle may be impounded for outstanding fines

when, after ~~((fourteen))~~ fifteen calendar days after judgment of the university parking court imposing liability for fines, the owner has neither paid such fines nor requested a hearing before the university parking court to contest the judgment. In no case shall failure to comply with a judgment of the parking court constitute grounds for impoundment unless notice is sent to the registered owner or alleged violator prior to the hearing informing him of the violations with which he/she was charged and of his/her right to elect between paying the fine prior to the date set for hearing before the parking court or appearing on that date to contest such fines. Such notice shall clearly indicate that failure to respond by either payment of the fines or appearance in court will result in a judgment against the owner and that failure to comply with an order of the parking court will subject the vehicle to impoundment if it is found parked on university lands.

AMENDATORY SECTION (Amending Order 78-3, filed 6/15/78)

WAC 478-116-584 **IMPOUNDMENT WITHOUT PRIOR NOTICE.** A vehicle may be impounded without reasonable attempt having been made to notify the owner of the possibility of this action only in the following circumstances:

- (a) When in the judgment of a university police officer the vehicle is obstructing or may impede the flow of traffic, or is parked unattended in a posted fire lane, or
- (b) When in the judgment of a university police officer the vehicle poses an immediate threat to public safety, or
- (c) When a university police officer has probable cause to believe the vehicle is stolen, or
- (d) When a university police officer has probable cause to believe that the vehicle contains or constitutes evidence of a crime ~~((or contains evidence of a crime))~~, and in his judgment impoundment is necessary to obtain or preserve such evidence.
- (e) When a driver is arrested and/or deprived of the right to leave with his/her vehicle, and the university police are responsible for the "safekeeping" of the vehicle.

AMENDATORY SECTION (Amending Order 78-3, filed 6/15/78)

WAC 478-116-588 **NOTICE AND REDEMPTION OF IMPOUNDED VEHICLES.** (1) Not more than ~~((48))~~ twenty-four hours after impoundment of any vehicle, the University of Washington police department shall mail a notice to the registered owner of the vehicle, as may be disclosed by the vehicle license number, if such be obtainable, and to any other person who claims the right to possession of the vehicle, if such a claim is known to an officer, agent or employee of the University of Washington police department who has knowledge of the impoundment. The notice shall be mailed to the registered owner at the address provided by the Washington state department of ~~((motor vehicles))~~ licensing or the corresponding agency of any other state or province. If a police officer who has knowledge of the impoundment has reason to believe that an owner, or one who claims to be an owner, is residing or in custody at some different address which is known to the officer, a copy of the notice shall be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to him or her. The notice shall contain the full particulars of the impoundment, redemption, an opportunity for ~~((for))~~ a hearing to contest the propriety of the impoundment as hereinafter provided.

Similar notice shall be given to each person who seeks to redeem an impounded vehicle. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

(2) Vehicles impounded shall be redeemed only under the following circumstances:

(a) Only the registered owner who has a valid driver's license or person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt therefor, may redeem an impounded vehicle.

(b) Any person so redeeming a vehicle impounded shall pay the cost of such impoundment (towing and storage), together with such fines as ~~((are outstanding against the vehicle if impoundment was made pursuant to))~~ are outstanding against the vehicle if impoundment was made pursuant to WAC 478-116-582 prior to redemption, except as provided in subsection (c) of this regulation.

(c) Any person seeking to redeem a vehicle impounded under ~~((WAC 478-116-582,))~~ WAC 478-116-582, 478-116-584 or 478-116-586 has a right to a hearing to contest the validity of impoundment or the amount of towing and storage charges and shall have his or her vehicle released upon making a written request for a hearing to

the university parking court~~((for))~~, paying any outstanding fines, and executing a promissory note, naming the University of Washington as payee, in an amount to include both the costs of towing and storage and a civil penalty of fifty dollars which promissory note shall immediately become due and owing in the event such person either:

- (i) Fails to appear at the requested hearing, or
- (ii) Fails to pay by ~~((7:00))~~ 6:00 p.m. the next business day following the hearing any towing and storage charges for which such person may be found liable.

(A) In addition to any other penalty which may be imposed as a result of actions described in subsections (i) or (ii), campus parking privileges shall be suspended until all such debts are paid.

(B) The promissory note shall be automatically cancelled and discharged when a person either:

- (i) Pays the towing and storage charges and cancels his or her request for a hearing, or
- (ii) Pays the towing and storage charges by ~~((7:00))~~ 6:00 p.m. the next business day after having been found liable therefore at the hearing provided for in this section.

AMENDATORY SECTION (Amending Order 75-2, filed 6/4/75)

WAC 478-116-590 **DELEGATION OF AUTHORITY.** The authority and powers conferred upon the chief of police, ~~((chief plant engineer))~~ plant engineering manager and the manager of the parking division by these regulations shall be subject to delegation by them to their subordinates.

AMENDATORY SECTION (Amending Order 86-3, filed 8/11/86)

WAC 478-116-600 **FEES.** ~~((1))~~ For purposes of this section the following lots are in:

- (a) Zone A -
 - (i) Central campus: C1, C3, C6, C7, C8, C9, C10, C12, C13, C14, C15, C16, C17, C18, C19;
 - (ii) East campus: E3, E6, E7, E8, E13, E15, E16;
 - (iii) North campus: N2, N3, N4, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N18, N20, N21, N22, N23, N24, N26, N27, N28;
 - (iv) South campus: S1, S4, S5, S6, S7, S8, S9, S10;
 - (v) West campus: W3, W4, W5, W6, W7, W8, W9, W10, W11, W12, W13, W14, W19, W20, W21, W22, W23, W24, W25, W29, W34, W39, W41, W42.

- (b) Zone B -
 - (i) East campus: E2, E9, E10, E11, E12;
 - (ii) North campus: N1, N5, N25;
 - (iii) South campus: S13;
 - (iv) West campus: W2, W26, W27, W28, W33, W35, W36, W40.
- (2) The following schedule of parking fees is hereby established:

	PER	AMOUNT
(a) Type of permit =		
(i) Annual permits:		
(A) Zone A permits	Year	\$204.00
(B) Zone B permits	Year	150.00
(C) Reserved - general	Year	420.00
(D) Wheelchair permits	Year	150.00
(E) Motorcycles, scooters and mopeds	Year	30.00
(F) Drive-through permits (Full-time faculty and staff only)	Year	6.00
(G) 24-hour storage, garages	Year	240.00
(H) Carpool permits	Year	24.00
(I) Retiree permits	Month	6.80
(ii) Quarterly permits:		
(A) Zone A permits	Quarter	51.00
(B) Zone B permits	Quarter	37.50
(C) Reserved - general	Quarter	105.00
(D) Wheelchair permits	Quarter	37.50
(E) Drive-through permits (Full-time faculty and staff only)	Quarter	2.00
(F) Motorcycles, scooters and mopeds	Quarter	7.50
(G) 24-hour storage, garages	Quarter	60.00
(H) Carpool permits	Quarter	6.00
(I) Retiree permits	Quarter	20.40
(iii) Night permits (4:00 p.m. to 7:30 a.m. and Saturday a.m. except football parking)		
(A) Zone A annual permits	Year	96.00
(B) Zone B annual permits	Year	54.00
(C) Zone A quarterly permits	Quarter	24.00

	PER	AMOUNT
(D) Zone B quarterly permits	Quarter	13.50
(iv) Academic year permits (9 months - 24-hour storage)	Academic year	153.00
(A) Zone A	Academic year	112.50
(B) Zone B	Academic year	180.00
(C) 24-hour storage garages	Academic year	180.00
(b) Hourly parking rates for designated areas on main campus and south campus (6:00 a.m. to 11:00 p.m. weekdays only) -		
(i) 0-15 minutes	No charge	
(ii) 0-30 minutes (wheelchair patrons)	No charge	
(iii) 15 minutes to 30 minutes		\$ 1.00
(iv) To 1 hour		1.50
(v) 1 hour to 2 hours		2.00
(vi) 2 hours to 3 hours		2.50
(vii) Over 3 hours		3.00
(viii) Gate issued	Week	6.50
(c) Hourly parking rates for designated areas on the periphery of campus (6:00 a.m. to 11:00 p.m. weekdays only) -		
(i) 0-15 minutes	No charge	
(ii) 0-30 minutes (wheelchair patrons)	No charge	
(iii) 15 minutes to 1 hour		1.00
(iv) 1 hour to 2 hours		1.50
(v) Over 2 hours		1.75
(d) Evening parking (4:00 p.m.-7:30 a.m.)		
(i) 0-15 minutes	No charge	
(ii) 0-30 minutes (wheelchair patrons)	No charge	
(iii) 15-30 minutes		.75
(iv) Over 30 minutes		1.25
(e) Saturday morning parking (6:00 a.m.-noon) except football parking	Day	1.25
(f) Special permits -		
(i) Short term	Week	4.50
(ii) Short-term motorcycle	Day	.50
(iii) Ticket books (persons identified in WAC 478-116-240(6) and 478-116-250(1) only)		
(A) 5 ticket book - Dept./Indv.		4.25
(B) 10 ticket book - Dept./Indv.		8.50
(C) 25 ticket book - Dept./Indv.		21.25
(iv) Steno person (SP) and special services (SS)	Year	204.00
	Quarter	51.00
(g) Mechanically controlled parking areas as designated (parking meters, ticket dispensers, automatic gates, etc.)		.25-.75
(h) Athletic events -		
(i) Football and other stadium events in excess of 24,000 attendance		
(A) Automobiles		
(i) One occupant		7.00
(ii) Two occupants		6.00
(iii) Three or more occupants		3.00
(B) Motor homes		6.00
(C) Buses		10.00
(ii) All other events - Pavilion and stadium lots		
(A) When staffed by attendants		2.00
(B) When controlled by mechanical equipment (ET-only)		.60
(i) Miscellaneous fees -		
(i) Transfer from one area to another by request of individual		2.00
(ii) Gate keycard replacement - not to exceed		5.40
(iii) Vehicle gate keycard deposit (Amount of deposit will be set by the manager of the parking division. Deposit will be returned to individual when key is returned to parking division.)	Not to exceed	10.00
(iv) Wheelchair patrons - with the advice of the transportation advisory committee, the director of the transportation office is authorized to equitably adjust the automobile occupant rates to accommodate wheelchair patrons.		
(v) Permit replacement		
(A) With signed certificate of destruction or theft		1.10
(B) Without certificate of destruction or theft		2.15
(v) Impound fee	At cost	
(vi) Carpools - (Daily pay parking in certain designated areas. Two or more persons.)		25-.50)

The following schedule of parking fees is hereby established:

	PER	AMOUNT
(1) Type of permit -		
(a) Annual permits:		
(i) General	Year	\$240.00
(ii) With reserve designator	Year	480.00

	PER	AMOUNT
(iii) Motorcycles, scooters and mopeds	Year	36.00
(iv) 24-Hour storage garage	Year	300.00
(v) Drive through (full-time faculty and staff only)	Year	8.00
(vi) Carpool		
: 2-person	Year	180.00
: 3 or more persons	Year	60.00
(vii) Retiree	Year	120.00
(viii) Night permits (4:00 p.m. to 7:30 a.m.)	Year	120.00

Note: Quarterly permits are prorated on the applicable annual rate.

(b) Other permits		
(i) Individual commuter ticket books (WAC 478-116-240(6) and 478-116-250(1)).		
: 10-Ticket booklet		\$10.00
: 25-Ticket booklet		25.00
(ii) Departmental commuter ticket books (guests)		
: 10-Ticket booklet		20.00
: 25-Ticket booklet		50.00
(iii) Departmental special visitor 5-ticket booklet		25.00
(iv) Short term permit		
: Disabled student, employee	Annual Permit Rate	
: Conferences, workshops, seminars, continuing educ.	Daily/Evening Rate	
(v) Departmental out-of-area permit	Each	50.00
(vi) Construction permit		
: Nonparking area	Each	Annual Permit Rate
: Parking area	Each	Daily Rate

(2) Special designators (in addition to the monthly parking rate)		
(i) "U" designator	Annual	24.00
(ii) "US" designator	Annual	12.00
(iii) Additional area designator	Annual	12.00
(iv) "SS" designator	Annual	12.00
(v) "Wheelchair" or "disabled" designator	No charge	
(3) Gate issued		
(a) Hourly parking rates for designated areas on main campus and south campus (6:00 a.m. to 11:00 p.m. weekdays only)		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to 30 minutes		1.00
(iii) to 1 hour		1.50
(iv) 1 hour to 2 hours		2.00
(v) 2 hours to 3 hours		2.50
(vi) over 3 hours		3.00
(b) Daily - Stadium area		
(i) 0-15 minutes	No charge	
(ii) 15 minutes to 1 hour		1.00
(iii) 1 hour to 2 hours		1.50
(iv) over 2 hours		2.00
(c) Weekly permit		7.00
(d) Motorcycle permit	Daily	.50
(e) Carpool permit (certain designated areas for 2 or more persons)	Daily	.50-1.00
(f) Evening permits (4:00 p.m. to 7:30 a.m. weekdays)		
(i) 0-15 minutes	No charge	
(ii) 15 to 30 minutes		.75
(iii) over 30 minutes		1.25
(4) Mechanically issued (Mechanically controlled parking areas as designated - parking meters, ticket dispensers, automatic gates, etc.)		.50-1.00
(5) Special event issued		
(a) Football and other stadium events in excess of 24,000 in attendance		
(i) Automobiles		6.00
(ii) Motorhomes		12.00
(iii) Buses		15.00
(b) All other events requiring special staffing		3.00
(6) Miscellaneous fees		

	PER AMOUNT
(a) Gate keycard replacement - not to exceed	5.00
(b) Vehicle gate keycard deposit (Amount to be set by parking division manager. Deposit will be returned to individual when keycard is returned to the parking division.) - not to exceed	10.00
(c) Permit replacement with signed certificate of destruction or theft	1.25

Note: The schedule above includes applicable Washington state sales tax.

AMENDATORY SECTION (Amending Order 79-3, filed 8/2/79)

WAC 478-116-601 FINES AND PENALTIES. The following schedule of fines for violations of the rules listed in WAC 478-116-600 is hereby established:

Offense	Maximum Fine
((+)) 01 Obstructing traffic	\$ ((+0.00))
WAC 478-116-190	15.00
((+)) 02 Enter/exit without paying	((+0.00))
WAC 478-116-110	15.00
((+)) 03 Failure to lock ignition	((+0.00))
WAC 478-116-200	5.00
((+)) 04 Failure to set brakes	5.00
WAC 478-116-200	5.00
((+)) 05 Improper display of vehicle permit	((+2.00))
WAC 478-116-340	3.00
((+)) 06 Permit not registered to this vehicle	5.00
WAC 478-116-060	5.00
((+)) 07 Occupying more than one stall or space	((+2.00))
WAC 478-116-140	5.00
((+)) 08 Parking in restricted parking area	((+5.00))
WAC 478-116-110	12.00
((+)) 09 Parking in prohibited area	((+10.00))
WAC 478-116-130	15.00
((+)) 10 Parking on planted areas	((+5.00))
WAC 478-116-130	12.00
((+)) 11 Parking out of assigned area	5.00
WAC 478-116-130	5.00
((+)) 12 Parking over posted time limit	((+5.00))
WAC 478-116-110	12.00
((+)) 13 Parking with no valid permit displayed	((+5.00))
WAC 478-116-060	12.00
((+)) 14 Parking within 10 feet of fire hydrant	((+10.00))
WAC 478-116-130	15.00
((+)) 15 Parking at expired meter	((+5.00))
WAC 478-116-350	12.00
((+)) 16 Parking outside cycle area	5.00
WAC 478-116-070	5.00
((+)) 17 Parking in space/area not designated for parking	((+5.00))
WAC 478-116-130	12.00
((+)) 18 Parking while privilege suspended	25.00
WAC 478-116-520	25.00
((+)) 19 Use of forged/stolen vehicle permit	((+25.00))
WAC 478-116-060 and 478-116-370	100.00
((+)) 20 Impound	At cost
WAC 478-116-580	At cost
((+)) 21 Other violations of the university parking and traffic regulations	25.00
((+)) 22 Failure to transfer a valid permit (upon application to the parking violations division the fine may be waived for the first offense in a 12-month period.)	((+2.00))
WAC 478-116-340	3.00
23 Parking in space designated for wheelchair	50.00

WSR 87-10-058
PROPOSED RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Banking)
 [Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Banking, Department of General Administration, intends to adopt, amend, or repeal rules concerning determination of requested states' possession of reciprocal interstate acquisition laws, amending WAC 50-48-100, Interstate acquisition reciprocity—States possessing;

that the agency will at 10:00 a.m., Tuesday, June 9, 1987, in the Office of the Supervisor of Banking, Room 219, General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 30.04.232 (1)(c).

The specific statute these rules are intended to implement is RCW 30.04.232.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 9, 1987.

Dated: May 5, 1987
 By: Thomas H. Oldfield
 Supervisor

STATEMENT OF PURPOSE

Title: Interstate acquisition reciprocity—States possessing.

Description of Purpose: To amend WAC 50-48-100 by making further determination pursuant to RCW 30.04.232 regarding reciprocity of the interstate banking laws of certain states with the laws of Washington.

Statutory Authority: RCW 30.04.232 (1)(c).

Specific Statute Rule is Intended to Implement: This rule is promulgated pursuant to RCW 30.04.232 and is intended to administratively implement that statute.

Summary of Rule: Establishes that the following states have been determined by the supervisor of banking to meet the reciprocity qualifications set forth in RCW 30.04.232 (1)(b): California and Idaho. These states are to be added to the previously determined reciprocal states: Alaska, New York, and Oregon.

Reasons Supporting Proposed Action: The legislature has authorized the supervisor of banking to establish a rule upon the request of any person under RCW 30.04.232 (1)(c) to determine whether a specific state(s) laws meet the reciprocity qualifications set forth in RCW 30.04.232 (1)(b). This amendment is intended to carry out this legislative authorization.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Supervisor of Banking and Deputy Supervisor of Banking.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Division of Banking, governmental.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: Not applicable.

Small Business Economic Impact Statement: No impact on small business, except possible benefit to certain small businesses located in communities where a bank is being acquired by a bank holding company that provides a wider range of services than previously offered by the acquired bank.

AMENDATORY SECTION (Amending Order 67, filed 5/5/87)

WAC 50-48-100 INTERSTATE ACQUISITION RECIPROCITY - STATES POSSESSING. The supervisor of banking, having reviewed the laws of the following states as they relate to a domestic (Washington) bank holding company acquiring more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association the principal operations of which are conducted within such states, has determined, pursuant to RCW 30.04.232, that the laws of such states allow a domestic bank holding company to acquire a bank, trust company, or national banking association, the principal operation of which are conducted within such states, and permit the operation of the acquired bank, trust company, or national banking association within such states on terms and conditions no less favorable than other banks, trust companies, or national banking associations doing a banking business within such states: (1) Alaska, (2) California, (3) Idaho, (4) New York, and ((~~3~~)) (5) Oregon.

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 87-10-059

ADOPTED RULES

DEPARTMENT OF AGRICULTURE

[Order 1927—Filed May 6, 1987—Eff. June 8, 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 the amending of WAC 16-532-040 of the marketing order for Washington hops to increase the annual assessment on all varieties of hops to one dollar and twenty-five cents per affected unit.

This action is taken pursuant to Notice No. WSR 87-04-045 filed with the code reviser on February 3, 1987. These rules shall take effect at a later date, such date being June 8, 1987.

This rule is promulgated pursuant to RCW 15.65.170 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 May 6, 1987.

By C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1800, filed 7/29/83)

WAC 16-532-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

(a) The annual assessment on all varieties of hops shall be one dollar and twenty-five cents per affected unit.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

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

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

WSR 87-10-060
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed May 6, 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 forest practices regulations pertaining to water quality;

that the agency will at 7:00 - 10:00 p.m., Tuesday, June 9, 1987, in the Capital High School Cafetorium, Olympia, Washington, and at 7:00 - 10:00 p.m., Thursday, June 18, 1987, at the Yakima Valley Community College, Anton Hall #102, Yakima, Washington, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on September 8, 1987.

The authority under which these rules are proposed is RCW 76.09.040, Forest Practices Act of 1974.

The specific statute these rules are intended to implement is RCW 76.09.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 8, 1987.

Dated: May 5, 1987

By: Phillip C. Johnson
 Deputy Director, Programs

STATEMENT OF PURPOSE

Title: Chapter 173-202 WAC, Washington forest practices rules and regulations to protect water quality.

Description of Purpose: To set forth forest practice regulations pertaining to water quality protection.

Statutory Authority: RCW 76.09.040.

Summary of Rule: The proposed amendments to Title 222 WAC and chapter 173-202 WAC provide increased protection for water quality through: Riparian zone protection from operational constraints and requirements for leave trees; improved planning, construction, maintenance and abandonment procedures for forest roads; interdisciplinary team review of management priorities; and monitoring and evaluation of practice effectiveness.

Reasons Supporting Proposed Actions: Public concern about forest practices impacts on water quality, particularly the harvest of riparian areas.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard Wallace, PV-11, Olympia, (206) 459-6824.

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: [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

Summary of Rules

Chapter 173-202 WAC (which incorporates by reference sections of Title 222 WAC) is proposed for extensive amendment to better protect public resources and increase operator and landowner freedom in meeting requirements.

Rules have been clarified and there are alternatives to specific rule provisions when an alternate plan is filed and approved.

WAC 222-08-035 provides for continuing review of the forest practices regulations by a broad group of interests representatives, including Indian tribes.

Informal reviews of an application prior to filing and assistance in preparation of an alternate plan for riparian areas is provided. Small operations and eastside operations within the riparian area may leave fewer trees than required of large operations.

Filing Date and List of Changes

The proposed rules and the notice of hearing will be filed with the code reviser on, or before, May 6, 1987, for regular adoption.

There are partial revisions in chapters 222-08, 222-12, 222-16, 222-20, 222-24, 222-30, 222-34 and 222-38. New sections are WAC 222-08-035, 222-12-045, 222-20-090 and 222-20-120. WAC 222-16-040 is repealed as too difficult to understand and apply and an alternative rule is provided and a riparian management zone is established.

Economic Analysis

An economic analysis was commissioned by the Forest Practices Board and contract awarded to Eco Northwest of Eugene, Oregon. The study indicated proposed rules would increase operation and lost opportunity costs but there would be increased benefits to fisheries, other public resources and their dependent businesses. Actual costs were not determined, but approximations used from data supplied by Washington Forest Protection Association with partially supporting documentation from an Oregon state study.

The Eco Northwest study indicated the possibility of additional impacts on small business if new equipment or technology were required for compliance with the proposed rules. Neither evidence nor costs were provided to support the statements on possible small business impacts.

Copies of the economic analysis are available from the Washington State Library System and may be purchased at cost from the Department of Natural Resources.

Directly impacted are the SIC, code 241 business of "logging camps and contractors," and large and small landowners, SIC code 081, "timber tracts." Some of the increased costs from the regulations may be passed through to manufacturers and consumers, but only to the extent that competitive product prices and availability allow. Some, perhaps all, costs will be absorbed by operators and landowners.

Mitigation of Increased Costs

The proposed rules are more stringent to protect public resources, but there are provisions for site specific alternatives that may reduce costs to operator and landowner. One cost reduction is for small operators to leave fewer trees in the riparian management zone. Another cost reduction is provided for small aerial chemical treatments to be consolidated with existing treatments without the need for a separately approved application, an important savings in time.

Some erosion prevention rules have performance requirements rather than detailed language with specific rule provisions. Alternative plans may be filed and assistance provided by state agencies in devising riparian management plans, fewer leave trees may be required for small operations, and for operations in northeast Washington or small partial-cut operations in eastern Washington. These measures recognize regional differences in economic and silvicultural conditions.

Small Business Exemption

Establishing different time tables and exemptions for small business is not consistent with chapter 76.09 RCW, the Forest Practices Act. However, increased flexibility has been incorporated in the proposed rules.

The act and the rules require prompt action by the Department of Natural Resources in processing application forms.

There are provisions for administrative hearings and civil appeals to the Forest Practices Appeals Board for the operator, landowner or others dissatisfied with Department of Natural Resources actions.

There are few reporting requirements of industry. Small business interests had a voice in the proposed rules and have been active in modifying rules to meet their needs.

Actual Costs

The actual costs of the proposed rules would vary with site-specific conditions, and operator and landowner capabilities. Costs per \$100 of product could increase unless there are compensating improvements in efficiency or productivity.

Summary of Proposed Revisions to
Chapter 173-202 WAC
Washington Forest Practices Rules and
Regulations to Protect Water Quality

Introduction

The Forest Practices Act of 1974 (RCW 76.09.040) authorizes the adoption of regulations establishing standards for forest practices. Forest practices regulations pertaining to water quality protection are to be adopted individually by the Forest Practices Board and the Department of Ecology after they have reached agreement on the content.

Implementation of the timber, fish and wildlife (TFW) agreement will require several changes in the regulations. These changes were agreed upon by the TFW participants and have been proposed by the Forest Practices Board. Public hearings and comment period

will occur in June with final adoption expected in September.

Proposed Revisions

The proposed revisions have the potential to provide many benefits to water quality: Riparian zone protection through operational constraints and requirements for leave trees; reduction of sediment from roads through better planning, construction, maintenance, and abandonment procedures; identification of management priorities that will trigger on-the-ground review by interdisciplinary teams; and monitoring and evaluation to determine practice effectiveness and a commitment to adaptive management.

AMENDATORY SECTION (Amending Order DE 82-37, filed 7/19/83)

WAC 173-202-020 CERTAIN WAC SECTIONS ADOPTED BY REFERENCE. The following sections of the Washington Administrative Code as now promulgated are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

~~WAC 222-08-035—Continuing review of forest practices regulations.~~
~~WAC 222-12-010—Authority.~~
~~WAC 222-12-040—Alternate plans.~~
~~WAC 222-12-045—Adaptive management.~~
~~WAC 222-12-070—Enforcement policy.~~
~~WAC 222-12-090—Forest practices board manual.~~
~~WAC 222-16-010—General definitions.~~
~~WAC 222-16-020—Water categories.~~
~~WAC 222-16-030—Water typing system.~~
~~((WAC 222-16-040—Temperature sensitive waters:))~~
~~WAC 222-16-050—Classes of forest practices.~~
~~WAC 222-24-010—Policy.~~
~~WAC 222-24-020(2), (3), (4)—Road location.~~
~~WAC 222-24-025(5), (6), (7), (8), (9)—Road design.~~
~~WAC 222-24-030(2), (4), (5), (6), (8), (9), (10)—Road construction.~~
~~WAC 222-24-035(1)—Landing location and construction.~~
~~WAC 222-24-040(1), (2), (3), (4)—Water crossing structures.~~
~~WAC 222-24-050—Road maintenance.~~
~~WAC 222-24-060(1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.~~
~~WAC 222-30-010—Policy(:)—Timber harvesting.~~
~~WAC 222-30-020(2), (3)(c), (3)(e), (4), (5)—Harvest unit planning and design.~~
~~WAC 222-30-030—Stream bank integrity.~~
~~WAC 222-30-040—Temperature control.~~
~~WAC 222-30-050(1), (2), (3), (4)—Felling and bucking.~~
~~WAC 222-30-060(1), (2), (3), (4)(c)—Cable yarding.~~
~~WAC 222-30-070(1), (2), (4), (6), (7), (8)—Tractor and wheeled skidding systems.~~
~~WAC 222-30-080(1), (2)—Landing cleanup.~~
~~WAC 222-30-100(1)(c), (4), (5)—Slash disposal.~~
~~WAC 222-34-040—Site preparation and rehabilitation.~~
~~WAC 222-38-010—Policy(:)—Forest chemicals.~~
~~WAC 222-38-020((+), (2), (3), (4), (5), (6), (+))—Handling, storage, application.~~

WSR 87-10-061

PROPOSED RULES

CORRECTIONS STANDARDS BOARD

[Filed May 6, 1987]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Corrections Standards Board intends to adopt, amend, or repeal rules concerning maximum capacities, amending WAC 289-15-225;

that the agency will at 9:00 a.m. or later, Tuesday, June 9, 1987, in the Red Lion Inn at the Quay, Vancouver, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 70.48.050 (1)(a) and 70.48.070.

The specific statute these rules are intended to implement is RCW 70.48.050 (1)(a) and 70.48.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 2, 1987.

Dated: April 30, 1987

By: Robert W. Cote
Executive Secretary

STATEMENT OF PURPOSE

Title: Maximum capacities.

Description of Purpose: The purpose of WAC 289-15-225, which was originally adopted by the State Jail Commission on May 14, 1983, is to incorporate within the custodial care standards specific maximum jail capacity figures for purposes of applying the crowding standard set forth in WAC 289-15-220. The purpose of these amendments is to change several of those capacities.

Statutory Authority: RCW 70.48.050.

Summary of Rule: These amendments change the capacity figures for Snohomish County and Whatcom County.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert W. Cote, Executive Secretary, Corrections Standards Board, 110 East 5th Avenue, Mailstop GB-12, Olympia, WA 98504, (206) 753-5790, scan 234-5790.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Corrections Standards Board.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: None.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 87-1, filed 2/18/87)

WAC 289-15-225 MAXIMUM CAPACITIES. Pursuant to WAC 289-15-220, the maximum capacity of each detention and correctional facility within the state of Washington is established at the figure indicated below.

Detention Facilities

Auburn (22)
Bremerton (23)
Issaquah (10)
Olympia (temporary) (19)
Stevens County (22)

Correctional Facilities

Asotin County (16)
Benton County (109)
Chelan County (132)
Clallam County (102)
Clark County (335)
Cowlitz County (149)
Ferry County (22)
Forks (11)
Franklin County (76)
Grant County (85)
Grays Harbor County (82)
Island County (50)
Jefferson County (20)
Kent (56)
King County (784)
Kitsap County (103)
Kitsap County Work Release (42)
Kittitas County (45)
Klickitat County (30)
Lewis County (68)

Detention Facilities

Correctional Facilities

Lincoln County (15)
Mason County (45)
Okanogan County (67)
Pacific County (29)
Pend Oreille County (18)
Pierce County (470)
Skagit County (83)
Skamania County (17)
Snohomish County(((277))) (217)
Snohomish County Work Release (60)
Spokane County(461)
Thurston County(145)
Walla Walla County (44)
Whatcom County(((82))) (148)
Whitman County (34)
Yakima County (274)

WSR 87-10-062

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed May 6, 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 taxation of forest land and timber, amending sections in chapter 458-40 WAC;

that the agency will at 10:00 a.m., Wednesday, June 10, 1987, in the 2nd Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 30, 1987.

The authority under which these rules are proposed is chapter 84.33 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 10, 1987.

Dated: May 6, 1987

By: John B. Conklin
Forest Tax Supervisor

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: Tables for determination of stumpage values, amendatory sections WAC 458-40-650, 458-40-660 and 458-40-670.

Purpose: To establish the values for reporting and payment of the timber excise tax levied by chapter 84.33 RCW.

Statutory Authority: Chapter 84.33 RCW, which directs the Department of Revenue to prepare tables of stumpage values before June 30 and December 31 of each year to be used for the six month periods thereafter.

Summary and Reasons for the Rule: The tables establish the value of stumpage for each species or sub-classification of timber within designated areas having similar growing, harvesting and marketing conditions. These values are to be used for computing the timber

excise tax due quarterly by timber harvesters upon timber harvested for sale or for commercial or industrial use during the period July 1, 1987, through December 31, 1987.

Drafters of the Rule: John Conklin, (206) 753-2871, and Joe Gienty, (206) 586-2903, 6004 South Capitol Boulevard, Tumwater, WA 98501; Rule Implementation and Enforcement: Trevor W. Thompson, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-5503.

Proposer of the Rule: Department of Revenue, General Administration Building, Olympia, WA 98504.

Comments and Recommendations: None.

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

AMENDATORY SECTION (Amending Order 86-4, filed 12/31/86)

WAC 458-40-650 **TIMBER EXCISE TAX—TIMBER QUALITY CODES DEFINED.** The timber quality code numbers for each species of timber shown in the stumpage value tables contained in this chapter are defined as follows:

TABLE 1—Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, and 5

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Timber Quality Code Number	Species	Log Grade Specifications ¹
	Douglas-fir & Spruce	Over 50% No. 2 Sawmill & better log grade and over 40% Special Mill, No. 1 Sawmill & better log grade
1	Western Redcedar & Alaska-cedar	Over 30% No. 2 Sawmill & better log grade and over 15% Special Mill, No. 1 Sawmill, Peeler & better log grade
((+))	Western Hemlock, True Firs & Other Conifer	Over 50% No. 2 Sawmill & better log grade and over 25% Special Mill, No. 1 Sawmill & better log grade
	Hardwoods	All No. 3 Sawmill logs & better log grades
	Douglas-fir & Spruce	Over 50% No. 2 Sawmill & better log grade and 15-40% inclusive Special Mill, No. 1 Sawmill & better log grade
2	Western Redcedar & Alaska-cedar	Over 30% No. 2 Sawmill & better log grade and less than 15% Special Mill, No. 1 Sawmill, Peeler & better log grade
((2))	Western Hemlock, True Firs & Other Conifer	Over 50% No. 2 Sawmill & better log grade and 5-25% inclusive Special Mill, No. 1 Sawmill & better log grade
	Douglas-fir & Spruce	Over 50% No. 2 Sawmill & better log grade and less than 15% Special Mill, No. 1 Sawmill & better log grade
3	Western Redcedar & Alaska-cedar	5-30% inclusive No. 2 Sawmill & better log grade
((3))	Western Hemlock, True Firs & Other Conifer	Over 50% No. 2 Sawmill & better log grade and less than 5% Special Mill, No. 1 Sawmill & better log grade
	Douglas-fir & Spruce	25-50% inclusive No. 2 Sawmill & better log grade

TABLE 1—cont.

Timber Quality Code Number	Species	Log Grade Specifications ¹
4	Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	25-50% inclusive No. 2 Sawmill & better log grade
	Douglas-fir & Spruce	5% to but not including 25% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer, except Western Redcedar & Alaska-cedar	5% to but not including 25% No. 2 Sawmill & better log grade
5	Conifer Utility	All conifer logs graded as utility log grade
((5))	Hardwood Utility	All No. 4 Sawmill log grade and all hardwood logs graded as utility
6	Douglas-fir, Spruce, Western Hemlock & Other Conifer, except Western Redcedar & Alaska-cedar	Less than 5% No. 2 Sawmill & better log grade

¹For detailed descriptions and definitions of approved log scaling, grading rules, and procedures see WAC 458-40-680.

TABLE 2—Timber Quality Code Table
Stumpage Value Areas 6 and 7

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Timber Quality Code Number	Species	Log Grade Specifications
	Ponderosa Pine	Less than 10 logs 16 feet long per thousand board feet Scribner scale
1	All Conifers Other than Ponderosa Pine	All log sizes
	Hardwoods	Sawlogs only
2	Ponderosa Pine	10 or more logs 16 feet long per thousand board feet Scribner scale
5	Utility	All logs graded as utility

TABLE 3—Timber Quality Code Table
Stumpage Value Area 10

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Timber Quality Code Number	Species	Log Grade Specifications
	Ponderosa Pine & Other Conifers	Less than 5 logs 16 feet long per MBF net log Scribner scale
1	Hardwoods	All logs graded as sawlogs
	Ponderosa Pine	5 to 9 logs inclusive 16 feet long per MBF net log Scribner scale
2	Other Conifer	5 to 12 logs inclusive 16 feet long per MBF net log scale

TABLE 3—cont.

Timber Quality Code Number	Species	Log Grade Specifications
3	Ponderosa Pine	More than 9 logs 16 feet long per MBF net log Scribner scale
	Other Conifer	More than 12 logs 16 feet long per MBF net log Scribner scale
5	Utility	All logs graded as utility

AMENDATORY SECTION (Amending Order 86-4, filed 12/31/86)

WAC 458-40-660 TIMBER EXCISE TAX—STUMPAGE VALUE TABLES. ((The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period January 1 through June 30, 1987:

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$203	\$196	\$189	\$182	\$175
		2	178	171	164	157	150
		3	158	151	144	137	130
		4	147	140	133	126	119
		5	123	116	109	102	95
		6	118	111	104	97	90
Western Redcedar ²	RC	1	241	234	227	220	213
		2	218	211	204	197	190
		3	161	154	147	140	133
		4	138	131	124	117	110
Sitka Spruce	SS	1	222	215	208	201	194
		2	188	181	174	167	160
		3	118	111	104	97	90
		4	114	107	100	93	86
		5	95	88	81	74	67
		6	94	87	80	73	66
Western Hemlock ³	WH	1	135	128	121	114	107
		2	106	99	92	85	78
		3	105	98	91	84	77
		4	98	91	84	77	70
		5	76	69	62	55	48
		6	72	65	58	51	44
Other Conifer	OC	1	135	128	121	114	107
		2	106	99	92	85	78
		3	105	98	91	84	77
		4	98	91	84	77	70
		5	76	69	62	55	48
		6	72	65	58	51	44
Red Alder	RA	1	36	29	22	15	8
Black Cottonwood	BC	1	50	43	36	29	22
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	17	17	17	17	17
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions—Western and Eastern Washington: See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$113	\$106	\$99	\$92	\$85
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	40	33	26	19
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$199	\$192	\$185	\$178	\$171
		2	181	174	167	160	153
		3	179	172	165	158	151
		4	154	147	140	133	126
		5	103	96	89	82	75
		6	98	91	84	77	70
Western Redcedar ²	RC	1	255	248	241	234	227
		2	238	231	224	217	210
		3	160	153	146	139	132
		4	114	107	100	93	86
Sitka Spruce	SS	1	226	219	212	205	198
		2	184	177	170	163	156
		3	116	109	102	95	88
		4	114	107	100	93	86
		5	95	88	81	74	67
		6	94	87	80	73	66
Western Hemlock ³	WH	1	134	127	120	113	106
		2	109	102	95	88	81
		3	100	93	86	79	72
		4	98	91	84	77	70
		5	74	67	60	53	46
		6	70	63	56	49	42
Other Conifer	OC	1	134	127	120	113	106
		2	109	102	95	88	81
		3	100	93	86	79	72
		4	98	91	84	77	70
		5	74	67	60	53	46
		6	70	63	56	49	42
Red Alder	RA	1	44	37	30	23	16

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Black Cottonwood	BC	1	50	43	36	29	22
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	17	17	17	17	17
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska-cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$113	\$106	\$99	\$92	\$85
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	40	33	26	19
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$246	\$239	\$232	\$225	\$218
		2	173	166	159	152	145
		3	170	163	156	149	142
		4	158	151	144	137	130
		5	116	109	102	95	88
		6	111	104	97	90	83

TABLE 5—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ³	RC	1	182	175	168	161	154
		2	162	155	148	141	134
		3	155	148	141	134	127
		4	154	147	140	133	126
Western Hemlock ⁴	WH	1	134	127	120	113	106
		2	114	107	100	93	86
		3	102	95	88	81	74
		4	89	82	75	68	61
		5	81	74	67	60	53
		6	77	70	63	56	49
Other Conifer	OC	1	134	127	120	113	106
		2	114	107	100	93	86
		3	102	95	88	81	74
		4	89	82	75	68	61
		5	81	74	67	60	53
		6	77	70	63	56	49
Red Alder	RA	1	40	33	26	19	12
Black Cottonwood	BC	1	50	43	36	29	22
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	17	17	17	17	17
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$113	\$106	\$99	\$92	\$85
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	40	33	26	19
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Timber		Hauling		
			Quality	Distance	Zone	Number	
			1	2	3	4	5
Douglas-fir ²	DF	1	\$229	\$222	\$215	\$208	\$201
		2	212	205	198	191	184
		3	156	149	142	135	128
		4	153	146	139	132	125
		5	108	101	94	87	80
		6	103	96	89	82	75
Western Redcedar ³	RC	1	169	162	155	148	141
		2	168	161	154	147	140
		3	134	127	120	113	106
		4	128	121	114	107	100
Western Hemlock ⁴	WH	1	142	135	128	121	114
		2	124	117	110	103	96
		3	119	112	105	98	91
		4	108	101	94	87	80
		5	77	70	63	56	49
		6	60	53	46	39	32
Other Conifer	OC	1	142	135	128	121	114
		2	124	117	110	103	96
		3	119	112	105	98	91
		4	108	101	94	87	80
		5	77	70	63	56	49
		6	60	53	46	39	32
Red Alder	RA	1	44	37	30	23	16
Black Cottonwood	BC	1	50	43	36	29	22
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	17	17	17	17	17
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Timber		Hauling		
			Quality	Distance	Zone	Number	
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$113	\$106	\$99	\$92	\$85
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	40	33	26	19
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47

TABLE 8—cont:
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Timber		Hauling		
			Quality	Distance	Zone	Number	
			1	2	3	4	5
Douglas-fir Christmas Trees ²	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Timber		Hauling		
			Quality	Distance	Zone	Number	
			1	2	3	4	5
Douglas-fir ²	DF	1	\$225	\$218	\$211	\$204	\$197
		2	207	200	193	186	179
		3	173	166	159	152	145
		4	118	111	104	97	90
		5	115	108	101	94	87
		6	110	103	96	89	82
Western Redcedar ³	RC	1	199	192	185	178	171
		2	167	160	153	146	139
		3	159	152	145	138	131
		4	114	107	100	93	86
Western Hemlock ⁴	WH	1	161	154	147	140	133
		2	140	133	126	119	112
		3	139	132	125	118	111
		4	109	102	95	88	81
		5	59	52	45	38	31
		6	55	48	41	34	27
Other Conifer	OC	1	161	154	147	140	133
		2	140	133	126	119	112
		3	139	132	125	118	111
		4	109	102	95	88	81
		5	59	52	45	38	31
		6	55	48	41	34	27
Red Alder	RA	1	65	58	51	44	37
Black Cottonwood	BC	1	50	43	36	29	22
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	17	17	17	17	17
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$113	\$106	\$99	\$92	\$85
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	47	40	33	26	19
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$99	\$93	\$87	\$81	\$75
Engelmann Spruce	ES	1	78	72	66	60	54
Lodgepole Pine	LP	1	67	61	55	49	43
Ponderosa Pine	PP	1	174	168	162	156	150
		2	103	97	91	85	79
Western Redcedar ³	RC	1	137	131	125	119	113
True Firs ⁴	WH	1	81	75	69	63	57
Western White Pine	WP	1	176	170	164	158	152
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	1	1	1	1	1

¹ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$78	\$72	\$66	\$60	\$54
Engelmann Spruce	ES	1	68	62	56	50	44
Lodgepole Pine	LP	1	58	52	46	40	34
Ponderosa Pine	PP	1	132	126	120	114	108
		2	84	78	72	66	60
Western Redcedar ³	RC	1	130	124	118	112	106
True Firs ⁴	WH	1	70	64	58	52	46
Western White Pine	WP	1	170	164	158	152	146
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	1	1	1	1	1

¹ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁴Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$129	\$123	\$117	\$111	\$105
		2	89	83	77	71	65
		3	78	72	66	60	54
Engelmann Spruce	ES	1	130	124	118	112	106
		2	84	78	72	66	60
		3	83	77	71	65	59
Lodgepole Pine	LP	1	242	236	230	224	218
		2	160	154	148	142	136
		3	72	66	60	54	48
Ponderosa Pine	PP	1	276	270	264	258	252
		2	240	234	228	222	216
		3	123	117	111	105	99
Western Redcedar ³	RC	1	146	140	134	128	122
		2	108	102	96	90	84
		3	90	84	78	72	66
True Firs ⁴	WH	1	121	115	109	103	97
		2	97	91	85	79	73
		3	80	74	68	62	56
Western White Pine	WP	1	258	252	246	240	234
		2	210	204	198	192	186
		3	207	201	195	189	183
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	1	1	1	1	1

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble

Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 16—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁴Stumpage value per lineal foot.)

The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period July 1 through December 31, 1987:

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$204	\$197	\$190	\$183	\$176
		2	174	167	160	153	146
		3	140	133	126	119	112
		4	139	132	125	118	111
		5	123	116	109	102	95
		6	94	87	80	73	66
Western Redcedar ²	RC	1	278	271	264	257	250
		2	276	269	262	255	248
		3	160	153	146	139	132
		4	137	130	123	116	109
Sitka Spruce	SS	1	212	205	198	191	184
		2	195	188	181	174	167
		3	119	112	105	98	91
		4	109	102	95	88	81
		5	93	86	79	72	65
		6	86	79	72	65	58
Western Hemlock ³	WH	1	164	157	150	143	136
		2	135	128	121	114	107
		3	109	102	95	88	81
		4	96	89	82	75	68
		5	75	68	61	54	47
		6	66	59	52	45	38
Other Conifer	OC	1	164	157	150	143	136
		2	135	128	121	114	107
		3	109	102	95	88	81
		4	96	89	82	75	68

TABLE 1—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		5	75	68	61	54	47
		6	66	59	52	45	38
Red Alder	RA	1	39	32	25	18	11
Black Cottonwood	BC	1	56	49	42	35	28
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	25	25	25	25	25
Conifer Utility	CU	5	5	5	5	5	5

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$178	\$171	\$164	\$157	\$150
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir	DF	1	\$255	\$248	\$241	\$234	\$227
		2	208	201	194	187	180
		3	135	128	121	114	107
		4	135	128	121	114	107
		5	101	94	87	80	73
		6	84	77	70	63	56

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar ²	RC	1	238	231	224	217	210
		2	229	222	215	208	201
		3	153	146	139	132	125
		4	111	104	97	90	83
Sitka Spruce	SS	1	195	188	181	174	167
		2	190	183	176	169	162
		3	102	95	88	81	74
		4	95	88	81	74	67
		5	91	84	77	70	63
		6	86	79	72	65	58
Western Hemlock ³	WH	1	153	146	139	132	125
		2	124	117	110	103	96
		3	111	104	97	90	83
		4	97	90	83	76	69
		5	88	81	74	67	60
		6	73	66	59	52	45
Other Conifer	OC	1	153	146	139	132	125
		2	124	117	110	103	96
		3	111	104	97	90	83
		4	97	90	83	76	69
		5	88	81	74	67	60
		6	73	66	59	52	45
Red Alder	RA	1	69	62	55	48	41
		2	124	117	110	103	96
Black Cottonwood	BC	1	56	49	42	35	28
		3	111	104	97	90	83
Other Hardwood	OH	1	72	65	58	51	44
		4	97	90	83	76	69
Hardwood Utility	HU	5	25	25	25	25	25
		5	88	81	74	67	60
Conifer Utility	CU	5	5	5	5	5	5
		6	73	66	59	52	45

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$178	\$171	\$164	\$157	\$150
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
 Stumpage Value Area 3
 July 1 through December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$266	\$259	\$252	\$245	\$238
		2	199	192	185	178	171
		3	195	188	181	174	167
		4	164	157	150	143	136
		5	153	146	139	132	125
		6	116	109	102	95	88
Western Redcedar ³	RC	1	248	241	234	227	220
		2	239	232	225	218	211
		3	155	148	141	134	127
		4	118	111	104	97	90
Western Hemlock ⁴	WH	1	139	132	125	118	111
		2	116	109	102	95	88
		3	105	98	91	84	77
		4	94	87	80	73	66
		5	73	66	59	52	45
		6	65	58	51	44	37
Other Conifer	OC	1	139	132	125	118	111
		2	116	109	102	95	88
		3	105	98	91	84	77
		4	94	87	80	73	66
		5	73	66	59	52	45
		6	65	58	51	44	37
Red Alder	RA	1	67	60	53	46	39
Black Cottonwood	BC	1	56	49	42	35	28
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	25	25	25	25	25
Conifer Utility	CU	5	5	5	5	5	5

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
 Stumpage Value Area 3
 July 1 through December 31, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$178	\$171	\$164	\$157	\$150
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41

TABLE 6—cont.
 Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
 Stumpage Value Area 4
 July 1 through December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$217	\$210	\$203	\$196	\$189
		2	210	203	196	189	182
		3	150	143	136	129	122
		4	145	138	131	124	117
		5	104	97	90	83	76
		6	97	90	83	76	69
Western Redcedar ³	RC	1	194	187	180	173	166
		2	172	165	158	151	144
		3	127	120	113	106	99
		4	123	116	109	102	95
Western Hemlock ⁴	WH	1	161	154	147	140	133
		2	149	142	135	128	121
		3	116	109	102	95	88
		4	100	93	86	79	72
		5	74	67	60	53	46
		6	66	59	52	45	38
Other Conifer	OC	1	161	154	147	140	133
		2	149	142	135	128	121
		3	116	109	102	95	88
		4	100	93	86	79	72
		5	74	67	60	53	46
		6	66	59	52	45	38
Red Alder	RA	1	64	57	50	43	36
Black Cottonwood	BC	1	56	49	42	35	28
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	25	25	25	25	25
Conifer Utility	CU	5	5	5	5	5	

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$178	\$171	\$164	\$157	\$150
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$229	\$222	\$215	\$208	\$201
		2	228	221	214	207	200
		3	182	175	168	161	154
		4	121	114	107	100	93
		5	112	105	98	91	84
		6	93	86	79	72	65
Western Redcedar ³	RC	1	188	181	174	167	160
		2	166	159	152	145	138
		3	132	125	118	111	104
		4	121	114	107	100	93
Western Hemlock ⁴	WH	1	173	166	159	152	145
		2	168	161	154	147	140
		3	149	142	135	128	121
		4	112	105	98	91	84
		5	86	79	72	65	58
		6	78	71	64	57	50
Other Conifer	OC	1	173	166	159	152	145
		2	168	161	154	147	140
		3	149	142	135	128	121
		4	112	105	98	91	84
		5	86	79	72	65	58
		6	78	71	64	57	50
Red Alder	RA	1	65	58	51	44	37
Black Cottonwood	BC	1	56	49	42	35	28
Other Hardwood	OH	1	72	65	58	51	44
Hardwood Utility	HU	5	25	25	25	25	25

TABLE 9—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Conifer Utility	CU	5	5	5	5	5	5

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1987

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$178	\$171	\$164	\$157	\$150
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41
Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	69	62	55	48	41
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Western Redcedar & Other Posts ²	RCP	1	0.47	0.47	0.47	0.47	0.47
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Douglas-fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
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True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50
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¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$100	\$94	\$88	\$82	\$76
Engelmann Spruce	ES	1	73	67	61	55	49
Lodgepole Pine	LP	1	62	56	50	44	38
Ponderosa Pine	PP	1	188	182	176	170	164
		2	107	101	95	89	83
Western Redcedar ³	RC	1	137	131	125	119	113
True Firs ⁴	WH	1	80	74	68	62	56
Western White Pine	WP	1	185	179	173	167	161
Hardwoods	OH	1	23	17	11	5	1

TABLE 11—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Utility	CU	5	3	3	3	3	3

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
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Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
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Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
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Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$79	\$73	\$67	\$61	\$55
Engelmann Spruce	ES	1	56	50	44	38	32
Lodgepole Pine	LP	1	58	52	46	40	34
Ponderosa Pine	PP	1	145	139	133	127	121
		2	89	83	77	71	65
Western Redcedar ³	RC	1	125	119	113	107	101
True Firs ⁴	WH	1	67	61	55	49	43
Western White Pine	WP	1	156	150	144	138	132
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	1	1	1	1	1

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska-cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
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Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
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Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
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Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-fir ²	DF	1	\$117	\$111	\$105	\$99	\$93
		2	93	87	81	75	69
		3	70	64	58	52	46
Engelmann Spruce	ES	1	102	96	90	84	78
		2	89	83	77	71	65
		3	87	81	75	69	63
Lodgepole Pine	LP	1	112	106	100	94	88
		2	87	81	75	69	63
		3	76	70	64	58	52
Ponderosa Pine	PP	1	227	221	215	209	203
		2	125	119	113	107	101
		3	92	86	80	74	68
Western Redcedar ³	RC	1	106	100	94	88	82
		2	104	98	92	86	80
		3	102	96	90	84	78
True Firs ⁴	WH	1	98	92	86	80	74
		2	91	85	79	73	67
		3	85	79	73	67	61
Western White Pine	WP	1	291	285	279	273	267
		2	262	256	250	244	238
		3	117	111	105	99	93
Hardwoods	OH	1	23	17	11	5	1

TABLE 15—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Utility	CU	5	1	1	1	1	1

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 16—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1987

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5

Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
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Lodgepole Pine & Other Posts ²	LPP	1	0.22	0.22	0.22	0.22	0.22
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Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
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Douglas-fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
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¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

AMENDATORY SECTION (Amending Order 86-4, filed 12/31/86)

WAC 458-40-670 **TIMBER EXCISE TAX—STUMPAGE VALUE ADJUSTMENTS.** Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

(1) No harvest adjustment shall be allowed against conifer utility, hardwood utility, or any of the special forest products.

(2) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

(3) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. Such applications should contain a map with the legal descriptions of the area, a description of the damage sustained by the timber, and a list of estimated costs to be incurred. Such applications shall be sent to the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed, and notify the harvester. Such amount may be taken as a credit against tax liabilities or, if harvest is terminated, a refund may be authorized. In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application not later than ninety days following completion of the harvest unit.

The following harvest adjustment tables are hereby adopted for use during the period of ((January)) July 1 through ((June-30)) December 31, 1987:

TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
((January)) July 1 through ((June-30)) December 31, 1987

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	-\$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	-\$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	-\$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	-\$((+0.00)) 11.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$((+21.00)) 22.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	-\$99.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning (see WAC 458-40-610 (20))		
Class 1	Average log volume of 50 board feet or more.	-\$25.00
Class 2	Average log volume of less than 50 board feet.	-\$35.00

TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6, 7, and 10
((January)) July 1 through ((June-30)) December 31, 1987

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	-\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	-\$((9.00)) 15.00
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$((25.00)) 26.00

TABLE 2—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- \$113.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 3—DOMESTIC MARKET ADJUSTMENT

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska yellow cedar. (Stat. Ref. - 36 CFR 223.10)

State Timber Sales: Western red cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

The adjustment amounts shall be as follows:

Class 1:	All eligible species in Western Washington (SVA's 1 through 5)	- \$((7.00)) 11.00 per MBF
Class 2:	All eligible species in Eastern Washington (SVA's 6, 7, and 10)	- \$((9.00)) 6.00 per MBF

Note: The adjustment will not be allowed on conifer utility, hardwood utility or special forest products.

WSR 87-10-063

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Memorandum—May 6, 1987]

The Washington State Human Rights Commission will hold its next regular commission meeting in Aberdeen on May 27 and 28, 1987. The meeting on May 27 will be held at the Nordic Inn, Fiordic Room, 1700 South Boone, Aberdeen, from 7:00 p.m. to 11:00 p.m. and will be a work session only. The regular business meeting will be held at the Aberdeen City Hall, Council Chambers, Third Floor, 200 East Market, Aberdeen, beginning at 9:30 a.m. on May 28. The main topic of discussion for the May meeting will be racial and religious hate group activity in the pacific northwest.

WSR 87-10-064

**PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed May 6, 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 consolidated emergency assistance program (CEAP), repealing WAC 388-24-270 and 388-24-276 and amending chapter 388-24 WAC;

that the agency will at 10:00 a.m., Tuesday, June 9, 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 10, 1987.

The authority under which these rules are proposed is RCW 74.04.660.

The specific statute these rules are intended to implement is RCW 74.04.660.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 9, 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 27, 1987. The meeting site is in a location which is barrier free.

Dated: May 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 388-24-250, 388-24-253, 388-24-254, 388-24-255 and 388-24-260; and repealing WAC 388-24-270 and 388-24-276.

Purpose of the Above Change: To implement an inability to plan provision for the consolidated emergency assistance program (CEAP); to make selected CEAP provisions consistent with aid to families with dependent children (AFDC); to repeal WAC 388-24-270 and 388-24-276; to eliminate work registration for CEAP; and to make the Washington Administrative Code (WAC) relating to CEAP consistent with the department's paperwork management writing guidelines.

These Rules are Necessary: To comply with federal requirements; to eliminate CEAP work registration; to make selected CEAP provisions consistent with AFDC; and to make CEAP WAC consistent with the department's paperwork management writing guidelines.

Statutory Authority: RCW 74.04.660.

Summary: WAC 388-24-250(1) is being amended to add an "inability to plan" provision. Under this provision, households with income about the 50 percent cutoff may be able to qualify if funds were expended for: Medical bills, child care to avoid abuse, dental care to alleviate pain, or costs incurred in obtaining employment; WAC 388-24-250 (8) and (11) are being deleted to eliminate work registration for CEAP; WAC 388-24-254 is being amended to change income used in determining eligibility and payment amounts from recurrent and nonrecurrent to anticipated. This change is being made for consistency with AFDC; WAC 388-24-254(1)

adds earned income deductions for childcare and work expenses. Currently these deductions are allowed, but through chapter 388-28 WAC; WAC 388-24-254(2) adds income deductions for: Medical bills, child care to avoid abuse, dental care to alleviate pain, or costs incurred in obtaining employment. These deductions are part of the "inability to plan" provision; WAC 388-24-260(2) allows for direct or vendor payments. This provision was previously in WAC 388-24-265; WAC 388-24-265 is modified to make the definition of parents for CEAP consistent with AFDC, to clarify that only one needy caretaker relative is to be included in the assistance unit, to extend CEAP to any stage of a verified pregnancy, and to clarify that recipients of SSI, GAU or refugee assistance are not to be included in the assistance unit; WAC 388-24-276 is being repealed. This section is unnecessary; and other changes to WAC 388-24-250, 388-24-253, 388-24-254, 388-24-255, 388-24-260 and 388-24-265 are editorial in nature and are to comply with the department's paperwork management manual.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Jay Emry, Division of Income Assistance, mailstop OB-31J, phone (206) 753-4910.

These rules are necessary as a result of federal law, Refer to SF-FX:7 (Letter from Richard L. Boyce, Regional Administrator, Family Assistance, to Judith M. Merchant, Director, Division of Income Assistance, DSHS); 2-21-86.

AMENDATORY SECTION (Amending Order 2284, filed 9/23/85)

WAC 388-24-250 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—CONDITIONS OF ELIGIBILITY. (~~Effective July 28, 1985;~~) The department shall grant assistance under the consolidated emergency assistance program (CEAP) (~~shall be granted~~) to families with dependent children (~~who meet~~) meeting all of the following eligibility conditions:

(1) Have net monthly income less than fifty percent of the need standard for AFDC households with shelter costs or, if income is above the fifty percent cutoff, demonstrate that they could not have planned to avoid the emergency. The household can demonstrate an inability to plan if funds ordinarily available were expended for:

- (a) Medical bills,
 - (b) Emergent child care to avoid abuse,
 - (c) Dental care to alleviate pain, or
 - (d) Costs incurred in obtaining employment.
- (2) Are in financial need.
- (3) Are experiencing one or more of the following emergent needs:
- (a) Food((-);),
 - (b) Shelter((-);),
 - (c) Clothing((-);),
 - (d) Minor medical((-);),
 - (e) Utilities((-);),
 - (f) Household maintenance((-);),
 - (g) Necessary clothing or transportation costs to accept or maintain a job((-);), and
 - (h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.
- (4) Are taking all steps necessary to make themselves eligible for, or are not under sanction for failure to comply with, the eligibility requirements of AFDC, SSI, GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, and food stamps for those CEAP applicants requesting emergent food assistance.
- (5) (~~Are not under sanction for failure to comply with the eligibility requirements of AFDC, SSI, GA-U, refugee assistance, medical assistance for CEAP applicants requesting emergent medical care, or food stamps for CEAP applicants requesting emergent food assistance.~~

~~((6))~~ Are residents of Washington state. A resident is a person (~~who is~~) living in the state voluntarily with the intention of making and maintaining his or her home in the state and not for a temporary purpose (~~;- that is, a person who has indicated no intention of presently leaving the state to take up residence~~) or are:

- (a) If not a resident, detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or
- (b) Migrants.
- ~~((7))~~ (6) Have not transferred property contrary to WAC 388-28-457 through 388-28-465.
- ~~((8))~~ Are registered for employment with the Washington department of employment security (DES). Persons are exempt from registration if they are:
 - (a) Ill or incapacitated; or
 - (b) Needed in the home to care for an incapacitated person in the household; or
 - (c) A needy caretaker relative or parent of a child under the age of six who is caring for the child; or
 - (d) Under sixteen; or
 - (e) AFDC, GA-U applicants who are waiting for an incapacity determination to be made; or
 - (f) Sixty years of age or older.
- ~~(9)(a))~~ (7) Have not refused a bona fide job offer or voluntarily terminated employment without good cause within thirty days prior to application or after application.

- ~~((b))~~ Have not voluntarily terminated employment without good cause within thirty days prior to application or after application.
- (c)) (a) (~~Refusal of~~) Households refusing a bona fide offer of employment or voluntary termination without good cause within thirty days prior to application or after application shall (~~result in a period of ineligibility of~~) be ineligible for thirty days or until the person accepts employment, whichever (~~period~~) is less (~~(-;+))~~;
- (b) The period of ineligibility shall begin on the date of refusal or termination of employment (~~(-;+))~~;
- (c) Conditions (~~which constitute~~) constituting good cause for refusal or termination of employment are defined in WAC 388-57-064(7).
- ~~((+0))~~ (8) Have applied for unemployment compensation if potentially eligible.
- ~~((+1))~~ Have completed an interview with employment and training staff when referred;

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 2284, filed 9/23/85)

WAC 388-24-253 EXEMPT INCOME AND RESOURCES FOR CEAP. (~~In determining financial need and the amount of assistance in CEAP;~~) The (~~following~~) department shall (~~be disregarded as income and resources~~) disregard:

- (1) A home: WAC 388-28-420 shall apply in determining whether real property is used as a home;
- (2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;
- (3) Used and useful household furnishings;
- (4) Used and useful personal effects;
- (5) Tools and equipment used and useful in the person's occupation;
- (6) Livestock, the products of which are consumed by the applicants and his or her dependents;
- (7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;
- (9) Any compensation provided to volunteers in ACTION programs established by Titles II and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973;
- (10) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act;
- (11) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;
- (12) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979; and

(13) Energy assistance payments.

AMENDATORY SECTION (Amending Order 2284, filed 9/23/85)

WAC 388-24-254 DETERMINING INCOME FOR CEAP. ~~((In determining income for CEAP, the following shall be considered:))~~

(1) ~~((Recurrent income shall be considered available in the month it will be received provided:~~

~~(a) Income not yet received by the time of application, but expected to start during the month, shall be considered as nonrecurrent; and~~

~~(b) The last income from a recurring source shall be counted if it is expected to be received on or after the date of application)) The department shall estimate the expected income and circumstances for the calendar month for which the assistance payment is made. The estimate shall be based on reasonable expectation and knowledge of anticipated income for the household.~~

~~(2) ((Nonrecurrent income shall be considered available in the month it will be received provided the income is received prior to authorization)) The department shall allow the following deductions from income:~~

- ~~(a) Seventy-five dollars from earned income for work expenses,~~
- ~~(b) The actual amount paid for child care from earned income up to the maximums in WAC 388-28-570, and~~
- ~~(c) The current month's verified expenditures for:~~
 - ~~(i) Medical bills,~~
 - ~~(ii) Emergent child care to avoid abuse,~~
 - ~~(iii) Dental care to alleviate pain, or~~
 - ~~(iv) Costs incurred in obtaining employment.~~

AMENDATORY SECTION (Amending Order 2284, filed 9/23/85)

WAC 388-24-255 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—FINANCIAL NEED AND BENEFIT AMOUNTS. ~~((In determining financial need and benefit amounts, the following shall be considered:))~~

(1) ~~The department shall consider all income, cash, marketable securities, and personal and real property not specifically exempted in ((this section shall be considered nonexempt in determination of financial need)) WAC 388-24-253.~~

(2) ~~The department shall deduct income, cash on hand (if not already counted as income), and the value of other nonexempt resources at the time of grant authorization ((shall be deducted)) from the amount required to meet the emergent need subject to payment maximums.~~

~~((a) If the amount of income, cash on hand, and nonexempt resources are the same as or are greater than the applicant's needs for the certification period, the applicant shall be ineligible.~~

~~(b)) (3) The department shall place a value ((shall be placed)) on all other nonexempt resources available to the applicant at the time of grant authorization in accordance with WAC 388-28-400.~~

~~(4) The department shall deny CEAP if the amount of income, cash on hand, and nonexempt resources are the same as or are greater than the applicant's needs for the certification period.~~

AMENDATORY SECTION (Amending Order 2284, filed 9/23/85)

WAC 388-24-260 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—~~((CERTIFICATION PERIOD))~~ PAYMENTS. ~~((CEAP may be authorized)) (1) The department shall authorize CEAP for no more than one calendar month in any period of twelve consecutive calendar months.~~

~~((a)) (a) Each certification period cannot exceed one calendar month.~~

~~((b)) (b) A specified emergent need or needs must exist for the period of eligibility.~~

~~((c)) (c) CEAP may not be paid to persons who received emergency assistance from the department within the last twelve months.~~

~~(2) The department shall pay CEAP by warrant directly to the household or by vendor payment.~~

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-265 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—~~((ELIGIBLE PERSONS))~~ ASSISTANCE UNITS. ~~((Effective September 1, 1985:))~~

(1) ~~The department shall authorize CEAP ((shall be provided when the child)) for the following people provided they are otherwise eligible:~~

~~(a) ((fs)) A pregnant woman in any stage of a verified pregnancy, and~~

~~(b) The child or children under eighteen years of age ((, and)) who: ((b)) (i) Is living with a parent or other relative as specified in WAC 388-24-125 (1)(a)((f)), or~~

~~((c)) (ii) Has lived with such relative within the six months prior to the month in which assistance is requested((;)),~~

~~(c) The parent or parents with whom the child lives. The parental relationship shall be established according to the Uniform Parentage Act, or~~

~~(d) ((In emergent need and the need is not due to his or her or such relative's refusal without good cause to accept employment)) One needy caretaker with whom the child lives.~~

~~(2) ((The following may be included in the assistance unit:~~

~~(a) The child or children under the age of eighteen.~~

~~(b) Both parents, if married or if paternal relationship has been established (see WAC 388-24-050 (1)(b)). Otherwise, only the mother shall be included.~~

~~(c) The needy caretaker relative or relatives with whom the child or children live.~~

~~(d) Migrant workers with dependent children.~~

~~(e) The pregnant woman, with no other child or children, who is in her third trimester of pregnancy.~~

~~(f) A child under the age of eighteen not currently living in the home of a relative, if he or she qualifies under WAC 388-24-255(3).~~

~~(g) Children and families not eligible for assistance because of their alien status.~~

~~(3) Emergency assistance:~~

~~(a) May be paid to the recipient by warrant or by vendor payment.~~

~~(b) Shall be utilized for applicants from another state only when such individuals are:~~

~~(i) Detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated; or~~

~~(ii) They have decided to become residents)) Individuals receiving supplemental security income (SSI), general assistance or refugee assistance shall not be included in the assistance unit.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-24-270 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—GRANT STANDARDS.

WAC 388-24-276 APPLICATION.

WSR 87-10-065
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2488—Filed May 6, 1987]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to SSI recipients, amending WAC 388-54-775.

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 to implement a federal requirement revising 7 CFR 273.21 (b)(2). This provision of the Food Security Act of 1985 will exclude and prohibit households in which all adult members are elderly or disabled from having their allotment computations budgeted.

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 May 5, 1987.

By Leslie F. James, Director
Administrative Services

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 87-10-066
PROPOSED RULES
COUNCIL ON HEARING AIDS
[Filed May 6, 1987]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington Council on Hearing Aids intends to adopt, amend, or repeal rules concerning new section WAC 308-50-035, which provides the examination appeal procedures; and amendatory sections WAC 308-50-010 and 308-50-020, both which relate to the examination procedure;

that the agency will at 9:00 a.m., Thursday, June 18, 1987, in the Sheraton-Renton Inn, Tamarack Room, 800 Rainier South, Renton, WA 98057, 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 18.35.161(3).

The specific statute these rules are intended to implement is RCW 18.35.161(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 11, 1987.

Dated: May 1, 1987

By: Delores E. Spice
Program Manager

STATEMENT OF PURPOSE

Title and Number of Rule Sections: Chapter 308-50 WAC, Regulation and practice of hearing aid fitters and dispensers; includes WAC 308-50-010 Examinations; 308-50-020 Reexaminations; and new section WAC 308-50-035 Examination review and appeal procedures.

Statutory Authority: RCW 18.35.161(3).

Specific Statute that Rules are Intended to Implement: RCW 18.35.161(3).

Summary of the Rules: WAC 308-50-010 and 308-50-020, to provide for changes in the examination and reexamination procedures commencing in July 1988; and 308-50-035, provides a procedure through which examination results may be reviewed and challenged.

Reasons Supporting the Proposed Rules: The Council on Hearing Aids is adopting new examination and reexamination formats and the amendments to the rules reflect the procedural changes. The Administrative Procedure Act does not explicitly provide for a procedure to be used in examination appeal, and the new section has been proposed for such a procedure.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: In addition to members of the council, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Dorothy Gosney, Assistant Program Manager, Professional Programs Management Division, P.O. Box 9649, Olympia, WA 98504, (206) 753-4614 comm, 234-4614 scan.

Name of the Organization that is Proposing the Rule: Washington State Council on Hearing Aids.

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

Small Business Economic Impact Statement: Not required for these rules. The council has reviewed the impact that these rules would have on hearing aid fitters and dispensers and find that these rules do not have an economic impact on the industry.

NEW SECTION

WAC 308-50-035 EXAMINATION REVIEW AND APPEAL PROCEDURES. (1) Each applicant who is administered the examination for licensure and does not pass both parts of the examination will be provided information indicating the area of the examination in which the applicant was deficient with the notice of the examination results.

(2) Any applicant who does not pass a part of the examination may request an informal review by the council 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 the notice of examination results.

(3) That procedure for the informal review is as follows:

(a) An applicant submitting a written request for an informal review by the deadline described in (2) above will be contacted by the department to arrange an appointment to appear personally in the Olympia office to review the part or parts of the examination failed.

(b) The applicant will be provided a form to complete in the Olympia office in defense of examination answers and/or examination performance.

(c) The applicant will be identified only by applicant number for the purpose of this procedure. Letters of reference or requests for special consideration will not be read or considered by the council.

(d) That applicant may bring textbooks or published material for use in completing the informal review, but such material must be retained by the Olympia office until the council has completed the informal review request submitted by the applicant.

(e) That applicant will not be allowed to take any notes or materials from the office upon leaving.

(f) The information submitted to the council for its consideration in the informal review must state the specific reason or reasons why the results of the examination should be changed. The council will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The council will not consider a challenge to the examination unless the total revised score including the questions or sections to be reviewed could result in a passing score in the examination.

(g) The council will schedule a closed session meeting to conduct the informal review material submitted by the applicant.

(h) The applicant will be notified in writing of the results of the informal review.

(4) Any applicant who is not satisfied with the result of the examination review may request that a formal hearing be held before the council pursuant to the Administrative Procedures Act. Such a hearing request must be received by the Department of Licensing within thirty (30) days of postmark of the notification of the result of the council's informal review of the applicant's examination results. The request must be in writing and must state the specific reasons why the results of the examination should be changed. The council will not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The council will not consider a challenge to the examination unless the total revised score including the questions or sections to be reconsidered could result in a passing score in the examination.

(5) In the event the issues cannot be resolved by the parties involved prior to a hearing, either party may request a prehearing conference before an administrative law judge to consider the following:

- (a) the simplification of issues;
- (b) the necessity of amendments to the notice of specific reasons for the examination result modification;
- (c) the possibility of obtaining stipulations, admission of facts and documents;
- (d) the limitation of the number of expert witnesses;
- (e) a schedule for completion of all discovery; and,
- (f) such other matters as may aid in the disposition of the proceeding.

(6) In the event there is a prehearing conference, the administrative law judge shall enter an order which recites the actions taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.

(7) Applicants will receive at least twenty (20) days notice of the time and place of the formal hearing. The hearing will be restricted to the specific reasons the applicant has identified as the basis for a change in the examination score. The issues raised by the applicant at the formal hearing shall be limited to those issues raised by the applicant for consideration at the informal review.

AMENDATORY SECTION (Amending Order PL 463, filed 4/4/84)

WAC 308-50-010 EXAMINATIONS. (1) The examination required of applicants shall be in two parts: Written and practical, each

consisting of several sections(~~(Note: The home study course prepared by the National Hearing Aid Society will be used as a guideline.))~~: PROVIDED, That effective with the July 1988 examination, the examination shall be in two parts: Written and practical.

(2) The minimum passing grade for each section shall be seventy percent with the minimum average grade of seventy-five percent for each part before an applicant shall be considered to have satisfactorily passed the required examination for licensure: PROVIDED, That effective with the July 1988 examination, the minimum passing grade shall be seventy percent for each part to pass the required examination for licensure.

(3) In addition to those subjects listed in RCW 18.35.070, the examination shall test the knowledge of the applicant in the basic act governing hearing aid fitter/dispensers and rules and regulations promulgated pursuant to this act.

(4) Applications for examination shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.

AMENDATORY SECTION (Amending Order PL 479, filed 9/12/84)

WAC 308-50-020 REEXAMINATIONS. (1) Should an applicant fail any section, he/she may apply to the department to be reexamined in such section(s): PROVIDED, That effective with the July 1988 examination, should an applicant fail either the written part or any portion(s) of the practical part of the examination, he/she may apply to the department to retake the failed written part and/or failed portion(s) of the practical part of the examination.

(2) All reexaminations shall be conducted at the next regularly scheduled examination.

(3) Any person who fails to qualify for licensure after three consecutive regularly scheduled examinations shall be required to take the entire examination. A waiver may be granted upon a showing of emergency circumstances.

WSR 87-10-067

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Practical Nursing)

[Filed May 6, 1987]

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

- Amd WAC 308-117-130 Board action following survey visits.
- Amd WAC 308-117-200 Curriculum in an approved practical nursing program.
- Amd WAC 308-117-300 Curriculum content;

that the agency will at 9:00 a.m., Tuesday, August 4, 1987, in Conference Room 2, Airport Executel, 20717 Pacific Highway South, Seattle, WA 98188, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.78.050 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.78.050 and 18.130.050.

Dated: April 23, 1987

By: Constance Roth
Program Manager

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Practical Nursing.

Purpose: To make it clear that the standards/competencies of WAC 308-117-400 apply to curriculum considerations.

Summary: WAC 308-117-130 Board action following survey visits; 308-117-200 Curriculum in an approved practical nursing program; and 308-117-300 Curriculum content.

Statutory Authority: RCW 18.78.050 and 18.130.050.

Reason Proposed: To specifically reference the requirements of WAC 308-117-400, standards/competencies.

Responsible Departmental Personnel: In addition to the members of the Washington State Board of Practical Nursing, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Constance Roth, Board of Practical Nursing, Division of Professional Programs Management, P.O. Box 9649, Olympia, Washington 98504, phone (206) 753-3726 comm, (206) 234-3726 scan.

Proponents: Washington State Board of Practical Nursing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined in RCW 19.85.020.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-130 BOARD ACTION FOLLOWING SURVEY VISITS. (1) Whenever a matter directly concerning a practical nursing program is being considered by the board, any board member who is associated with the program shall not participate in the deliberation or decision-making action of the board.

(2) Each program shall be evaluated in terms of its conformance to the curriculum standards as provided in this chapter.

(3) The board shall give written notice to the educational institution and the nurse administrator of the practical nursing program regarding its decision on the program's approval status.

(4) Continuing full approval shall be granted a practical nursing program that meets the requirements of the law and the rules and regulations of the board. Full approval may carry recommendations for improvement and for correcting deficiencies.

(5) If the board determines that an approved practical nursing program is not maintaining the curriculum standards required for approval, the board shall give written notice specifying the deficiencies and shall designate the period of time in which the deficiencies must be corrected. The program's approval shall be suspended if a program fails to correct the deficiencies within the specified period of time.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-200 CURRICULUM STANDARDS IN AN APPROVED PRACTICAL NURSING PROGRAM. (1) In order to insure that the curriculum is well defined the statements of philosophy, purpose, objectives and conceptual framework of the curriculum must be carefully formulated, reviewed and revised periodically and must be consistent with the philosophy and goals of the controlling institution.

(2) The philosophy of the nursing curriculum must express the nursing faculty's beliefs about education, learning, nursing, nursing education and practical nursing as an integral part of nursing.

(3) The curriculum shall be consistent with the program philosophy, objectives and conceptual framework and with the law governing the practice of practical nursing.

(4) The philosophy and objectives must be communicated to the students and to staff involved with students in clinical areas to ensure achievement of the objectives.

(5) The ratio between nursing and nonnursing classes shall be based on a well developed rationale which supports the program philosophy, purpose and terminal objectives.

(6) The behavioral objectives must be realistic, attainable and measurable, based on the goal of preparing practitioners who function within the accepted role of the licensed practical nurse and the standards of competency identified in WAC 308-117-400.

(7) Learning opportunities and instructional approaches shall facilitate the achievement of curriculum objectives.

(8) The school shall have flexibility to develop and implement the curriculum as it determines will best achieve the program philosophy and objectives.

(9) The manner in which the theoretical and practical studies contribute to the achievement of the students' terminal objectives must be documented, maintained and be available for review upon request by the board of practical nursing.

(10) The curriculum shall provide concurrent theoretical instruction and practical application in the care of selected individuals at all developmental levels with different degrees of wellness-illness and various types of incapacities.

(11) Any plan for major curriculum revision, such as changes affecting the philosophy and objectives, significant course content changes, or changes in the length of the program, shall be submitted to the board for approval ((60)) sixty days prior to implementation.

(12) A school offering practical nursing programs at more than one educational site must have the same curricular philosophy and terminal objectives at each site.

(13) The curriculum shall be evaluated on a regular basis to ensure that graduates will demonstrate the knowledge and practical application consistent with that expected of a beginning licensed practical nurse.

(14) The curriculum shall encompass broad areas of learning. Nursing content based on scientific principles shall be consistent with the practical nursing role and shall facilitate the application of nursing concepts to the care of the client.

AMENDATORY SECTION (Amending Order PL 452, filed 12/19/83)

WAC 308-117-300 CURRICULUM CONTENT. Content of the curriculum shall include:

(1) Concepts of social, behavioral, and related foundation subjects.

(a) Normal growth and development.

(b) Psychology - social facts and principles; communication techniques and defense mechanisms, normal and abnormal behavior; loss, grief and dying.

(c) Personal and vocational relationships.

(2) Biological and related foundation subjects.

(a) Anatomy and physiology.

(b) Microbiology - elementary concepts.

(c) Chemistry and physics - elementary concepts.

(d) Nutrition and diet therapy.

(e) Pharmacology and applied mathematics.

(3) Principles and practice of practical nursing consistent with the practical nursing role of the beginning practitioner as provided by the standards of competency identified in WAC 308-117-400.

(a) Nursing ethics, nursing history and trends, vocational and legal aspects of nursing.

(b) Fundamentals of nursing.

(c) Medical and surgical nursing.

(d) Parent/child nursing with only an assisting role in the care of clients during labor and delivery and those with abnormal complications.

(e) Geriatric nursing.

(f) Mental health nursing.

(g) All nursing courses shall include components of restorative, rehabilitative and supportive care.

(h) Laboratory and clinical practice in the functions of the practical nurse including but not limited to administration of medications, common medical surgical techniques and related client teaching.

(i) Concepts of client care management.

WSR 87-10-068
PROPOSED RULES
MEDICAL DISCIPLINARY BOARD
 [Filed May 6, 1987]

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

New	WAC 320-08-001	Construction.
Amd	WAC 320-08-010	Appearance and practice before agency—Who may appear.
Amd	WAC 320-08-030	Appearance and practice before agency—Solicitation of business unethical.
Amd	WAC 320-08-040	Appearance and practice before agency—Standards of ethical conduct.
Amd	WAC 320-08-050	Appearance and practice before agency—Appearance by former employee of board or former member of attorney general's staff.
New	WAC 320-08-055	Appearance and practice before agency—Former employee and board member as witness.
Amd	WAC 320-08-070	Computation of time.
Amd	WAC 320-08-080	Notice and opportunity for hearing in contested cases.
Amd	WAC 320-08-090	Service of process—By whom served.
Amd	WAC 320-08-100	Service of process—Upon whom served.
Amd	WAC 320-08-140	Service of process—Filing with Washington State Medical Disciplinary Board.
Amd	WAC 320-08-160	Subpoenas where provided by law—Issuance to parties.
Amd	WAC 320-08-180	Subpoenas where provided by law—Fees.
Amd	WAC 320-08-190	Subpoenas where provided by law—Proof of service.
Amd	WAC 320-08-200	Subpoenas where provided by law—Quashing.
Amd	WAC 320-08-210	Subpoenas where provided by law—Enforcement.
Amd	WAC 320-08-260	Depositions and interrogatories in contested cases—Authorization.
Amd	WAC 320-08-270	Depositions and interrogatories in contested cases—Protection of parties and deponents.
Amd	WAC 320-08-300	Depositions and interrogatories in contested cases—Signing attestation and return.
Amd	WAC 320-08-310	Depositions and interrogatories in contested cases—Use and effect.
Amd	WAC 320-08-350	Depositions upon interrogatories—Attestation and return.
Amd	WAC 320-08-370	Official notice—Matters of law.
Amd	WAC 320-08-390	Presumptions.
Amd	WAC 320-08-400	Stipulations and admissions of record.
Amd	WAC 320-08-410	Form and content of decisions in contested cases.
Amd	WAC 320-08-420	Definition of issues before hearing.
Amd	WAC 320-08-430	Prehearing conference rule—Authorized.
Amd	WAC 320-08-440	Prehearing conference rule—Record of conference action.
New	WAC 320-08-445	Motions.
Amd	WAC 320-08-450	Submissions of documentary evidence in advance.
Amd	WAC 320-08-460	Excerpts from documentary evidence.
Amd	WAC 320-08-470	Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
Amd	WAC 320-08-510	Continuances.
Amd	WAC 320-08-520	Rules of evidence—Admissibility criteria.

Amd	WAC 320-08-530	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
Amd	WAC 320-08-540	Petitions for rule making, amendment or repeal—Who may petition.
Amd	WAC 320-08-380	Official notice—Material facts;

that the agency will at 3:30 p.m., Friday, June 19, 1987, in Room 3 East Large, Providence Medical Center, 500 17th, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.72.150 and 18.130.050.

The specific statute these rules are intended to implement is RCW 18.72.150 and 18.130.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

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

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

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

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

Gloria Westerfield, Executive Secretary
 Washington State Medical Disciplinary Board
 Department of Licensing
 Business and Professions Administration
 P.O. Box 9649
 Olympia, WA 98504

Dated: May 4, 1987

By: Joyce R. Dolliver
 Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s):
 See above.

Statutory Authority and Specific Statute(s) that Rule(s) are Intended to Implement: RCW 18.72.150 and 18.130.050.

Summary of the Rules: The amendments to the rules in chapter 320-08 WAC are housekeeping changes; new WAC 320-08-001 aids in the construction of the housekeeping changes; new WAC 320-08-055 prohibits a former employee or board member from testifying before the board about a matter when the employee or board member served in an investigatory or adjudicative role in that matter, without first obtaining permission from the board to testify; and new WAC 308-08-445 [320-08-445] establishes a motion procedure for preliminary motions.

Reasons Supporting the Proposed Rules: The amendments are housekeeping in nature and both the amendments and new rules in chapter 320-08 WAC clarify the

procedures and practice before the Washington State Medical Disciplinary Board.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: In addition to members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Gloria Westerfield, Executive Secretary, Business and Professions Administration, P.O. Box 9649, Olympia, WA 98504, (206) 753-2205 comm, (206) 234-2205 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Medical Disciplinary Board.

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

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

Small Business Economic Impact Statement: Not required for these rules. Physicians are classed in SIC Code 801, offices of physicians, and physicians' assistants are classed in SIC Code 804, offices of other health practitioners. While physicians account for more than ten percent of this area and less than twenty percent of all industries, these rules do not have an economic impact on physicians. Physicians' assistants account for less than ten percent of the health care practitioners in their classification and less than twenty percent of all industries.

NEW SECTION

WAC 320-08-001 CONSTRUCTION. The term "Washington state medical disciplinary board" as used in chapter 320-08 WAC shall mean a duly constituted panel of the Washington state medical disciplinary board if a panel has been constituted to preside at the hearing. If a panel has not been so constituted, then the term "Washington state medical disciplinary board" shall mean the board or a quorum of the board.

AMENDATORY SECTION (Amending Rule 320-08-010, filed 12/14/64)

WAC 320-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR. No person may appear in a representative capacity before the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) other than the following:

- (1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.
- (2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

AMENDATORY SECTION (Amending Rule 320-08-020, filed 12/14/64)

WAC 320-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL. It shall be unethical for persons while acting (~~(in a representative capacity before)~~) as a representative of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) to solicit business by circulars, advertisements or by personal communication or interviews not warranted by personal relations, provided that such representative may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind.

AMENDATORY SECTION (Amending Rule 320-08-030, filed 12/14/64)

WAC 320-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT. All persons appearing in proceedings before the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may decline to permit such person to appear in a representative capacity in any proceeding before it.

AMENDATORY SECTION (Amending Rule 320-08-040, filed 12/14/64)

WAC 320-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY (~~(FORMER EMPLOYEE OF BOARD OR)~~) FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No member of the attorney general's staff assigned to represent the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may at any time after severing his employment with the attorney general appear, except with the written permission of the Washington state medical disciplinary board, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~).

NEW SECTION

WAC 320-08-055 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AND BOARD MEMBER AS WITNESS. No former employee of the board or department of licensing or former board member shall, at any time after severing employment or serving as a board member, appear as a witness on behalf of parties other than the board or the department of licensing in a formal proceeding wherein he or she previously took an active part in the investigation or deliberation as a representative of the board or the department of licensing, except with the written permission of the board.

AMENDATORY SECTION (Amending Rule 320-08-050, filed 12/14/64)

WAC 320-08-070 COMPUTATION OF TIME. In computing any period of time prescribed or allowed by the (~~(Washington state medical disciplinary board or a hearing committee of said)~~) board rules, by order of the Washington state medical disciplinary board or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

AMENDATORY SECTION (Amending Rule 320-08-060, filed 12/14/64)

WAC 320-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES. In any case involving a charge of unprofessional conduct, the party shall be served with (~~(a specification of charges and)~~) a notice of hearing at least (~~(thirty)~~) twenty days before the date set for the hearing. The notice shall state the time, place, and issues involved, as required by RCW 34.04.090(1) (~~(and the other requirements of notice prescribed by RCW 18.72.180)~~).

AMENDATORY SECTION (Amending Rule 320-08-070, filed 12/14/64)

WAC 320-08-090 SERVICE OF PROCESS—BY WHOM SERVED. The Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) shall cause to be served (~~(by the sheriff)~~) all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

AMENDATORY SECTION (Amending Rule 320-08-080, filed 12/14/64)

WAC 308-08-100 SERVICE OF PROCESS—UPON WHOM SERVED. All papers served by either the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

Reviser's note: The above amendatory section was filed by the agency as WAC 308-08-100. However, the other rules for the Medical Disciplinary Board are found in Title 320 WAC. The section amended above appears to be WAC 320-08-100, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending Rule 320-08-120, filed 12/14/64)

WAC 320-08-140 SERVICE OF PROCESS—FILING WITH WASHINGTON STATE MEDICAL DISCIPLINARY BOARD. Papers required to be filed with the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) shall be deemed filed upon actual receipt by the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) at (~~(the place specified in its rules)~~) its office accompanied by proof of service upon parties required to be served.

AMENDATORY SECTION (Amending Rule 320-08-140, filed 12/14/64)

WAC 320-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES. (~~Upon application of counsel for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding.~~) The Washington state medical disciplinary board may issue subpoenas to parties not (~~so~~) represented by counsel upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

AMENDATORY SECTION (Amending Rule 320-08-160, filed 12/14/64)

WAC 320-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES. Witnesses summoned before the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

AMENDATORY SECTION (Amending Rule 320-08-170, filed 12/14/64)

WAC 320-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the Washington state medical disciplinary board (~~(or the hearing committee of said board)~~) before whom the witness is required to testify or produce evidence. Failure to make proof of service does not affect the validity of the service.

AMENDATORY SECTION (Amending Rule 320-08-180, filed 12/14/64)

WAC 320-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

AMENDATORY SECTION (Amending Rule 320-08-190, filed 12/14/64)

WAC 320-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT. Upon application and for good cause shown, the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

AMENDATORY SECTION (Amending Rule 320-08-240, filed 12/14/64)

WAC 320-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the Washington state medical disciplinary board and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the (~~hearing committee~~) board may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending Rule 320-08-250, filed 12/14/64)

WAC 320-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the party or parties to the action and his or their counsel, or that after being sealed, the deposition shall be opened only by order of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~), or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) or it may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~). Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

AMENDATORY SECTION (Amending Rule 320-08-280, filed 12/14/64)

WAC 320-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN. (1) When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or

cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the Washington state medical disciplinary board, (~~(or a hearing committee of said board)~~) for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

AMENDATORY SECTION (Amending Rule 320-08-290, filed 12/14/64)

WAC 320-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT. Subject to rulings by the (~~(hearing committee)~~) board upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the (~~(hearing committee)~~) board upon its own motion or the motion of any party. Except by agreement of the parties or ruling of the (~~(hearing committee)~~) board, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

AMENDATORY SECTION (Amending Rule 320-08-330, filed 12/14/64)

WAC 320-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~), one copy to the counsel who submitted the interrogatories and another copy to the deponent.

AMENDATORY SECTION (Amending Rule 320-08-350, filed 12/14/64)

WAC 320-08-370 OFFICIAL NOTICE—MATTERS OF LAW. The Washington state medical disciplinary board (~~(or a hearing committee of said board)~~), upon request made before or during a hearing, will officially notice:

(1) Federal law. The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the federal register;

(2) State law. The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Governmental organization. Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) Agency organization. The Washington state medical disciplinary board's organization, administration, officers, personnel, official publications, and practitioners before its bar.

AMENDATORY SECTION (Amending Rule 320-08-360, filed 12/14/64)

WAC 320-08-380 OFFICIAL NOTICE—MATERIAL FACTS. In the absence of controverting evidence, the Washington state medical disciplinary board, (~~(or a hearing committee of said board)~~;) upon request made before or during a hearing, may officially notice:

(1) Agency proceedings. The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~);

(2) Business customs. General customs and practices followed in the transaction of business;

(3) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) Technical knowledge. Matters within the technical knowledge of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~), as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) Request or suggestion. Any party may request, or the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) Statement. Where an initial or final decision of the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~) rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, (~~(the hearing committee of)~~) the Washington state medical disciplinary board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) Evaluation of evidence. Nothing herein shall be construed to preclude the Washington state medical disciplinary board (~~(or a hearing committee of said board)~~), from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

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 Rule 320-08-370, filed 12/14/64)

WAC 320-08-390 PRESUMPTIONS. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the Washington state medical disciplinary board, (~~(or a hearing committee of said board)~~;) with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) Identity. That persons and objects of the same name and description are identical;

(3) Delivery. That mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) Ordinary course. That a fact exists or does not exist upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs usually and regularly coexists with the fact presumed;

(5) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) Interference with remedy. That evidence, with respect to a material fact which in bad faith is destroyed, eluded, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

AMENDATORY SECTION (Amending Rule 320-08-380, filed 12/14/64)

WAC 320-08-400 STIPULATIONS AND ADMISSIONS OF RECORD. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the party or parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of ~~((the hearing committee or))~~ the Washington state medical disciplinary board that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

AMENDATORY SECTION (Amending Rule 320-08-390, filed 12/14/64)

WAC 320-08-410 FORM AND CONTENT OF DECISIONS IN CONTESTED CASES. Every decision and order ~~((, whether proposed by the hearing committee, or as finally adopted by the Washington state medical disciplinary board;))~~ shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

AMENDATORY SECTION (Amending Rule 320-08-400, filed 12/14/64)

WAC 320-08-420 DEFINITION OF ISSUES BEFORE HEARING. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the ~~((hearing committee))~~ board may proceed promptly to conduct the hearing on relevant and material matter only.

AMENDATORY SECTION (Amending Rule 320-08-410, filed 12/14/64)

WAC 320-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED. In any proceeding the Washington state medical disciplinary board ~~((or its designated hearing committee)),~~ upon its own motion, or upon the motion of the party or parties or their counsel, may in its discretion direct the parties or their counsel to appear at a specified time and place for a conference to consider

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

AMENDATORY SECTION (Amending Rule 320-08-420, filed 12/14/64)

WAC 320-08-440 PREHEARING CONFERENCE RULE—RECORD OF CONFERENCE ACTION. The Washington state medical disciplinary board ~~((or a hearing committee of said board))~~ shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the party or parties or their counsel as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

NEW SECTION

WAC 308-04-445 MOTIONS. Any and all preliminary motions shall be filed in writing with the executive secretary of the board and a copy delivered to opposing counsel/party no later than fifteen days prior to the board meeting preceding the board meeting at which the hearing is to occur. The opposing counsel/party shall file in writing a response to the motion with the executive secretary of the board and deliver a copy to the moving party within five days after receipt of the motion.

Motions shall be scheduled for argument at the next board meeting after the motion and response have been filed or if the parties waive argument, the board shall decide the motion on the basis of the written motion and response.

The chairman of the board or his or her designee, who shall be a board member, may waive the time requirements for the filing of motions and response to motions if good cause for such waiver is shown.

Reviser's note: The above new section was filed by the agency as WAC 308-08-445. However, the other rules for the Medical Disciplinary Board are found in Title 320 WAC. The new section above appears to be WAC 320-08-445, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending Rule 320-08-430, filed 12/14/64)

WAC 320-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE. Where practicable the Washington state medical disciplinary board ~~((or a hearing committee of said board))~~ may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the ~~((hearing committee))~~ board and to the other parties sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subsection (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

AMENDATORY SECTION (Amending Rule 320-08-440, filed 12/14/64)

WAC 320-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts together with a statement indicating the purpose for which such materials will be offered, to the ~~((hearing committee))~~ board and to the other party or parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

AMENDATORY SECTION (Amending Rule 320-08-450, filed 12/14/64)

WAC 320-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES. That the ~~((hearing committee))~~ board in all ~~((classes of))~~ cases where practicable make an effort to have the ~~((interested))~~ party or parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the ~~((interested))~~ parties cannot agree, require them to ~~((him))~~ submit to ~~((him))~~ the board and to the other party or parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by ~~((him))~~ the board and fixed sufficiently in advance of the hearing to permit the other ~~((interested))~~ parties to investigate such qualifications.

AMENDATORY SECTION (Amending Rule 320-08-460, filed 12/14/64)

WAC 320-08-510 CONTINUANCES. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing~~((;))~~ or as soon thereafter as facts requiring such continuance come to his or her knowledge, notify the executive secretary of the Washington state medical disciplinary board and the opposing counsel ~~((or a hearing committee of said board))~~ of said desire~~((, stating in detail the reasons why continuance is necessary))~~. The board's executive secretary shall arrange to have the request for a continuance heard by the presiding officer of the hearing or his or her designee and at a board meeting, if possible. The presiding officer or the designee ~~((Washington state medical disciplinary board or a hearing committee of said board))~~, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. Except in cases of emergency, a request for a continuance is not promptly and timely made if made less than thirty days prior to the hearing date. For purposes of this rule, an emergency is defined as an unforeseen and unforeseeable event or circumstance. For good cause shown, the presiding officer or the designee ~~((Washington state medical disciplinary board or a hearing committee of said board))~~ may grant ~~((such))~~ a continuance promptly and timely made and may at any time order a continuance upon ~~((its))~~ his or her own motion. The presiding officer or the designee may grant a request for an emergency continuance for good cause shown and only upon a showing that the request could not have been made earlier as a result of unforeseen and unforeseeable events or circumstances. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the ~~((hearing committee conducting the hearing))~~ presiding officer may in ~~((its))~~ his or her discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

AMENDATORY SECTION (Amending Rule 320-08-470, filed 12/14/64)

WAC 320-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the ~~((officer conducting the hearing))~~ board, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the ~~((hearing committee conducting the hearing))~~ board shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

AMENDATORY SECTION (Amending Rule 320-08-480, filed 12/14/64)

WAC 320-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The ~~((committee conducting the hearing))~~ board may, in its discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

AMENDATORY SECTION (Amending Rule 320-08-490, filed 12/14/64)

WAC 320-08-540 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION. Any interested person may petition the Washington state medical disciplinary board ~~((or a hearing committee of said board))~~ requesting the promulgation, amendment, or repeal of any rule.

WSR 87-10-069
PROPOSED RULES
MEDICAL DISCIPLINARY BOARD
 [Filed May 6, 1987]

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

Amd	WAC 320-12-030	Nominating petitions.
Amd	WAC 320-12-050	Time of election—Ballots.
Amd	WAC 320-12-060	Identification by congressional district.
Amd	WAC 320-12-070	Ballots.
Amd	WAC 320-20-010	General provisions.
Amd	WAC 320-20-020	Mandatory reporting.
Amd	WAC 320-20-030	Health care institutions.
Rep	WAC 320-16-001	Promulgation.
Rep	WAC 320-16-010	Suspension or revocation.
Rep	WAC 320-16-015	Conditional suspension or revocation.
Rep	WAC 320-20-060	Professional liability carriers;

that the agency will at 3:30 p.m., Friday, June 19, 1987, in Room 3 East Large, Providence Medical Center, 500 17th, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.72.150, 18.130.050 and 18.130.070.

The specific statute these rules are intended to implement is RCW 18.72.150, 18.130.050 and 18.130.070.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before June 18, 1987.

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

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

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

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

Gloria Westerfield, Executive Secretary
Washington State Medical Disciplinary Board
Department of Licensing
Business and Professions Administration
P.O. Box 9649
Olympia, WA 98504

Dated: May 4, 1987

By: Joyce R. Dolliver
Assistant Attorney General

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s):
See above.

Statutory Authority and Specific Statute(s) that Rule(s) are Intended to Implement: RCW 18.72.150, 18.130.050 and 18.130.070.

Summary of the Rules: The amendments to the rules in chapter 320-12 WAC and the repeal of the rules in chapter 320-16 WAC are housekeeping changes; and the amendments and the repeal of rules in chapter 320-20 WAC are to update the mandatory reporting requirements to bring these requirements in compliance with statutory changes in the 1986 legislative session.

Reasons Supporting the Proposed Rules: The amendments and repeals are housekeeping in nature.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: In addition to members of the board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Gloria Westerfield, Executive Secretary, Business and Professions Administration, P.O. Box 9649, Olympia, WA 98504, (206) 753-2205 comm, (206) 234-2205 scan.

Name of the Person or Organization that is Proposing the Rules: Washington State Medical Disciplinary Board.

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

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

Small Business Economic Impact Statement: Not required for these rules. Physicians are classed in SIC Code 801, offices of physicians, and physicians' assistants are classed in SIC Code 804, offices of other health practitioners. While physicians account for more than ten percent of this area and less than twenty percent of all industries, these rules do not have an economic impact on physicians. Physicians' assistants account for less than ten percent of the health care practitioners in their classification and less than twenty percent of all industries.

AMENDATORY SECTION (Amending Order PL 388, filed 12/18/81)

WAC 320-12-030 NOMINATING PETITIONS. Nominating petitions shall be signed by not less than twenty-five licensed physicians residing in the congressional district in which the nominee resides. The nominating petitions shall be distributed by the ~~((division of professional licensing))~~ department of licensing the first Monday in May and must be returned to the ~~((division))~~ department by the third Monday in June. Nominating petitions will be provided by the ~~((division of professional licensing;))~~ department of licensing((:)) to Washington state medical association, to the chief of the medical staff of Washington licensed hospitals, the county clerk of each county, the local medical societies.

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

AMENDATORY SECTION (Amending Order PL 388, filed 12/18/81)

WAC 320-12-050 TIME OF ELECTION—BALLOTS. The election shall be held on the second Monday in September. Ballots for the election for a member to the medical disciplinary board from each congressional district shall be sent to the physicians residing in each congressional district not later than the second Monday in August and must be returned to the election commission in the ~~((division of professional licensing))~~ department of licensing in Olympia, Washington, by the second Monday in September.

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

AMENDATORY SECTION (Amending Order PL 388, filed 12/18/81)

WAC 320-12-060 IDENTIFICATION BY CONGRESSIONAL DISTRICT. In order for the physician's vote to be valid, each physician must print his or her name on the mailing envelope, which is returned to the ~~((division))~~ department of licensing in Olympia, so that the name of each physician voting in the election may be checked off the list of eligible voters.

AMENDATORY SECTION (Amending Order PL 388, filed 12/18/81)

WAC 320-12-070 BALLOTS. Voting shall be by secret ballot which shall be enclosed in a separate envelope and neither the ballot nor the ballot envelope shall contain any signature or identifying mark whereby the identity of the voter can be ascertained. ~~((Mailing envelopes;))~~ Mailing envelopes, ballot envelopes and ballots will be provided by the ~~((division of professional licensing))~~ department of licensing.

AMENDATORY SECTION (Amending Order PL 360, filed 10/29/80, effective 1/1/81)

WAC 320-20-010 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.72.030 for conduct occurring before June 11, 1986 and the conduct described in RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(2) "Hospital" means any health care institution licensed pursuant to chapter((s)) 70.41 ~~((and 70-71))~~ RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Board" means the medical disciplinary board, whose address is:

Department of Licensing
~~((Division of Professional Licensing))~~
Business and Professions Administration
P.O. Box 9649
Olympia, WA 98504

(5) "Physician" means a physician licensed pursuant to chapter 18-.71 RCW.

(6) "Mentally or physically disabled physician" means a physician who has either been determined by a court to be mentally incompetent

or mentally ill or who is unable to practice medicine with reasonable skill and safety to patients by reason of any mental or physical condition.

AMENDATORY SECTION (Amending Order PL 360, filed 10/29/80, effective 1/1/81)

WAC 320-20-020 MANDATORY REPORTING. (1) All reports required by these regulations shall be submitted to the board as soon as possible, but no later than sixty days after a determination is made.

(2) A report should contain the following information ~~(([is] [fif]))~~ if known:

(a) The name, address and telephone number of the person making the report.

(b) The name and address and telephone numbers of the physician being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid the evaluation of the report.

(3) The mandatory reporting shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept for the confidential use of the board as provided in the Medical Disciplinary Act and shall not be subject to subpoena or discovery proceedings in any civil action as provided in RCW 4.24.250, and shall be exempt from public disclosure pursuant to chapter 42.17 RCW except for review as provided in RCW 18.72.265(2).

AMENDATORY SECTION (Amending Order PL 360, filed 10/29/80, effective 1/1/81)

WAC 320-20-030 HEALTH CARE INSTITUTIONS OTHER THAN HOSPITALS. The chief administrator or executive officer of any ~~((hospital or))~~ health care institutions, which includes, but is not limited to, clinics and nursing ~~((home))~~ homes, shall report to the board when any physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's bylaws, that a physician has either committed an act or acts which may constitute unprofessional conduct or that a physician may be mentally or physically disabled. Said officer shall also report if a physician accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon unprofessional conduct or upon being mentally or physically disabled.

REPEALER

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

WAC 320-16-001 PROMULGATION.
WAC 320-16-010 SUSPENSION OR REVOCATION.
WAC 320-16-015 CONDITIONAL SUSPENSION OR REVOCATION.
WAC 320-20-060 PROFESSIONAL LIABILITY CARRIERS.

WSR 87-10-070

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-13—Filed May 6, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at 805 Plum Street, 4th Floor, Olympia, WA 98504, the annexed rules relating to the changes to WAC 296-18A-460, performance criteria for vocational rehabilitation providers, will enable the department to more effectively

control the quality of vocational rehabilitation services provided to injured workers.

This action is taken pursuant to Notice No. WSR 87-05-060 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 51.32.095 and 51.04.030 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 May 6, 1987.

By Clark T. Ransom
for Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85)

WAC 296-18A-460 PERFORMANCE CRITERIA. (1) Vocational rehabilitation providers offering services under RCW 51.32.095 for state fund referrals shall be selected by the department, at the department's sole discretion, based upon providers' performance according to the following criteria.

(2) There shall be objective evaluation by the department's office of rehabilitation services, which shall address:

(a) Cost to medical aid fund including fees paid to vocational providers or other providers at the request of the vocational rehabilitation counselor;

(b) Cost to accident fund including time loss compensation, ~~((paid after vocational rehabilitation services begin less interruptions for medical instability,))~~ loss of earning power payments, and "training" costs pursuant to RCW 51.32.095(3), paid during the time vocational rehabilitation services are provided;

(c) Cost to second injury fund due to approved job site modifications;

(d) Length of services provided, from time of referral to date of issuance of closing report;

(e) Ratio of referrals to completed plans;

(f) The outcome of the claim at the time of closure of vocational rehabilitation services which identifies the injured worker as (i) employable; (ii) returned to work; or (iii) other.

(3) The office of rehabilitation services shall also weigh the various objective criteria listed above by addressing the following subjective criteria:

(a) ~~((The case difficulty utilizing a screening tool developed by the office of rehabilitation services;~~

~~((b)))~~ The ability of the vocational rehabilitation provider and counselor to comply with the rules contained in chapter 296-18A WAC and the law as contained in RCW 51.32.095;

~~((c))~~ (b) The adequacy of the vocational rehabilitation provider's facilities shall also be considered.

(4) The office of rehabilitation services shall solicit proposals, on forms provided by the office of rehabilitation services, from all providers on the department's provider list and shall utilize these in contracting with providers for referrals.

(5) Audits. In order to ensure compliance with the above listed criteria, every vocational rehabilitation provider used by the department shall be subject to an audit of their facilities and files. Audits may be conducted upon petition or upon the department's own initiative. Audits may be for cause or at random and may consist of, but not be limited to, an on-site evaluation of each provider's facilities, files and records, including the accuracy of the records and the accuracy of billing for services. The vocational rehabilitation provider shall receive written notice at least forty-eight hours in advance of such audit.

The audit of vocational rehabilitation providers at locations outside the state of Washington shall be at the expense of the provider and the expense incurred in making such audit shall be paid by the provider.

Such expenses shall be calculated at the usual and normal per diem and travel expense rates established by law and in effect at the time the expenses are incurred.

WSR 87-10-071

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-14—Filed May 6, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at 805 Plum Street, 4th Floor, Olympia, WA 98504, the annexed rules relating to this notice proposes to establish new section WAC 296-18A-465, request for proposal, calling for solicitation of proposals from private vocational rehabilitation providers to aid the department in selection of providers for referrals.

This action is taken pursuant to Notice No. WSR 87-05-056 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 51.32.095 and 51.04.030 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 May 6, 1987.

By Clark T. Ransom
for Richard A. Davis
Director

NEW SECTION

WAC 296-18A-465 REQUEST FOR PROPOSAL. In order to select providers for referrals and adequately evaluate performance, the office of rehabilitation

services shall solicit proposals from providers on the department's provider list through a request for proposal process. Contracts will be awarded after evaluation of proposals.

WSR 87-10-072

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-15—Filed May 6, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at 805 Plum Street, 4th Floor, Olympia, WA 98504, the annexed rules relating to the changes in WAC 296-18A-490, billing for vocational services, remove specific billing codes and charge the department with developing and maintaining billing codes and procedures and providing these codes and procedures to providers. The changes also specify more clearly and in more detail items and services which cannot be billed to the department. The current codes do not allow for tracking results and are cumbersome.

This action is taken pursuant to Notice No. WSR 87-05-057 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 51.32.095, 51.04.030, 51.36.100 and 51.36.110 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 6, 1987.

By Clark T. Ransom
for Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85)

WAC 296-18A-490 BILLING FOR VOCATIONAL SERVICES. (1) Vocational rehabilitation providers must comply with the rules contained in chapter 296-20 WAC as they pertain.

(2) Vocational rehabilitation providers must carry general liability insurance, automobile liability insurance, ~~((and))~~ errors and omission/malpractice insurance, and industrial insurance if required by Title 51 RCW.

(3) All vocational services must be prior authorized by the referral source, except immediate job placement. If immediate job placement activities exceed thirty days, authorization must be obtained for further services.

(4) Charges for the following are considered overhead and will not be paid:

- ~~((a)) Typing of reports and copies of reports;~~
- ~~((b)) Long distance phone call charges and unanswered phone calls;~~

- (c) In-house staffing time;
- (d) Postage;)
- (a) Administrative and supervisory salaries and related personnel expenses;
- (b) Office rent;
- (c) Depreciation;
- (d) Equipment purchase and rental;
- (e) Telephone expenses including long distance phone call charges;
- (f) Postage;
- (g) Shipping;
- (h) Expendable supplies;
- (i) Printing costs;
- (j) Copier costs;
- (k) Maintenance and repair;
- (l) Taxes;
- (m) Automobile costs and maintenance;
- (n) Insurance;
- (o) Dues and subscriptions;
- (p) Professional services;
- (q) Vacation, sick leave, and other expenses of a similar nature;
- (r) Internal staffing time;
- (s) Filing of material in case files, setting up files;
- (t) Activities associated with reports other than writing or dictating original draft of the report (e.g., editing, filing, distribution, revising, typing, and mailing);
- (u) Generating and keeping internal recordkeeping forms;
- (v) Time spent on any administrative and clerical activity, including typing, copying, mailing, distributing, filing, payroll, recordkeeping, delivering mail, picking up mail;
- (w) Activities associated with counselor training, general discussion regarding office procedures, internal case file reviews by supervisors, meetings, and seminars;
- (x) Unanswered phone calls; and
- (y) Any other item or service not specifically identified and separately billable.

(5) All bills must be itemized on referral source approved bill forms. The billed charges must be justified in the provider's case records and be consistent with written reports. ((Any exception to these rules must be thoroughly documented:)) If charges are not documented, or justified, or consistent, payment ((with)) may be reduced ((or)), denied, or recouped.

(6) Vocational services must be billed using ((the following)) procedure codes, fees, and methods provided by the department of labor and industries. The department will publish codes, fees, and procedures and provide this information to all vocational rehabilitation providers receiving department referrals. Fees shall be established by the department and reviewed at regular intervals. ((Time units of service are to be stated in tenth of hour blocks or six minutes per time unit. Mileage units of service are to be stated in total miles for the round trip to the nearest mile. Unless otherwise specifically noted, reimbursement rates are achieved by multiplying the total units of service by the relative value unit for the procedure code and then multiplying the total by the current conversion factor for medicine (WAC 296-20-135).

CODE	DESCRIPTION	RELATIVE VALUE UNITS
VO205	Job modification consultant.	4.1
VO210	Consult with doctor, attorney, employer, persons other than the claimant.	4.1
VO212	Review case claim file.	4.1
VO222	Vocational exploration (services provided in conjunction with the injured worker).	4.1
VO223	Vocational counseling (i.e., plan development, placement, etc.).	4.1
VO225	Job analysis (on-site survey of a specific job).	4.1
VO226	Identify and analyze past work skills for transferability.	4.1
VO227	Labor market survey (determination of jobs available in geographic location).	4.1
VO228	Work evaluation - individual.	4.1
VO229	Work evaluation - group, up to a group of five persons.	1.8
VO231	Vocational test administration and scoring.	4.1
VO233	Interpretation of vocational testing and work evaluation.	4.1
VO238	Job placement/job development services to individual injured workers.	4.1
VO239	Job seeking skills instruction groups (motivation and personal skills training to a group of injured workers) (2-10 workers, maximum 40 billing hours per worker).	1.8
VO242	Monitor, approved rehabilitation plan.	4.1
VO245	Coordinations of services with (specify) job station, work evaluation, vocational testing, ancillary service.	4.1
VO251	Report preparation: Initial contact report.	Flat fee \$5
VO252	Progress report.	Flat fee \$25
VO253	Report preparation for reports other than VO251, 252, 258 and 259.	4.1
VO258	Employability statement form with initial evaluation completed.	4.1 up to max. of \$150
VO259	Employability statement form without initial evaluation completed.	4.1 up to max. of \$450
VO260	Travel/wait time (waiting time is limited to one hour). If more than one client is being served in the area, travel time must be split among all clients.	1.8
VO261	Bridge and ferry tolls.	Reimbursement
VO262	Mileage per mile. If more than one client is being served in the area, mileage must be split among clients.	18¢ per mile
VO263	Provide and monitor a "job station" (a work activity program designed to evaluate or increase an individual's vocational abilities).	4.1
VO264	Work behavior modification.	4.1
VO274	Conducting a job club - maximum 40 billable hours. (A structured search for work programs for groups of injured workers.)	1.8
VO280	Placement by evaluation (placement agencies only) maximum of two hours assessment of placement potential; includes report to department or VRC.	2.9
VO282	Placement made (employment agencies) flat fee paid on placement.	\$300 Fixed fee
RETRAINING SERVICE (Fees vary by specific plans)		
RO310	Tuition and training fee	
RO312	Training supplies	
RO315	Training equipment	
RO320	Examination and license fees	
RO330	Transportation/mileage	
RO332	Parking	Reimbursement
RO334	Bridge and ferry tolls	Reimbursement
RO336	Commercial fares	Reimbursement
RO340	Books	
RO350	Other	

CODE	DESCRIPTION	RELATIVE VALUE UNITS
RO360	Board	
RO370	Room	
RO380	Job modification	
<p>The department or self-insurer will authorize child care as part of a department or self-insurer approved formal program. Payment for child care services will be made to licensed day care providers or family members other than the injured worker or his/her spouse.</p>		
RO390	Child care/licensed day center: Hourly rate per child six hours or less	1.1
RO392	Child care/licensed day center: Daily rate per child seven to nine hours	7.5
RO395	Child care/nonlicensed provider: Hourly rate per child six hours or less	0.9
RO397	Child care/nonlicensed provider: Daily rate per child seven to nine hours	6.4

WSR 87-10-073

ADOPTED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 87-16—Filed May 6, 1987]

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at 805 Plum Street, 4th Floor, Olympia, WA 98504, the annexed rules relating to the proposed changes to WAC 296-18A-510, vocational rehabilitation counselor qualifications, will clarify some confusing language about the processes for interns, counselors and providers (firms) applying for inclusion on the department's vocational rehabilitation provider list.

This action is taken pursuant to Notice No. WSR 87-05-059 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 51.32.095 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED May 6, 1987.

By Clark T. Ransom
for Richard A. Davis
Director

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85)

WAC 296-18A-510 VOCATIONAL REHABILITATION COUNSELOR QUALIFICATIONS. (1) All vocational rehabilitation counselors who were registered by the department prior to May 16, 1985, will remain on

the list and be eligible to receive referrals. The department is not obligated to make referrals to anyone on this list.

(2) When it is determined an injured worker is eligible for vocational rehabilitation services, the referral source shall authorize such services. Selection of the appropriate provider of vocational services is at the sole discretion of the referral source. Selected vocational rehabilitation counselors must meet one or more of the following categories of experience and education:

(a) A doctorate or masters degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of one year of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers;

(b) A masters degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers;

(c) A bachelors degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers; or

(d) A bachelors degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of three years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services; with industrially injured workers;

(e) Has been a registered vocational counselor in Washington state.

(3) An intern is an individual who meets the minimum educational requirements as set forth in subsection (2)(a) through (e) of this section, but not the experience requirements. When the intern is employed, the vocational rehabilitation provider shall provide the name of the intern's supervisor. The intern supervisor will be responsible for all rehabilitation work done by the intern. The intern supervisor will co-sign all reports submitted by the intern. The intern must be designated as such on all reports. At the end of the time requirement the intern may apply for ((a vendor)) or identification number as a

fully qualified vocational rehabilitation ((provider)) counselor.

(4) In order to receive or maintain a provider account number, the provider shall submit ~~((certified))~~ an application form provided by the department. The owner or legal representative of the provider must sign the application form. The provider shall also submit the names and signatures of all counselors working for the provider. The provider shall also submit official sealed copies of each counselor's college transcripts ~~((showing the degree last obtained. A))~~ unless the counselor is already on the department's provider list, the department having completed a check of qualifications and having sent written notice of their acceptance. If counselors employed by the provider are not on the department's provider list, completed applications signed by each counselor must be submitted on a form provided by the department. The application form must include a statement of each counselor's ~~((past))~~ experience ~~((in counseling of))~~ providing vocational rehabilitation to industrially injured workers ~~((must also be submitted. The statement must include))~~ and the names of former and current ~~((vocational counselors and firms the individual was employed by))~~ employers and supervisors.

(5) It is the responsibility of the vocational counselor and provider to be familiar with the industrial insurance rules and laws of the state of Washington. The vocational counselor and provider must act in a professional manner and comply with the code of professional ethics for vocational rehabilitation counselors.

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-25-140	AMD	87-04-051	16-228-510	NEW-E	87-09-054	16-231-235	AMD-E	87-08-072
4-25-141	AMD-P	87-09-059	16-228-520	NEW-E	87-09-054	16-231-235	AMD	87-09-015
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132L-24-050	AMD-P 87-08-018	173-245-015	NEW-C 87-02-050	173-303-9906	AMD-P 87-09-078
132L-24-060	AMD-E 87-07-048	173-245-015	NEW-C 87-04-014	173-303-9907	AMD-P 87-09-078
132L-24-060	AMD-P 87-08-018	173-245-015	NEW 87-04-020	173-304-012	NEW-C 87-02-035
132L-24-070	AMD-E 87-07-048	173-245-020	NEW-C 87-02-050	173-304-012	NEW-C 87-04-019
132L-24-070	AMD-P 87-08-018	173-245-020	NEW-C 87-04-014	173-304-012	NEW-W 87-04-037
132L-24-080	AMD-E 87-07-048	173-245-020	NEW 87-04-020	173-304-012	NEW-P 87-04-038
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132N-128-080	AMD-P 87-10-045	173-245-030	NEW-C 87-04-014	173-304-012	NEW-P 87-05-054
132N-128-085	NEW-P 87-10-045	173-245-030	NEW 87-04-020	173-304-012	NEW-C 87-08-060
132N-128-090	AMD-P 87-10-045	173-245-040	NEW-C 87-02-050	173-304-440	AMD-P 87-04-038
132N-128-100	AMD-P 87-10-045	173-245-040	NEW-C 87-04-014	173-304-440	AMD-W 87-05-035
132N-128-110	AMD-P 87-10-045	173-245-040	NEW 87-04-020	173-304-440	AMD-P 87-05-054
132N-128-112	NEW-P 87-10-045	173-245-050	NEW-C 87-02-050	173-304-440	AMD-C 87-08-060
132N-128-114	NEW-P 87-10-045	173-245-050	NEW-C 87-04-014	173-326-010	NEW-E 87-05-032
132N-128-116	NEW-P 87-10-045	173-245-050	NEW 87-04-020	173-326-020	NEW-E 87-05-032
132N-128-118	NEW-P 87-10-045	173-245-055	NEW-C 87-02-050	173-326-030	NEW-E 87-05-032
132N-128-120	AMD-P 87-10-045	173-245-055	NEW-C 87-04-014	173-326-040	NEW-E 87-05-032
132Q-08-010	REP 87-06-014	173-245-055	NEW 87-04-020	173-422-130	AMD 87-02-051
132Q-08-020	REP 87-06-014	173-245-060	NEW-C 87-02-050	173-434	NEW-C 87-03-045
132Q-08-030	REP 87-06-014	173-245-060	NEW-C 87-04-014	173-434-010	NEW 87-07-041
132Q-08-040	REP 87-06-014	173-245-060	NEW 87-04-020	173-434-020	NEW 87-07-041
132Q-08-050	REP 87-06-014	173-245-070	NEW-C 87-02-050	173-434-030	NEW 87-07-041
132Q-08-060	REP 87-06-014	173-245-070	NEW-C 87-04-014	173-434-050	NEW 87-07-041
132Q-08-070	REP 87-06-014	173-245-070	NEW 87-04-020	173-434-100	NEW 87-07-041
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136-04-030	AMD-P 87-08-022	173-245-075	NEW-C 87-04-014	173-434-120	NEW 87-07-041
136-160-050	AMD-P 87-08-022	173-245-075	NEW 87-04-020	173-434-130	NEW 87-07-041
137-12A-060	AMD-P 87-03-028	173-245-080	NEW-C 87-02-050	173-434-160	NEW 87-07-041
137-12A-060	AMD 87-06-045	173-245-080	NEW-C 87-04-014	173-434-170	NEW 87-07-041
137-70-020	AMD 87-03-029	173-245-080	NEW 87-04-020	173-434-190	NEW 87-07-041
137-70-040	AMD 87-03-029	173-245-084	NEW-C 87-02-050	173-434-200	NEW 87-07-041
137-70-070	AMD 87-03-029	173-245-084	NEW-C 87-04-014	173-434-210	NEW 87-07-041
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173-14-060	AMD-P 87-09-080	173-245-090	NEW-C 87-02-050	174-116	AMD-P 87-10-054
173-14-080	AMD-P 87-09-080	173-245-090	NEW-C 87-04-014	174-116-010	AMD-P 87-10-054
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180-79-372	NEW-P	87-05-050	204-65-030	NEW	87-04-065	220-48-032	AMD	87-04-003
180-79-372	NEW	87-09-012	204-65-040	NEW	87-04-065	220-48-046	REP	87-04-003
180-79-374	NEW-P	87-05-050	204-65-050	NEW	87-04-065	220-48-056	REP	87-04-003
180-79-374	NEW	87-09-012	204-65-060	NEW	87-04-065	220-48-06200B	NEW-E	87-09-050
180-79-376	NEW-P	87-05-050	212-51-001	NEW-P	87-03-053	220-49-02000A	NEW-E	87-09-055
180-79-376	NEW	87-09-012	212-51-001	NEW	87-06-044	220-49-02000A	REP-E	87-10-004
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180-79-384	NEW	87-09-012	212-51-020	NEW	87-06-044	220-52-07200A	NEW-E	87-04-004
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180-79-388	NEW-P	87-05-050	212-51-030	NEW-P	87-03-053	220-55-025	AMD	87-09-066
180-79-388	NEW	87-09-012	212-51-030	NEW	87-06-044	220-55-02500A	NEW-E	87-08-048
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180-79-396	NEW	87-09-012	212-51-050	NEW	87-06-044	220-56-180	AMD-P	87-03-056
180-79-398	NEW-P	87-05-050	220-16-075	AMD-P	87-09-082	220-56-180	AMD-C	87-08-005
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180-85-220	AMD	87-09-013	220-28-624	REP-E	87-03-008	220-56-190	AMD	87-09-066
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180-85-225	AMD	87-09-013	220-28-625	REP-E	87-05-002	220-56-195	AMD	87-09-066
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180-90-141	NEW	87-09-039	220-32-05100H	NEW-E	87-05-037	220-56-295	AMD	87-09-066
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180-90-160	AMD	87-09-039	220-32-05900L	NEW-E	87-09-084	220-56-310	AMD-P	87-03-056
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182-12-210	AMD	87-07-034	220-44-050	AMD	87-07-042	220-56-320	AMD-P	87-03-056
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192-12-012	NEW-P	87-08-049	220-44-05000E	NEW-E	87-09-030	220-56-350	AMD-P	87-03-056
192-12-141	AMD-P	87-08-049	220-44-05000E	REP-E	87-09-083	220-56-350	AMD	87-09-066
192-12-158	NEW	87-03-006	220-44-05000F	NEW-E	87-09-083	220-56-35000C	NEW-E	87-08-048
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192-23-011	AMD-P	87-08-049	220-44-070	REP	87-04-003	220-56-360	AMD	87-09-066
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192-23-016	AMD-P	87-08-049	220-47-313	AMD-P	87-09-082	220-56-37200A	NEW-E	87-08-048
192-23-018	NEW-P	87-08-049	220-47-401	AMD-P	87-09-082	220-56-380	AMD-P	87-03-056
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196-16-007	AMD-P	87-08-052	220-47-50101	REP-P	87-09-082	220-57-155	AMD-P	87-03-056
196-16-010	AMD-P	87-08-052	220-47-50201	REP-P	87-09-082	220-57-155	AMD	87-09-066
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220-57-290	AMD	87-09-066	220-110-210	AMD-P	87-08-062	232-28-213	NEW-P	87-08-069
220-57-29000I	NEW-E	87-10-016	220-110-220	AMD-P	87-08-062	232-28-61519	NEW-E	87-03-042
220-57-300	AMD-P	87-03-056	220-110-320	AMD-P	87-08-062	232-28-61601	NEW-E	87-02-046
220-57-300	AMD	87-09-066	220-110-340	AMD-P	87-08-062	232-28-61602	NEW-E	87-06-028
220-57-310	AMD-P	87-03-056	220-110-350	AMD-P	87-08-062	232-28-61603	NEW-E	87-08-039
220-57-310	AMD	87-09-066	222-08-035	NEW-P	87-10-018	232-28-708	REP	87-06-027
220-57-31000F	NEW-E	87-08-048	222-08-040	AMD-P	87-10-018	232-28-709	NEW	87-06-027
220-57-315	AMD-P	87-03-056	222-12-030	AMD-P	87-10-018	232-28-70901	NEW-E	87-06-029
220-57-315	AMD	87-09-066	222-12-040	AMD-P	87-10-018	232-28-808	REP-P	87-05-031
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220-57-31500G	NEW-E	87-09-024	222-16-010	AMD-P	87-10-018	248-14-090	AMD	87-03-018
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220-57A-175	AMD	87-09-066	230-02-240	NEW-P	87-06-013	248-100-045	REP-P	87-07-039
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220-77-020	NEW-P	87-04-071	230-04-020	AMD	87-10-017	248-100-070	REP-P	87-07-039
220-77-020	NEW	87-08-033	230-04-123	AMD-P	87-06-008	248-100-071	NEW-P	87-07-039
220-77-030	NEW-P	87-04-071	230-04-123	AMD	87-09-043	248-100-075	REP-P	87-07-039
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248-100-370	REP-P 87-07-039	251-07-050	NEW-P 87-04-055	260-70-170	AMD-P 87-08-029
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248-100-430	REP-P 87-07-039	251-09-090	AMD-P 87-04-056	261-50-060	AMD 87-04-008
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248-100-451	REP-P 87-07-039	251-10-030	AMD 87-02-036	261-50-075	NEW 87-08-037
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284-13-120	NEW 87-09-056	296-17-566	AMD-P 87-07-047	296-23-301	REP 87-03-005
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286-16-035	AMD 87-08-032	296-18A-480	AMD 87-08-004	296-23A-215	NEW 87-03-005
289-15-225	AMD 87-05-040	296-18A-490	AMD-P 87-05-057	296-23A-220	NEW-E 87-02-042
289-15-225	AMD-P 87-10-061	296-18A-490	AMD-E 87-08-044	296-23A-220	NEW 87-03-005
296-08-025	NEW 87-02-037	296-18A-490	AMD 87-10-072	296-23A-225	NEW-E 87-02-042

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-23A-225	NEW	87-03-005	296-27-16007	AMD	87-03-011	296-62-07715	NEW	87-10-008
296-23A-230	NEW-E	87-02-042	296-27-16009	REP	87-03-011	296-62-07717	NEW-P	87-05-055
296-23A-230	NEW	87-03-005	296-27-16011	AMD	87-03-011	296-62-07719	NEW	87-10-008
296-23A-235	NEW-E	87-02-042	296-27-16013	REP	87-03-011	296-62-07719	NEW-P	87-05-055
296-23A-235	NEW	87-03-005	296-27-16015	REP	87-03-011	296-62-07719	NEW	87-10-008
296-23A-240	NEW-E	87-02-042	296-27-16017	REP	87-03-011	296-62-07721	NEW-P	87-05-055
296-23A-240	NEW	87-03-005	296-27-16018	NEW	87-03-011	296-62-07721	NEW	87-10-008
296-23A-242	NEW-E	87-02-042	296-27-16019	REP	87-03-011	296-62-07723	NEW-P	87-05-055
296-23A-242	NEW	87-03-005	296-27-16020	NEW	87-03-011	296-62-07723	NEW	87-10-008
296-23A-244	NEW-E	87-02-042	296-27-16021	REP	87-03-011	296-62-07725	NEW-P	87-05-055
296-23A-244	NEW	87-03-005	296-27-16022	NEW	87-03-011	296-62-07725	NEW	87-10-008
296-23A-246	NEW-E	87-02-042	296-27-16023	REP	87-03-011	296-62-07727	NEW-P	87-05-055
296-23A-246	NEW	87-03-005	296-27-16026	NEW	87-03-011	296-62-07727	NEW	87-10-008
296-23A-248	NEW-E	87-02-042	296-46-110	AMD-P	87-06-047	296-62-07729	NEW-P	87-05-055
296-23A-248	NEW	87-03-005	296-46-110	AMD	87-10-030	296-62-07729	NEW	87-10-008
296-23A-250	NEW-E	87-02-042	296-46-130	AMD-P	87-06-047	296-62-07731	NEW-P	87-05-055
296-23A-250	NEW	87-03-005	296-46-130	AMD	87-10-030	296-62-07731	NEW	87-10-008
296-23A-252	NEW-E	87-02-042	296-46-140	AMD-P	87-06-047	296-62-07733	NEW-P	87-05-055
296-23A-252	NEW	87-03-005	296-46-140	AMD	87-10-030	296-62-07733	NEW	87-10-008
296-23A-254	NEW-E	87-02-042	296-46-150	AMD-P	87-06-047	296-62-07735	NEW-P	87-05-055
296-23A-254	NEW	87-03-005	296-46-150	AMD	87-10-030	296-62-07735	NEW	87-10-008
296-23A-256	NEW-E	87-02-042	296-46-160	AMD-P	87-06-047	296-62-07737	NEW-P	87-05-055
296-23A-256	NEW	87-03-005	296-46-160	AMD	87-10-030	296-62-07737	NEW	87-10-008
296-23A-258	NEW-E	87-02-042	296-46-180	AMD-P	87-06-047	296-62-07739	NEW-P	87-05-055
296-23A-258	NEW	87-03-005	296-46-180	AMD	87-10-030	296-62-07739	NEW	87-10-008
296-23A-260	NEW-E	87-02-042	296-46-200	AMD-P	87-06-047	296-62-07741	NEW-P	87-05-055
296-23A-260	NEW	87-03-005	296-46-200	AMD	87-10-030	296-62-07741	NEW	87-10-008
296-23A-262	NEW-E	87-02-042	296-46-220	AMD-P	87-06-047	296-62-07743	NEW-P	87-05-055
296-23A-262	NEW	87-03-005	296-46-220	AMD	87-10-030	296-62-07743	NEW	87-10-008
296-23A-264	NEW-E	87-02-042	296-46-240	AMD-P	87-06-047	296-62-07745	NEW-P	87-05-055
296-23A-264	NEW	87-03-005	296-46-240	AMD	87-10-030	296-62-07745	NEW	87-10-008
296-23A-266	NEW-E	87-02-042	296-46-316	NEW-P	87-06-047	296-62-07747	NEW-P	87-05-055
296-23A-266	NEW	87-03-005	296-46-316	NEW	87-10-030	296-62-07747	NEW	87-10-008
296-23A-268	NEW-E	87-02-042	296-46-350	AMD-P	87-06-047	296-62-07749	NEW-P	87-05-055
296-23A-268	NEW	87-03-005	296-46-350	AMD	87-10-030	296-62-07749	NEW	87-10-008
296-23A-300	NEW-E	87-02-042	296-46-370	AMD-P	87-06-047	296-65-005	AMD-P	87-05-055
296-23A-300	NEW	87-03-005	296-46-370	AMD	87-10-030	296-65-005	AMD	87-10-008
296-23A-310	NEW-E	87-02-042	296-46-420	AMD-P	87-06-047	296-65-015	AMD-P	87-05-055
296-23A-310	NEW	87-03-005	296-46-420	AMD	87-10-030	296-65-015	AMD	87-10-008
296-23A-315	NEW-E	87-02-042	296-46-422	NEW-P	87-06-047	296-65-020	AMD-P	87-05-055
296-23A-315	NEW	87-03-005	296-46-422	NEW	87-10-030	296-65-020	AMD	87-10-008
296-23A-320	NEW-E	87-02-042	296-46-495	AMD-P	87-06-047	296-65-030	AMD-P	87-05-055
296-23A-320	NEW	87-03-005	296-46-495	AMD	87-10-030	296-65-030	AMD	87-10-008
296-23A-325	NEW-E	87-02-042	296-46-514	NEW-P	87-06-047	296-65-040	AMD-P	87-05-055
296-23A-325	NEW	87-03-005	296-46-514	NEW	87-10-030	296-65-040	AMD	87-10-008
296-23A-330	NEW-E	87-02-042	296-46-680	AMD-P	87-06-047	296-104-701	NEW-P	87-07-023
296-23A-330	NEW	87-03-005	296-46-680	AMD	87-10-030	296-104-701	NEW-E	87-07-024
296-23A-335	NEW-E	87-02-042	296-46-910	AMD-P	87-06-047	296-116-080	AMD-P	87-02-053
296-23A-335	NEW	87-03-005	296-46-910	AMD	87-10-030	296-155-160	AMD-P	87-05-055
296-23A-340	NEW-E	87-02-042	296-46-920	AMD-P	87-06-047	296-155-160	AMD	87-10-008
296-23A-340	NEW	87-03-005	296-46-920	AMD	87-10-030	296-155-175	NEW-P	87-05-055
296-23A-345	NEW-E	87-02-042	296-46-940	AMD-P	87-06-047	296-155-175	NEW	87-10-008
296-23A-345	NEW	87-03-005	296-62-05405	AMD-P	87-05-055	296-155-17505	NEW-P	87-05-055
296-23A-350	NEW-E	87-02-042	296-62-05405	AMD	87-10-008	296-155-17505	NEW	87-10-008
296-23A-350	NEW	87-03-005	296-62-05427	AMD-P	87-05-055	296-155-17510	NEW-P	87-05-055
296-23A-355	NEW-E	87-02-042	296-62-05427	AMD	87-10-008	296-155-17510	NEW	87-10-008
296-23A-355	NEW	87-03-005	296-62-07353	AMD-P	87-02-058	296-155-17515	NEW-P	87-05-055
296-23A-360	NEW-E	87-02-042	296-62-07353	AMD	87-07-022	296-155-17515	NEW	87-10-008
296-23A-360	NEW	87-03-005	296-62-07517	AMD-P	87-05-055	296-155-17520	NEW-P	87-05-055
296-23A-400	NEW-E	87-02-042	296-62-07517	AMD	87-10-008	296-155-17520	NEW	87-10-008
296-23A-400	NEW	87-03-005	296-62-077	NEW-P	87-05-055	296-155-17525	NEW-P	87-05-055
296-23A-410	NEW-E	87-02-042	296-62-077	NEW	87-10-008	296-155-17525	NEW	87-10-008
296-23A-410	NEW	87-03-005	296-62-07701	NEW-P	87-05-055	296-155-17530	NEW-P	87-05-055
296-23A-415	NEW-E	87-02-042	296-62-07701	NEW	87-10-008	296-155-17530	NEW	87-10-008
296-23A-415	NEW	87-03-005	296-62-07703	NEW-P	87-05-055	296-155-17532	NEW-P	87-05-055
296-23A-420	NEW-E	87-02-042	296-62-07703	NEW	87-10-008	296-155-17532	NEW	87-10-008
296-23A-420	NEW	87-03-005	296-62-07705	NEW-P	87-05-055	296-155-17535	NEW-P	87-05-055
296-23A-425	NEW-E	87-02-042	296-62-07705	NEW	87-10-008	296-155-17535	NEW	87-10-008
296-23A-425	NEW	87-03-005	296-62-07707	NEW-P	87-05-055	296-155-17540	NEW-P	87-05-055
296-24-14011	AMD-P	87-02-058	296-62-07707	NEW	87-10-008	296-155-17540	NEW	87-10-008
296-24-14011	AMD	87-07-022	296-62-07709	NEW-P	87-05-055	296-155-17545	NEW-P	87-05-055
296-27-160	AMD	87-03-011	296-62-07709	NEW	87-10-008	296-155-17545	NEW	87-10-008
296-27-16001	AMD	87-03-011	296-62-07711	NEW-P	87-05-055	296-155-17550	NEW-P	87-05-055
296-27-16002	NEW	87-03-011	296-62-07711	NEW	87-10-008	296-155-17550	NEW	87-10-008
296-27-16003	AMD	87-03-011	296-62-07713	NEW-P	87-05-055	296-155-17555	NEW-P	87-05-055
296-27-16004	NEW	87-03-011	296-62-07713	NEW	87-10-008	296-155-17555	NEW	87-10-008
296-27-16005	REP	87-03-011	296-62-07715	NEW-P	87-05-055	296-155-17560	NEW-P	87-05-055

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-155-17560	NEW	87-10-008	296-200-370	AMD	87-07-003	308-37-190	AMD-P	87-07-045
296-155-17565	NEW-P	87-05-055	296-306-003	NEW-C	87-02-056	308-37-190	AMD-W	87-09-095
296-155-17565	NEW	87-10-008	296-306-003	NEW-C	87-05-023	308-37-190	AMD-P	87-09-096
296-155-17570	NEW-P	87-05-055	296-306-003	NEW	87-09-079	308-40-102	AMD-P	87-06-051
296-155-17570	NEW	87-10-008	296-306-005	REP-C	87-02-056	308-40-102	AMD	87-09-097
296-155-17575	NEW-P	87-05-055	296-306-005	REP-C	87-05-023	308-40-105	AMD-P	87-06-051
296-155-17575	NEW	87-10-008	296-306-005	REP	87-09-079	308-40-105	AMD	87-09-097
296-155-177	NEW-P	87-05-055	296-306-006	NEW-C	87-02-056	308-40-125	AMD-P	87-07-046
296-155-177	NEW	87-10-008	296-306-006	NEW-C	87-05-023	308-41-025	REP-P	87-07-046
296-155-179	NEW-P	87-05-055	296-306-006	NEW	87-09-079	308-42-040	AMD-P	87-05-061
296-155-179	NEW	87-10-008	296-306-009	NEW-C	87-02-056	308-42-040	AMD	87-08-065
296-155-181	NEW-P	87-05-055	296-306-009	NEW-C	87-05-023	308-42-075	AMD-P	87-07-046
296-155-181	NEW	87-10-008	296-306-009	NEW	87-09-079	308-42-075	AMD	87-10-028
296-155-183	NEW-P	87-05-055	296-306-012	NEW-C	87-02-056	308-48-075	NEW-P	87-08-051
296-155-183	NEW	87-10-008	296-306-012	NEW-C	87-05-023	308-48-210	NEW-P	87-08-051
296-155-185	NEW-P	87-05-055	296-306-012	NEW	87-09-079	308-48-250	REP-P	87-07-046
296-155-185	NEW	87-10-008	296-306-025	AMD-C	87-02-056	308-48-250	REP	87-10-028
296-155-187	NEW-P	87-05-055	296-306-025	AMD-C	87-05-023	308-48-800	NEW-P	87-07-046
296-155-187	NEW	87-10-008	296-306-025	AMD	87-09-079	308-48-800	NEW	87-10-028
296-155-189	NEW-P	87-05-055	296-306-057	NEW-C	87-02-056	308-50-010	AMD-P	87-10-066
296-155-189	NEW	87-10-008	296-306-057	NEW-C	87-05-023	308-50-020	AMD-P	87-10-066
296-155-191	NEW-P	87-05-055	296-306-057	NEW	87-09-079	308-50-035	NEW-P	87-10-066
296-155-191	NEW	87-10-008	296-306-300	NEW-C	87-02-056	308-50-375	REP-P	87-07-046
296-155-193	NEW-P	87-05-055	296-306-300	NEW-C	87-05-023	308-50-440	NEW-P	87-07-046
296-155-193	NEW	87-10-008	296-306-300	NEW	87-09-079	308-51-200	REP-P	87-07-046
296-155-265	AMD-P	87-02-058	296-306-310	NEW-C	87-02-056	308-51-210	NEW-P	87-07-046
296-155-265	AMD-C	87-07-021	296-306-310	NEW-C	87-05-023	308-52-315	REP-P	87-07-046
296-155-270	AMD-P	87-02-058	296-306-310	NEW	87-09-079	308-52-315	REP	87-10-028
296-155-270	AMD-C	87-07-021	296-306-320	NEW-C	87-02-056	308-52-590	NEW-P	87-07-046
296-155-405	AMD-P	87-02-058	296-306-320	NEW-C	87-05-023	308-52-590	NEW	87-10-028
296-155-405	AMD-C	87-07-021	296-306-320	NEW	87-09-079	308-53-020	AMD-P	87-07-046
296-155-425	REP-P	87-02-058	304-12-140	AMD-P	87-04-066	308-53-020	AMD	87-10-028
296-155-425	REP-C	87-07-021	304-12-140	AMD	87-07-029	308-53-084	AMD-C	87-02-060
296-155-426	NEW-P	87-02-058	308-11-030	AMD-P	87-07-046	308-53-084	AMD	87-09-046
296-155-426	NEW-C	87-07-021	308-11-030	AMD	87-10-028	308-53-085	AMD-C	87-02-060
296-155-428	NEW-P	87-02-058	308-12-312	AMD-E	87-04-049	308-53-085	AMD	87-09-046
296-155-428	NEW-C	87-07-021	308-12-312	REP-P	87-07-046	308-53-320	NEW-P	87-09-074
296-155-429	NEW-P	87-02-058	308-12-312	REP	87-10-028	308-53-330	NEW-P	87-09-075
296-155-429	NEW-C	87-07-021	308-12-326	NEW-P	87-07-046	308-54-315	AMD-P	87-07-046
296-155-430	REP-P	87-02-058	308-12-326	NEW	87-10-028	308-55-025	AMD-P	87-07-046
296-155-430	REP-C	87-07-021	308-13-150	AMD-E	87-03-031	308-56A-006	NEW-P	87-04-069
296-155-432	NEW-P	87-02-058	308-13-150	AMD-P	87-07-046	308-56A-115	AMD-P	87-04-069
296-155-432	NEW-C	87-07-021	308-13-150	AMD-P	87-10-024	308-56A-125	AMD-P	87-04-069
296-155-434	NEW-P	87-02-058	308-13-150	AMD-E	87-10-026	308-56A-155	NEW-P	87-04-069
296-155-434	NEW-C	87-07-021	308-13-160	NEW-P	87-10-025	308-56A-156	NEW-P	87-04-069
296-155-435	REP-P	87-02-058	308-13-160	NEW-E	87-10-027	308-56A-160	NEW-P	87-04-069
296-155-435	REP-C	87-07-021	308-20-200	REP-P	87-07-046	308-56A-195	AMD-P	87-04-069
296-155-437	NEW-P	87-02-058	308-20-200	REP	87-10-028	308-93-010	AMD-P	87-04-068
296-155-437	NEW-C	87-07-021	308-20-210	NEW-P	87-07-046	308-93-010	AMD	87-09-073
296-155-440	REP-P	87-02-058	308-20-210	NEW	87-10-028	308-93-074	AMD-P	87-04-068
296-155-440	REP-C	87-07-021	308-25-065	AMD-P	87-07-046	308-93-074	AMD	87-09-073
296-155-441	NEW-P	87-02-058	308-25-065	AMD	87-10-028	308-94	AMD	87-03-041
296-155-441	NEW-C	87-07-021	308-26-040	REP-P	87-07-046	308-94-010	AMD	87-03-041
296-155-444	NEW-P	87-02-058	308-26-040	REP	87-10-028	308-94-020	REP	87-03-041
296-155-444	NEW-C	87-07-021	308-26-045	NEW-P	87-07-046	308-94-030	AMD	87-03-041
296-155-447	NEW-P	87-02-058	308-26-045	NEW	87-10-028	308-94-040	AMD	87-03-041
296-155-447	NEW-C	87-07-021	308-29-030	AMD-P	87-07-025	308-94-050	AMD	87-03-041
296-155-449	NEW-P	87-02-058	308-29-045	AMD-P	87-07-046	308-94-060	REP	87-03-041
296-155-449	NEW-C	87-07-021	308-29-045	AMD	87-10-028	308-94-070	AMD	87-03-041
296-155-450	REP-P	87-02-058	308-29-060	AMD-P	87-07-025	308-94-080	AMD	87-03-041
296-155-450	REP-C	87-07-021	308-29-070	AMD-P	87-07-025	308-94-100	AMD	87-03-041
296-155-452	NEW-P	87-02-058	308-29-080	AMD-P	87-07-025	308-94-110	AMD	87-03-041
296-155-452	NEW-C	87-07-021	308-31-015	AMD	87-04-050	308-94-160	AMD	87-03-041
296-155-455	REP-P	87-02-058	308-31-025	NEW	87-04-050	308-94-170	AMD	87-03-041
296-155-455	REP-C	87-07-021	308-31-025	AMD-P	87-04-054	308-94-180	REP	87-03-041
296-155-456	NEW-P	87-02-058	308-31-025	AMD	87-09-045	308-94-181	NEW	87-03-041
296-155-456	NEW-C	87-07-021	308-31-055	AMD-P	87-07-046	308-94-190	REP	87-03-041
296-155-459	NEW-P	87-02-058	308-31-100	AMD	87-04-050	308-94-191	NEW	87-03-041
296-155-459	NEW-C	87-07-021	308-31-120	AMD	87-04-050	308-94-200	AMD	87-03-041
296-155-462	NEW-P	87-02-058	308-31-500	AMD	87-04-050	308-94-210	AMD	87-03-041
296-155-462	NEW-C	87-07-021	308-31-500	AMD-P	87-04-054	308-94-220	AMD	87-03-041
296-155-745	AMD-P	87-02-058	308-31-500	AMD	87-09-045	308-94-230	REP	87-03-041
296-155-745	AMD-C	87-07-021	308-32-090	REP-P	87-07-046	308-94-240	AMD	87-03-041
296-155-775	AMD-P	87-05-055	308-32-100	NEW-P	87-07-046	308-94-250	AMD	87-03-041
296-155-775	AMD	87-10-008	308-33-105	AMD-P	87-07-046	308-94-260	REP	87-03-041
296-200-340	AMD	87-07-003	308-33-105	AMD	87-10-028	308-94-261	NEW	87-03-041
296-200-350	AMD	87-07-003	308-34-090	NEW-P	87-07-046	308-94-265	NEW	87-03-041

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
308-94-270	NEW 87-03-041	308-180-190	NEW 87-06-050	320-08-210	AMD-P 87-10-068
308-96A-005	AMD-P 87-04-067	308-180-200	NEW-E 87-03-013	320-08-260	AMD-P 87-10-068
308-96A-021	NEW-P 87-04-067	308-180-200	NEW 87-06-050	320-08-270	AMD-P 87-10-068
308-96A-065	AMD-P 87-04-067	308-180-210	NEW-E 87-03-013	320-08-300	AMD-P 87-10-068
308-96A-100	AMD-P 87-04-067	308-180-210	NEW 87-06-050	320-08-310	AMD-P 87-10-068
308-96A-136	NEW-P 87-04-067	308-180-220	NEW-E 87-03-013	320-08-350	AMD-P 87-10-068
308-96A-205	AMD-P 87-04-067	308-180-220	NEW 87-06-050	320-08-370	AMD-P 87-10-068
308-96A-220	AMD-P 87-04-067	308-180-230	NEW-E 87-03-013	320-08-380	AMD-P 87-10-068
308-96A-300	AMD-P 87-04-067	308-180-230	NEW 87-06-050	320-08-390	AMD-P 87-10-068
308-96A-306	NEW-P 87-04-067	308-180-240	NEW-E 87-03-013	320-08-400	AMD-P 87-10-068
308-96A-310	AMD-P 87-04-067	308-180-240	NEW 87-06-050	320-08-410	AMD-P 87-10-068
308-96A-325	AMD-P 87-04-067	308-180-250	NEW-E 87-03-013	320-08-420	AMD-P 87-10-068
308-96A-330	AMD-P 87-04-067	308-180-250	NEW 87-06-050	320-08-430	AMD-P 87-10-068
308-96A-335	AMD-P 87-04-067	308-180-260	NEW-P 87-07-046	320-08-440	AMD-P 87-10-068
308-96A-400	AMD-P 87-04-067	314-12-140	AMD 87-04-018	320-08-445	NEW-P 87-10-068
308-96A-410	NEW-P 87-04-067	314-16-160	AMD-C 87-03-025	320-08-450	AMD-P 87-10-068
308-96A-415	NEW-P 87-04-067	314-16-160	AMD 87-04-017	320-08-460	AMD-P 87-10-068
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